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6 Attorneys for Defendant
7 Hyundai Capital America

8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

11 KATHERINE QUINN, on behalf of
12 herself and all others similarly
13 situated,

13 Plaintiff,

14 v.

15 HYUNDAI CAPITAL AMERICA,

16 Defendant

Case No.:

[Removed from the Superior Court of California, Los Angeles County, Case No. 21STCV37386]

**DEFENDANT HYUNDAI
CAPITAL AMERICA'S NOTICE
OF REMOVAL OF CIVIL
ACTION TO FEDERAL COURT
PURSUANT TO 28 U.S.C. §§
1332(d), 1441, 1446 and 1453**

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1 **TO THE CLERK OF THE ABOVE-ENTITLED COURT AND TO**
2 **PLAINTIFF KATHERINE QUINN AND HER ATTORNEYS OF RECORD:**

3 **PLEASE TAKE NOTICE** that defendant Hyundai Capital America ("HCA")
4 hereby removes the action styled *Katherine Quinn et al. v. Hyundai Capital America*,
5 Case No. 21STCV37386, now pending in the Superior Court for the State of California
6 in and for the County of Los Angeles (the "State Court Action"), to the United States
7 District Court for the Central District of California. Pursuant to 28 U.S.C. § 1332(d),
8 1441, 1446 and 1453, the Court may and should take jurisdiction over this action for
9 all purposes for the following reasons:

10 **I. STATEMENT OF JURISDICTION**

11 1. HCA seeks removal of this class action under the Class Action Fairness
12 Act ("CAFA") codified at 28 U.S.C. § 1332(d), which provides this Court with
13 original jurisdiction of this matter and permits HCA to remove this matter to federal
14 Court. CAFA vests the district courts with original jurisdiction when the aggregate
15 amount in controversy for all putative class members exceeds \$5 million (exclusive
16 of interests or costs) and when any member of the putative class of plaintiffs is a
17 citizen of a state different from any defendant. 28 U.S.C. § 1332(d)(2). A class
18 action against a non-government entity may be removed under CAFA if: (1) the
19 number of proposed class members is not less than 100; (2) any member of the
20 proposed plaintiff class is a citizen of a state different from any defendant; and (3) the
21 aggregate amount in controversy exceeds \$5 million, excluding interest and costs. 28
22 USC § 1332(d), (d)(5) & 1453(b). As demonstrated below, this action meets all of
23 CAFA's removal requirements.

24 **II. PROCEDURAL BACKGROUND**

25 2. Plaintiff Katherine Quinn ("Plaintiff") filed this purported class action
26 on October 12, 2021, alleging that HCA improperly failed to refund unearned fees
27 related to Guaranteed Asset Protection ("GAP") Waiver Addendums in breach of its
28 contracts with consumers and in violation of state statutory law. Complaint

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1 ("Compl.") ¶¶ 1-4. Plaintiff alleges that HCA "knowingly collects and retains
2 millions of dollars per year in unearned fees from automobile purchasers." *Id.* at ¶ 4.

3 3. The putative nationwide class (the "Nationwide Class") is defined as:
4 "All persons who, during the applicable statute of limitations, entered into term
5 finance agreements with GAP Waiver Addendums that were assigned to Hyundai
6 Capital and who paid off their finance agreements before the end of the loan but did
7 not receive a refund of unearned GAP fees." *Id.* at ¶36.

8 4. Plaintiff also asserts claims on behalf of a putative subclass of California
9 residents (the "California Subclass"), which is defined as: "All persons who, during
10 the applicable statute of limitations, entered into finance agreements in the State of
11 California with GAP Waiver Addendums that were assigned to Hyundai Capital and
12 who paid off their finance agreements before the end of the loan term but did not
13 receive a refund of unearned GAP fees." *Id.* at ¶37.

14 5. The Complaint alleges four causes of action: (1) breach of contract
15 including breach of the covenant of good faith and fair dealing, (2) violation of
16 California Business and Professions Code § 17200 *et seq.* ("UCL"), (3) violation of
17 California Consumer Legal Remedies Act, California Civil Code § 1750, *et seq.*
18 ("CLRA") and, (4) unjust enrichment. Plaintiff seeks an award of restitution of all
19 alleged unearned and unrefunded GAP waiver fees, compensatory damages, punitive
20 damages, attorney's fees, and injunctive relief prohibiting the alleged practices set
21 forth in the Complaint. *Id.* at p. 15.

22 **III. TIMELINESS OF REMOVAL**

23 6. The Summons and Complaint were served on HCA on October 14,
24 2021. Pursuant to 28 U.S.C. § 1446(b), this Notice of Removal has been filed within
25 30 days of that date.

26 **IV. VENUE**

27 7. Venue lies in the United States District Court for the Central District of
28 California, pursuant to 28 U.S.C. §§ 84(c)(3), 1441, and 1446(a). This action was

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1 originally brought in Los Angeles County Superior Court, which is located within the
2 Central District of California. Venue is proper with this Court because it is the
3 "district and division embracing the place where such action is pending." 28 U.S.C. §
4 1441(a).

5 **V. JURISDICTION UNDER CAFA**

6 8. Section 4 of CAFA sets forth the general rule that "[t]he district courts
7 shall have original jurisdiction of any civil action in which the matter in controversy
8 exceeds the sum or value of \$5,000,000, exclusive of interest and costs, and is a class
9 action in which ... any member of a class of plaintiffs is a citizen of a State different
10 from any defendant." 28 U.S.C. § 1332(d)(2).

11 9. Section 4 of CAFA further states that the jurisdictional rule set forth in
12 28 U.S.C. §1332(d)(2) applies only to a class action in which the number of members
13 of all proposed plaintiff classes, in the aggregate, is 100 or more. 28 U.S.C. §
14 1332(d)(5).

15 10. This Court has jurisdiction over this action pursuant to CAFA, 28 U.S.C.
16 § 1332(d), and this action may be removed by HCA pursuant to the provisions of 28
17 U.S.C. § 1441(a), because the putative plaintiff classes consists of at least 100
18 members, the total amount in controversy exceeds \$5,000,000, and there is diversity
19 between at least one proposed class member and HCA.

20 **A. This Is A Class Action**

21 11. CAFA defines a "class action" for the purposes of jurisdiction as any
22 civil action filed under rule 23 of the Federal Rules of Civil Procedure or similar
23 State statute or rule of judicial procedure authorizing an action to be brought by 1 or
24 more representative persons as a class action.

25 12. Plaintiff filed this action in the Los Angeles Superior Court on behalf of
26 herself and the putative Nationwide Class and California Subclass (the "Class").
27 Comp. ¶¶ 36, 37. Plaintiff alleges that the proposed Class likely contains "thousands"
28 of members. Compl. ¶ 41. California Code of Civil Procedure § 382 is the

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California state statute governing class actions and is similar to Rule 23. Plaintiff's claim is therefore a "class action" as defined by CAFA.

B. The Number Of Purported Class Members Exceeds 100

13. Plaintiff purports to represent a putative class of all persons who, during the applicable statute of limitations, entered into term finance agreements with GAP Waiver Addendums that were assigned to Hyundai Capital and who paid off their finance agreements before the end of the loan but did not receive a refund of unearned GAP fees. Compl. ¶ 36.

14. Further, Plaintiff purports to represent a class of persons who entered into finance agreements in the State of California with GAP Waiver Addendums that were assigned to Hyundai Capital and who paid off their finance agreements before the end of the loan term but did not receive a refund of unearned GAP fees. *Id.* at ¶ 37.

15. Plaintiff alleges that the proposed class likely contains "thousands of members." *Id.* at ¶ 41.

16. Therefore, CAFA's minimum putative class size of 100 members is satisfied.

C. There Is Diversity Of Citizenship Between HCA And At Least One Purported Class Member

17. In order to satisfy the diversity requirement, CAFA only requires that "any member of the proposed plaintiff class is a citizen of a state different from any defendant." 28 USC §1332(d)(2)(A).

18. HCA is a California corporation, with its principal place of business in Irvine, California. Comp. ¶ 8.

19. Plaintiff filed this action on behalf of a purported "Nationwide Class." Comp. ¶ 37.

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1 20. Because HCA is a citizen of California, and the purported class
2 members include plaintiffs from states other than California, CAFA's diversity of
3 citizenship requirement is satisfied.

4 **D. The Amount In Controversy Exceeds \$5 Million**

5 21. Congress intended federal jurisdiction to exist under CAFA "if the value
6 of the matter in litigation exceeds \$5,000,000 either from the viewpoint of the
7 plaintiff or the viewpoint of the defendant, and regardless of the type of relief sought
8 (e.g., damages, injunctive relief, or declaratory relief)." Staff of S. Comm. on the
9 Judiciary, 109th Cong., Rep. on The Class Action Fairness Act of 2005, 42 (Comm.
10 Print 2005).

11 22. "In determining the amount in controversy, courts first look to the
12 complaint." *Ibarra v. Manheim Invs., Inc.*, 775 F.3d 1193, 1197 (9th Cir. 2015).
13 Generally, "the sum claimed by the plaintiff controls if the claim is apparently made
14 in good faith." *Id.* (quoting *St. Paul Mercury Indem. Co. v. Red Cab Co.*, 303 U.S.
15 283, 289 (1938)).

16 23. Assuming the allegations in the Complaint are true (which HCA denies),
17 the aggregate amount in controversy, exclusive of interest and costs, exceeds \$5
18 million as required by CAFA. 28 U.S.C § 1332(d)(2), (d)(6).

19 24. Plaintiff seeks an order awarding Plaintiff and each member of the class
20 statutory damages, punitive damages per each violation, restitution of all monies
21 paid, and attorney fees. Comp. at p. 15. Plaintiff also seeks an injunction prohibiting
22 HCA from continuing to allegedly retain unearned GAP insurance premiums on a
23 going forward basis.

24 25. Plaintiff alleges that HCA "knowingly collects and retains millions of
25 dollars per year in unearned fees from automobile purchasers." *Id.* at ¶ 4.

26 26. Plaintiff asserts a breach of contract cause of action, which has a four-
27 year statute of limitations. Cal. Code Civ. P. § 337.

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1 27. Thus, according to the Complaint, the amount in unearned fees that
2 HCA purportedly retained in the last four years is at least \$8,000,000 (\$2 million per
3 year over four years). This satisfies the amount in controversy requirement under the
4 CAFA.

5 28. Moreover, Plaintiff seeks punitive damages. Compl. at p. 15. "In
6 general, courts have applied a 1:1 multiplier to the economic damages to punitive
7 damages to determine the amount of damages at issue under CAFA." *Calagno v. Rite*
8 *Aid Corp.*, No. 4:20-CV-05476-YGR, 2020 WL 6700451, at *4 (N.D. Cal. Nov. 13,
9 2020); *Greene v. Harley-Davidson, Inc.*, 965 F.3d 767, 772 (9th Cir. 2020)
10 (concluding that a 1:1 multiplier for punitive damages under the CLRA was
11 reasonable). Applying a 1:1 multiplier here, the amount in purported punitive
12 damages would be \$8 million. Together with economic damages, this brings the total
13 amount in purported damages to \$16 million.

14 29. In addition, for purposes of calculating the amount in controversy, courts
15 in the Ninth Circuit estimate future fees as 25% to 33% of the award the class seeks.
16 *See Galt G/S v. JSS Scandinavia*, 142 F.3d 1150, 1156 (9th Cir. 1998) (holding that
17 attorneys' fees may be included when calculating the amount in controversy).
18 Adding 25% to the purported \$16 million Plaintiff seeks brings the total amount
19 (allegedly) in controversy to \$20 million.¹

20 30. Accordingly, the amount in controversy is satisfied even without taking
21 into account the purported impact of an injunction that prohibits HCA from allegedly
22 "collect[ing] and retain[ing] millions of dollars per year in unearned fees from
23 automobile purchasers" on a going-forward basis. *Id.* at ¶ 4.

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27 ¹ Even if Plaintiff's allegation that HCA retains "millions of dollars per year" is
28 awkwardly interpreted as singular, i.e., at least \$1 million per year (rather than at
least \$2 million per year), the amount in controversy is still satisfied (\$1 million X 4
years X 2 for alleged punitive damages + 25% for fees = \$10 million).

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VI. JOINDER OF ALL SERVED DEFENDANTS

31. Because HCA is the only named Defendant, there is no requirement that other defendants join in this notice of removal.

VII. STATE COURT PLEADINGS

32. Attached as **Exhibit 1** are true and correct copies of all of the process, pleadings and orders in the State Court action served on HCA.

VIII. NOTICE TO STATE COURT AND PLAINTIFF OF REMOVAL

33. In accordance with 28 U.S.C. § 1446(d), the undersigned counsel certifies that a copy of this Notice of Removal and all supporting papers will be promptly served on Plaintiff's counsel and filed with the Clerk for the Superior court of the State of California in and for the County of Los Angeles.

WHEREFORE, for all of the foregoing reasons, HCA hereby removes the State Court Action now pending in the Superior Court of the State of California, County of Los Angeles, to the United States District Court for the Central District of California.

DATED: November 12, 2021

HOLLAND & KNIGHT LLP

By: /s/ Zachary C. Frampton
Abraham J. Colman
Zachary C. Frampton
Attorneys for Defendant
Hyundai Capital America

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524 Grand Regency Boulevard
Brandon, FL 33510
Tel: 813.901.4200
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PROOF OF SERVICE

I, Zachary C. Frampton, declare as follows:

I am employed in the County of Los Angeles, State of California, I am over the age of eighteen years and am not a party to this action; my business address is 400 South Hope Street, 8th Floor, Los Angeles, CA 90071, in said County and State.

On **November 12, 2021**, I served the following document(s):

NOTICE OF REMOVAL

on the parties stated below, by the following means of service:

<p>EDELSBERG LAW, P.A. Scott Edelsberg (CA Bar No. 330090) scott@edelsberglaw.com 1925 Century Park East, Suite 1700 Los Angeles, CA 90067 Tel.: 305.975.3320 Fax: 786.623.0915</p>	<p>KALIELGOLD PLLC Jeffrey D. Kaliel (CA Bar No. 238293) jkaliel@kalielpllc.com 1100 15th Street NW, 4th Floor Washington, DC 20005 Telephone: (202) 305-4783</p>
<p>KALIELGOLD PLLC Sophia G. Gold (CA Bar No. 307971) sgold@kalielgold.com 950 Gilman Street, Suite 200 Berkeley, CA 94710 Telephone: (202) 350-4783</p>	

BY ELECTRONIC SERVICE: On the above-mentioned date, based on a court order or an agreement of the parties to accept service by electronic transmission, I caused the documents to be sent to the persons at the electronic notification addresses as shown above.

By MAIL. I am readily familiar with this law firm's practice for collection and processing of documents for mailing with the U. S. Postal Service. The above-listed document(s) will be deposited with the U. S. Postal Service on the same day shown on this affidavit, in the ordinary course of business. I am the person who sealed and placed for collection and mailing the above-listed document(s) on this date at Irvine, California, following ordinary business practices.

(FEDERAL) I declare under penalty of perjury that the foregoing is true and correct.

Executed on **November 12, 2021**.

/s/ Zachary C. Frampton
Zachary C. Frampton

EXHIBIT "A"

Electronically FILED by Superior Court of California, County of Los Angeles on 10/12/2021 12:00 AM Sherri H. Carter, Executive Officer/Clerk of Court, by R. Lozano, Deputy Clerk

SUM-100

**SUMMONS
(CITACION JUDICIAL)**

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**
HYUNDAI CAPITAL AMERICA

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**
KATHERINE QUINN, on behalf of herself and all others similarly situated

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. ¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es): LOS ANGELES COUNTY SUPERIOR COURT
111 N. Hill Street
Los Angeles, CA 90012

CASE NUMBER: (Número del Caso):
21STCV37386

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is: (El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Scott Edelsberg, Edelsberg Law, P.A. 1925 Century Park E., #1700, Los Angeles, CA 90067 (305) 975-3320; scott@edelsberglaw.com

DATE: (Fecha) 10/12/2021 Clerk, by Sherri R. Carter Executive Officer / Clerk of Court, Deputy (Secretario) R. Lozano (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



NOTICE TO THE PERSON SERVED: You are served

- as an individual defendant.
- as the person sued under the fictitious name of (specify):
- on behalf of (specify): Hyundai Capital America
under: CCP 416.10 (corporation) CCP 416.60 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
 other (specify):
- by personal delivery on (date):

Assigned for all purposes to: Spring Street Courthouse, Judicial Officer: William Highberger

Electronically FILED by Superior Court of California, County of Los Angeles on 10/12/2021 12:00 AM Sherri R. Carter, Executive Officer/Clerk of Court, by R. Lozano, Deputy Clerk

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 19 Telephone: (202) 350-4783

Attorneys for Plaintiff and the Putative Class

20 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
 21 **FOR THE COUNTY OF LOS ANGELES**

22 KATHERINE QUINN, on behalf of herself
 23 and all others similarly situated,

Plaintiff,

v.

HYUNDAI CAPITAL AMERICA,

Defendant.

CASE NO.: **21STCV37386**

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

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CLASS ACTION COMPLAINT

Plaintiff Katherine Quinn files this action on behalf of herself and on behalf of all others similarly situated and alleges as follows upon personal knowledge with respect to Plaintiff's own acts and based upon information and belief as to all other matters.

NATURE OF THE CASE

1. Plaintiff brings this action on behalf of herself and all others similarly situated arising from Defendant Hyundai Capital America's ("Defendant" or "Hyundai Capital") practice of collecting and failing to refund unearned fees from Guaranteed Asset Protection Waiver Addendums ("GAP Waiver Addendum") in breach of its contracts with consumers.

2. Under the terms of its contracts with consumers, Hyundai Capital is required to refund to consumers all unearned fees for GAP Waiver Addendums when consumers pay off their automobile finance agreements early.

3. In breach of that promise, and in contravention of state statute, Hyundai Capital, as a matter of policy, fails to refund consumers of unearned fees when finance agreements terminate early.

4. As a result of this practice, Hyundai Capital knowingly collects and retains millions of dollars per year in unearned fees from automobile purchasers.

5. Hyundai Capital's policy and practice of retaining these unearned fees related to GAP Waiver Addendums when the underlying automobile loan is paid off early constitutes a breach of contract and an unfair business practice in violation of state consumer protection law.

6. Plaintiff, on behalf of herself and the Class, seeks to end Hyundai Capital's practices and force it to refund unearned GAP fees. Plaintiff seeks damages, restitution, and injunctive relief on behalf of the general public.

PARTIES

7. Plaintiff, Katherine Quinn, resides in Los Angeles, California, and did at all relevant times during the conduct alleged in this Complaint.

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1 8. Defendant Hyundai Capital America is headquartered at 3161 Michelson Drive,
2 Suite 1900, Irvine, California 92612. Hyundai Capital operates and conducts business, throughout
3 the State of California.

4 **JURISDICTION AND VENUE**

5 9. This Court has jurisdiction over Defendant and the claims set forth below pursuant
6 to Code of Civil Procedure § 410.10 and the California Constitution, Article VI § 10, because this
7 case is a cause not given by statute to the other trial courts.

8 10. Plaintiff is informed and believes that the State of California has personal
9 jurisdiction over the Defendant named in the action because Defendant is a corporation authorized
10 to conduct and does conduct business in this State. Defendant is incorporated in California,
11 maintains its corporate headquarters in California, is registered with the California Secretary of
12 State to do sufficient business with sufficient minimum contacts in California, and/or otherwise
13 intentionally avails itself of the California market through the franchise ownership and operation
14 of over 800 dealerships store locations nationwide, including in the County of Los Angeles, which
15 has caused both obligations and liability of Defendant to arise in the County of Los Angeles.

16 11. The amount in controversy exceeds the jurisdictional minimum of this Court.

17 **FACTUAL ALLEGATIONS**

18 **A. GAP Waivers**

19 12. If a consumer gets into accident and their car is deemed a "total loss," or if a
20 consumer's car is stolen, the amount the consumer owes on their car loan may end up being more
21 than the amount the insurance company is willing to pay for the consumer's loss. This difference
22 between what an insurer is willing to pay and what the consumer still owes is known as the "gap."

23 13. For both consumers and creditors, the risk that a consumer will not be able to cover
24 the "gap" often makes financing untenable. Enter GAP products. GAP products allow consumers
25 to cover the "gap" between the amount owed to the creditor and the proceeds from the insurance
26 policy.

27 14. GAP products were first introduced in the 1980s and have become increasingly
28 popular over time. There are generally two types of GAP products. The first is GAP insurance.

1 GAP insurance is a contract between an insurance company and a consumer, in which the insurer
2 agrees to cover the consumer's GAP in the event of a total loss of the vehicle. With GAP insurance,
3 if a total loss occurs and the current value of the vehicle is worth less than the amount owed to the
4 creditor, then the insurance company will pay the creditor the difference. In other words, the
5 insurance company is paying off the loan balance on the consumer's behalf. The consumer pays
6 insurance premiums directly to the insurance company for this coverage. This case does not concern
7 GAP insurance.

8 15. Instead, this case concerns GAP Waivers. GAP Waivers were developed as an
9 alternative to GAP Insurance. Unlike GAP Insurance, GAP Waivers are a "debt cancellation
10 agreement" rather than insurance, because with a GAP Waiver, the creditor agrees to write off the
11 "gap" in the event of a "total loss" or if the vehicle is stolen and the insurance proceeds are
12 insufficient to pay off the loan. The development of GAP Waivers have generally allowed the
13 automobile industry to circumvent insurance regulations and licensing requirements while offering
14 what is only a slightly modified version of GAP insurance.

15 16. To obtain a GAP Waiver, the consumer and the vehicle seller, or dealer, execute a
16 GAP Waiver form. The GAP Waiver forms are form contracts that are offered to consumers on a
17 take-it-or-leave-it basis. The Gap Waiver form provides that if a consumer suffers a total loss, and
18 the insurance payout for the vehicle is insufficient to pay off the remaining loan balance, then the
19 creditor on the car financing agreement will agree to waive the difference, provided the consumer
20 pays a fee.

21 17. These GAP fees are included as a separate line item in the vehicle purchase finance
22 agreement and are incrementally paid in monthly installments by the consumer over the life of the
23 loan, with interest, along with the rest of the purchase price of the vehicle.

24 18. Importantly, Hyundai Capital's GAP Waiver Addendum provides that if the car
25 finance agreement is paid off prior to the end of the full loan term, then the GAP Waiver Addendum
26 will terminate, and then the consumer is entitled to a refund of the unused portion of the GAP
27 Waiver Addendum fees. Such a provision makes sense: consumers should not have to pay for a
28 service they no longer need and derive no benefit from.

1 19. For example, if the total GAP fees for four years of GAP coverage are \$1,000, but
2 the consumer pays off their finance agreement in two years, then the consumer would be entitled
3 to a \$500 refund for the unused half of their GAP coverage. These GAP fees are considered
4 “unearned” because once the finance agreement is paid off early, there is no possibility of a GAP
5 and thus the consumer does not receive anything of value by paying for the GAP protection.

6 **B. Hyundai Capital’s Role as the Creditor on Finance Agreements with GAP**
7 **Waivers**

8 20. As noted above, the consumer initially enters the vehicle purchase finance
9 agreement and GAP Waiver Addendum with the dealer—who is the initial “creditor” on the loan.
10 But the dealer then sells and assigns the finance agreement with the GAP Waiver Addendum to a
11 financial institution, like Hyundai Capital. Thereafter, the consumer’s payments and interactions
12 concerning the finance agreement are with Hyundai Capital. Once Hyundai Capital purchases the
13 finance agreement and GAP Waiver Addendum, Hyundai Capital becomes the “creditor” on the
14 loan, legally assuming the benefits and contractual obligations under the finance agreement and
15 GAP Waiver Addendum. This includes the obligation to refund any unearned GAP fees it collects
16 because of the early termination of the finance agreement.

17 21. In this case, Plaintiff purchased her vehicle from Win Hyundai Carson, a Hyundai
18 dealership located in Carson, California.

19 22. It is apparent from the vehicle financing agreement whether the consumer purchased
20 a GAP Waiver. The front page of the financing agreement generally indicates if it includes a GAP
21 Waiver, and the agreement will also separately list the total amount of the GAP fees in a breakdown
22 of the amount being financed by the consumer. Hyundai Capital also receives a copy of the
23 consumer’s finance agreement and GAP Waiver Addendum agreement from the dealer. As a result,
24 Hyundai Capital knows which financing agreements have GAP Waiver Addendums.

25 23. Throughout the term of the loan, the payoff amount includes the remaining cost of
26 the GAP Waiver Addendum, which is included in the aggregate amount financed by the consumer
27 when they purchase the vehicle. Thus, when a consumer prepays their vehicle loans in full, the total
28 payoff amount to Hyundai Capital includes the full remaining cost of the GAP Waiver Addendum,

1 even though the consumer derives no benefit from paying that cost. Hyundai Capital then fails to
2 provide any credit or refund for the unearned GAP Waiver Addendum fees, despite knowing that
3 those fees are unearned because the consumer prepaid their loan and terminated the financing
4 agreement.

5 24. Hyundai Capital knows consumers are entitled to a refund of unearned GAP fees
6 when they pay off their finance agreement early, but it collects the unearned GAP fees anyway.
7 This has enabled Hyundai Capital to collect and keep millions of dollars in unearned GAP fees that
8 rightfully belong to their consumers.

9 **C. Plaintiff's GAP Waiver Addendum with Hyundai Capital**

10 25. On or about January 2, 2017, Plaintiff purchased a new 2017 Hyundai Santa Fe S,
11 VIN 5NMZU3LB3HH032766, (the "Vehicle") from a dealer, Win Hyundai Carson located in
12 Carson, California. Ms. Quinn is listed as the Vehicle's purchaser on the Retail Installment Sales
13 Contract, (the "Contract").

14 26. Ms. Quinn purchased the Vehicle for a total sale price of \$42,278.64, paying
15 \$8,250.00 down. The total amount financed was \$30,527.55 with an interest rate of 3.59% APR,
16 paid over 71 months at \$472.62 per month beginning on February 16, 2017. Thus, the loan term
17 was set to end on approximately January 16, 2023.

18 27. As part of the Contract, Ms. Quinn purchased the optional GAP Waiver Addendum
19 for a total of \$895.00. That \$895.00 was included in the total finance amount.

20 28. The GAP Waiver Addendum stated that "This [GAP] Addendum is between the
21 Customer/Borrower (You or Your) and the Dealer/Creditor (We, Us, or Our) or if the Financing
22 Contract is assigned with the assignee. This [GAP] Addendum amends the Financing Contract...
23 Although not required to do so, you elect to purchase this [GAP] Addendum for an additional
24 charge which is shown above." Ms. Quinn signed this portion of the Contract, agreeing to purchase
25 the voluntary GAP Waiver Addendum.

26 29. The dealer, Win Hyundai Carson, then assigned the financing agreement and GAP
27 addendum to Hyundai Capital. Thus, Win Hyundai Carson is no longer a party to the agreement.

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1 30. The GAP Waiver Addendum that Ms. Quinn purchased was provided by Hyundai
2 Motor Finance, with Hyundai Motor Finance¹ listed as the creditor on that agreement at the time
3 Ms. Quinn purchased it.

4 31. The GAP Waiver Addendum also provides that the contract may be cancelled or
5 terminated at the will of the purchaser. The GAP Waiver Addendum unequivocally states:

6 YOUR RIGHT TO CANCEL: You have the unconditional right to cancel this
7 optional [GAP] Addendum for a refund/credit of the unearned portion of the charge
8 for this [GAP] Addendum at any time. If you cancel within 30 days of the [GAP]
9 Addendum purchase, you will receive a full refund/credit of the [GAP] Addendum
10 cost, provided no loss has occurred. After 30 days, you will receive a refund/credit
11 of the [GAP] Addendum cost calculated by the Pro Rata refund method, or by the
12 refund method as may be required by state or federal law, less a \$50.00 cancellation
13 fee, where such cancellation fee is permitted by law. Cancel fee not applicable for
14 Ford Motor Credit borrowers only. To cancel this [GAP] Addendum and request a
15 refund/credit, you must contact the Dealer/Creditor, in writing, at the address shown
16 above. Any refund/credit due you will first be issued to the Dealer/Creditor and
17 applied to any amount owed still to the Dealer/Creditor under the finance agreement.
18 If the refund/credit is not received within 60 days of notice of cancellation, contact
19 the Administrator shown below.

20 32. Thus, the GAP Waiver Addendum required Hyundai Capital to refund the unearned
21 GAP fees to Ms. Quinn.

22 33. On approximately April 20, 2021, Ms. Quinn paid off the remaining balance on her
23 Vehicle loan, thereby satisfying the Contract in full and cancelling the GAP Waiver Addendum
24 contract before the full term of the loan had passed.

25 34. But despite prepaying the Contract in full approximately 21 months early, Ms.
26 Quinn did not receive a refund of a pro rata share of the \$895.00 GAP fee.

27 35. As a result, Hyundai Capital wrongfully retained unearned GAP fees from Ms.
28 Quinn.

CLASS ACTION ALLEGATIONS

36. Plaintiff brings this action on behalf of herself and on behalf of all others similarly
situated (the "Nationwide Class"). The Class includes:

All persons who, during the applicable statute of limitations, entered into finance
agreements with GAP Waiver Addendums that were assigned to Hyundai Capital

¹ Hyundai Motor Finance is a trademark of Defendant Hyundai Capital America.

1 and who paid off their finance agreements before the end of the loan term but did
2 not receive a refund of unearned GAP fees.

3 37. Plaintiff also brings this action on behalf of herself and as a class action on behalf
4 of the following class of consumers (the "California Subclass"):

5 All persons who, during the applicable statute of limitations, entered into finance
6 agreements in the State of California with GAP Waiver Addendums that were
7 assigned to Hyundai Capital and who paid off their finance agreements before the
8 end of the loan term but did not receive a refund of unearned GAP fees.

9 38. The aforementioned Nationwide Class and California Subclass are referred to herein
10 as the "Class."

11 39. Excluded from the proposed Class are: (a) Defendants and their agents, officers,
12 directors, parent companies, subsidiaries, and affiliates; (b) counsel representing Plaintiff and any
13 person employed by counsel; and (c) any judicial officers assigned to this case and their staff.

14 40. Plaintiff reserves the right to revise the definition of the Class based upon
15 subsequently discovered information.

16 41. The members of the proposed Class are so numerous that joinder of all members
17 would be impractical. The proposed Class likely contain thousands of members. The precise
18 number of class members can be ascertained through discovery, which will include Hyundai
19 Capital's records.

20 42. Plaintiff's claims are typical of the claims of the members of the Class. Plaintiff and
21 members of the Class have been injured by the same wrongful practices of Hyundai Capital.
22 Plaintiff's claims arise from the same practices and course of conduct that give rise to the claims
23 of the members of the Class and are based on the same legal theories.

24 43. Plaintiff is a representative who will fully and adequately assert and protect the
25 interests of the Class and has retained class counsel who are experienced and qualified in
26 prosecuting class actions. Neither Plaintiff nor her attorneys have any interests contrary to or in
27 conflict with the Class.

28 44. There are common questions of law and fact that predominate over any questions
affecting only individual members of the Class, including:

- 1 a. Whether Hyundai Capital had a policy or practice of failing to refund
- 2 unearned GAP Waiver Addendum fees on finance agreements assigned to
- 3 Hyundai Capital;
- 4 b. Whether Hyundai Capital breached its contract with Plaintiff and the Class
- 5 by failing to refund unearned GAP Waiver Addendum fees;
- 6 c. Whether Hyundai Capital was unjustly enriched;
- 7 d. Whether Hyundai Capital violated state consumer protection statutes;
- 8 e. The damages to which Plaintiff and the class are entitled.

9 45. A class action is superior to all other available methods for the fair and efficient
10 adjudication of this lawsuit, because individual litigation of the claims of all members of the Class
11 is economically infeasible and procedurally impracticable. While the aggregate damages sustained
12 by the Class are likely in the millions of dollars, the individual damages incurred by each Class
13 member are too small to warrant the expense of individual suits. The likelihood of individual Class
14 members prosecuting their own separate claims is remote, and even if every member of the Class
15 could afford individual litigation, the court system would be unduly burdened by individual
16 litigation of such cases. Further, individual members of the Class do not have a significant interest
17 in individually controlling the prosecution of separate actions, and individualized actions would
18 result in varying, inconsistent, or contradictory judgments and would magnify the delay and
19 expense to all parties and the court system because that would result from multiple trials of the
20 same factual and legal issues. Plaintiff knows of no difficulty to be encountered in the management
21 of this action that would preclude its maintenance as a class action.

22 46. Hyundai Capital has, or has access to, contact information for members of the Class
23 which may be used for the purpose of providing notice of the pendency of this action.

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CAUSES OF ACTION
COUNT ONE

BREACH OF CONTRACT INCLUDING BREACH OF THE COVENANT OF GOOD FAITH AND FAIR DEALING

(On Behalf of Plaintiff and the Nationwide Class or, in the alternative, the California Subclass)

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6 47. Plaintiff hereby repeats, realleges, and incorporates by reference each and every
7 allegation contained above as though fully set forth herein.

8 48. Plaintiff and members of the Class entered into finance agreements with GAP
9 Waiver Addendums that were assigned to Hyundai Capital.

10 49. Hyundai Capital breached the terms of the contract when it assessed and failed to
11 refund Plaintiff and the Class unearned GAP fees.

12 50. Further, under the law of each of the states where Hyundai Capital does business,
13 an implied covenant of good faith and fair dealing governs every contract. The covenant of good
14 faith and fair dealing constrains Defendant's discretion to abuse self-granted contractual powers.

15 51. This good faith requirement extends to the manner in which a party employs
16 discretion conferred by a contract.

17 52. Good faith and fair dealing, in connection with executing contracts and discharging
18 performance and other duties according to their terms, means preserving the spirit—not merely the
19 letter—of the bargain. Put differently, the parties to a contract are mutually obligated to comply
20 with the substance of their contract in addition to its form. Evading the spirit of the bargain and
21 abusing the power to specify terms constitute examples of bad faith in the performance of contracts.

22 53. Subterfuge and evasion violate the obligation of good faith in performance even
23 when an actor believes his conduct to be justified. A lack of good faith may be overt or may consist
24 of inaction, and fair dealing may require more than honesty. Other examples of violations of good
25 faith and fair dealing are willful rendering of imperfect performance, abuse of a power to specify
26 terms, and interference with or failure to cooperate in the other party's performance.

27 54. Defendant breached the covenant of good faith and fair dealing when it assessed and
28 collected and failed to refund unearned GAP fees.

1 55. Each of Defendant’s actions was done in bad faith and was arbitrary and capricious.

2 56. Plaintiff and members of the putative Class have performed all of the obligations on
3 them pursuant to the contract.

4 57. Lest there be any doubt, by way of this Complaint, Plaintiff hereby provides notice
5 on behalf of herself and the putative class of her and class members’ right to receive a refund under
6 the contract.

7 58. Hyundai Capital has therefore received written notice that Plaintiff and the members
8 of the Class paid off their finance agreements early, thereby entitling them to a refund of any
9 unearned GAP fees.

10 59. Plaintiff and the members of the Class were harmed because Hyundai Capital failed
11 to refund the unearned GAP fees after the early payoff of the finance agreements and failed to pay
12 the interest that accrued on those unpaid amounts.

13 60. Hyundai Capital is liable to Plaintiff and the members of the Class for the damages
14 they suffered as a direct result of Hyundai Capital’s collection and failure to promptly refund the
15 unearned GAP fees, as well as the interest that accrued on those unpaid amounts.

16 **COUNT TWO**

17 **VIOLATION OF CALIFORNIA’S UNFAIR COMPETITION LAW**
18 **(On Behalf of Plaintiff and the Nationwide Class or, in the alternative,**
19 **the California Subclass)**

20 61. Plaintiff hereby repeats, realleges, and incorporates by reference each and every
21 allegation contained above as though fully set forth herein. Plaintiff brings this claim for violation
22 of California Business and Professions Code 17200 *et seq.* (the “UCL”) on behalf of herself and
23 the members of the class.

24 62. The UCL prohibits acts of “unfair competition,” including any unfair, fraudulent or
25 unlawful business practice.

26 63. California Business & Professions Code ~~§ 17200~~ prohibits acts of “unfair
27 competition,” including any “unlawful, unfair or fraudulent business act or practice.” Hyundai
28 Capital’s conduct violates each of the statute’s “unfair,” “unlawful,” and “fraudulent” prongs.

1 64. The UCL imposes strict liability. Plaintiff need not prove that Hyundai Capital
2 intentionally or negligently engaged in unlawful, unfair, or fraudulent business practices—but only
3 that such practices occurred.

4 65. A business act or practice is “unfair” under the UCL if it offends an established
5 public policy or is immoral, unethical, oppressive, unscrupulous, or substantially injurious to
6 consumers, and that unfairness is determined by weighing the reasons, justifications, and motives
7 of the practice against the gravity of the harm to the alleged victims.

8 66. A business act or practice is “fraudulent” under the UCL if it is likely to deceive
9 members of the public.

10 67. A business act or practice is “unlawful” under the UCL if it violates any other law
11 or regulation.

12 68. Hyundai Capital committed unfair and fraudulent business acts and practices in
13 violation of Cal. Bus. & Prof. Code § 17200, *et seq.*, by affirmatively and knowingly
14 misrepresenting the amount consumers owed Hyundai Capital with respect to unearned GAP fees.
15 Plaintiff relied on these misrepresentations to her detriment.

16 69. Defendant’s acts and practices offend an established public policy of fee
17 transparency in the marketplace, and constitute immoral, unethical, oppressive, and unscrupulous
18 activities that are substantially injurious to consumers.

19 70. The harm to Plaintiff and the Class outweighs the utility of Defendant’s practices.
20 There were reasonably available alternatives to further Defendant’s legitimate business interests,
21 other than the misleading and deceptive conduct described herein.

22 71. Defendant’s conduct also constitutes an “unlawful” act under the UCL because it
23 also constitutes a violation of sections 1770(a)(5) and (a)(9) of the California Consumer Legal
24 Remedies Act.

25 72. Defendant’s business practices have misled Plaintiff and the proposed Class and will
26 continue to mislead them in the future.

27 73. As a direct and proximate result of Defendant’s unfair, fraudulent, and unlawful
28 practices, Plaintiff and Class members suffered and will continue to suffer actual damages.

1 Defendant's fraudulent conduct is ongoing and present a continuing threat to Class members that
2 they continue overpaying Defendant.

3 74. As a result of its unfair, fraudulent, and unlawful conduct, Defendant has been
4 unjustly enriched and should be required to disgorge its unjust profits and make restitution to
5 Plaintiff and Class members pursuant to Cal. Bus. & Prof. Code § 17203 and 17204.

6 75. Pursuant to Business & Professions Code §§ 17203 and 17500, Plaintiff and the
7 members of the Class, on behalf of the general public, seek an order of this Court enjoining
8 Defendant from continuing to engage, use, or employ their unfair, unlawful, and fraudulent
9 practices.

10 **COUNT THREE**

11 **VIOLATION OF CALIFORNIA'S CONSUMER LEGAL REMEDIES ACT**
12 **(On Behalf of Plaintiff and the Nationwide Class or, in the alternative,**
13 **the California Subclass)**

14 76. Plaintiff hereby repeats, realleges, and incorporates by reference each and every
15 allegation contained above as though fully set forth herein.

16 77. This cause of action is brought pursuant to the Consumers Legal Remedies Act
17 (CLRA), California Civil Code § 1750, *et seq.* Plaintiff and each member of the proposed Class
18 are "consumers" as defined by California Civil Code § 1761(d). Defendant's sale of GAP Waivers
19 were "transactions" within the meaning of California Civil Code § 1761(e). GAP Waivers are a
20 "service" within the meaning of California Civil Code § 1761(b).

21 78. Defendant violated and continues to violate the CLRA by engaging in the following
22 practices proscribed by California Civil Code § 1770(a) in transactions with Plaintiff and the Class
23 which were intended to result in, and did result in, the sale of GAP Waiver:

- 24 a. "Representing that goods or services have . . . characteristics . . . that they
25 do not have" (a)(5); and
26 b. "Advertising goods or services with intent not to sell them as advertised"
27 (a)(9).

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1 79. Specifically, Defendant failed to disclose to customers that it would not refund
2 unearned GAP fees at the time the Contract was fully paid.

3 80. Hyundai Capital continues to violate the CLRA and continues to injure the public
4 by misleading consumers about its GAP fees and by failing to refund unearned GAP fees.
5 Accordingly, Plaintiff seeks injunctive relief on behalf of the general public to prevent Hyundai
6 Capital from continuing to engage in these deceptive and illegal practices. Otherwise, Plaintiff, the
7 Class members, and members of the general public may be irreparably harmed and/or denied
8 effective and complete remedy if such an order is not granted.

9 81. In accordance with Cal. Civ. Code § 1780(a), Plaintiff and the Class members seek
10 injunctive and equitable relief on behalf of the general public for violations of the CLRA, including
11 restitution and disgorgement.

12 82. Pursuant to § 1782(a) of the CLRA, concurrent with the filing of this Complaint,
13 Plaintiff's counsel notified Defendant in writing by certified mail of the particular violations of
14 §1770 of the CLRA and demanded that it rectify the problems associated with the actions detailed
15 above and give notice to all affected consumers of Defendant's intent to act. If Defendant fails to
16 respond to Plaintiff's letter or agree to rectify the problems associated with the actions detailed
17 above and give notice to all affected consumers within 30 days of the date of written notice, as
18 proscribed by §1782, Plaintiff will move to amend her Complaint to pursue claims for actual,
19 punitive and statutory damages, as appropriate against Defendant. As to this cause of action, at this
20 time, Plaintiff seeks only public injunctive relief. Specifically, Plaintiff seeks an order enjoining
21 Defendant from continuing to collect and failing to promptly refund unearned GAP fees after the
22 early payoff of the finance agreement.

23 **COUNT FOUR**

24 **UNJUST ENRICHMENT**

25 **(On Behalf of Plaintiff and the Nationwide Class or, in the alternative,
26 the California Subclass)**

27 83. Plaintiff hereby repeats, realleges, and incorporates by reference each and every
28 allegation contained above as though fully set forth herein.

///

1 84. To the detriment of Plaintiff and the Class, Defendant has been, and continues to be,
2 unjustly enriched as a result of its wrongful conduct alleged herein.

3 85. Plaintiff and the Class conferred a benefit on Defendant when they paid Defendant
4 unearned GAP fees.

5 86. Defendant unfairly, deceptively, unjustly, and/or unlawfully accepted said benefits,
6 which under the circumstances, would be unjust to allow Defendant to retain.

7 87. Defendant’s unjust enrichment is traceable to, and resulted directly and proximately
8 from, the conduct alleged herein.

9 88. Plaintiff and the Class, therefore, seek disgorgement of all wrongfully obtained fees
10 received by Defendant as a result of its inequitable conduct as more fully stated herein.

11 **PRAYER FOR RELIEF**

12 **WHEREFORE**, Plaintiff on behalf of herself and the Class seeks judgment in an amount
13 to be determined at trial, as follows:

- 14 (a) For public injunctive relief, enjoining Defendant from continuing the unlawful
15 practices set forth above;
- 16 (b) For declaratory and injunctive relief as set forth above;
- 17 (c) For an order requiring Defendant to disgorge and make restitution of all monies it
18 acquired by means of the unlawful practices set forth above;
- 19 (d) For compensatory damages according to proof;
- 20 (e) For punitive damages according to proof;
- 21 (f) For reasonable attorneys’ fees and costs of suit;
- 22 (g) For pre-judgment interest; and
- 23 (h) Awarding such other and further relief as this Court deems just, proper and
24 equitable.

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JURY DEMAND

Plaintiff hereby demands a jury trial on all claims so triable.

Dated: October 8, 2021

Respectfully submitted,

EDELSBERG LAW, P.A.

By: /s/ Scott Edelsberg

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21STCV37386

Electronically FILED by Superior Court of California, County of Los Angeles on 10/12/2021 12:00 AM Sherri R. Carter, Executive Officer/Clerk of Court, by R. Lozano, Deputy Clerk

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Scott Edelsberg (SBN 330090) EDELSBERG LAW, P.A. 1925 Century Park East, Suite 1700, Los Angeles, CA 90067 scott@edelsberglaw.com		FOR COURT USE ONLY
TELEPHONE NO.: (305) 975-3320 FAX NO. (Optional): (786) 623-0915 ATTORNEY FOR (Name): Plaintiff, KATHERINE QUINN		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES STREET ADDRESS: 111 N. Hill Street MAILING ADDRESS: 111 N. Hill Street CITY AND ZIP CODE: Los Angeles, CA 90012-3014 BRANCH NAME: Central District		
CASE NAME: QUINN v. HYUNDAI CAPITAL AMERICA		
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000)	<input type="checkbox"/> Limited (Amount demanded is \$25,000)	Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)
		CASE NUMBER: 21STCV37386 JUDGE: DEPT.:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input checked="" type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|---|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input checked="" type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input checked="" type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive
4. Number of causes of action (specify): Breach of Contract; Unfair Competition; Violation of CLRA
5. This case is is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: October 8, 2021

SCOTT EDELSBERG

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

CM-010

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the Civil Case Cover Sheet contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the Civil Case Cover Sheet to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation; a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

- Auto (22)—Personal Injury/Property Damage/Wrongful Death
- Uninsured Motorist (46) *(if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)*

Other PIPD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

- Asbestos (04)
- Asbestos Property Damage
- Asbestos Personal Injury/Wrongful Death
- Product Liability *(not asbestos or toxic/environmental)* (24)
- Medical Malpractice (45)
- Medical Malpractice—Physicians & Surgeons
- Other Professional Health Care Malpractice
- Other PIPD/WD (23)
- Premises Liability (e.g., slip and fall)
- Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
- Intentional Infliction of Emotional Distress
- Negligent Infliction of Emotional Distress
- Other PIPD/WD

Non-PIP/WD (Other) Tort

- Business Tort/Unfair Business Practice (07)
- Civil Rights (e.g., discrimination, false arrest) *(not civil harassment)* (08)
- Defamation (e.g., slander, libel) (13)
- Fraud (18)
- Intellectual Property (19)
- Professional Negligence (25)
- Legal Malpractice
- Other Professional Malpractice *(not medical or legal)*
- Other Non-PIP/WD Tort (35)

Employment

- Wrongful Termination (36)
- Other Employment (15)

Contract

- Breach of Contract/Warranty (06)
- Breach of Rental/Lease
- Contract *(not unlawful detainer or wrongful eviction)*
- Contract/Warranty Breach—Seller Plaintiff *(not fraud or negligence)*
- Negligent Breach of Contract
- Warranty
- Other Breach of Contract/Warranty
- Collections (e.g., money owed, open book accounts) (09)
- Collection Case—Seller Plaintiff
- Other Promissory Note/Collections Case
- Insurance Coverage *(not provisionally complex)* (18)
- Auto Subrogation
- Other Coverage
- Other Contract (37)
- Contractual Fraud
- Other Contract Dispute

Real Property

- Eminent Domain/Inverse Condemnation (14)
- Wrongful Eviction (33)
- Other Real Property (e.g., quiet title) (26)
- Writ of Possession of Real Property
- Mortgage Foreclosure
- Quiet Title
- Other Real Property *(not eminent domain, landlord/tenant, or foreclosure)*

Unlawful Detainer

- Commercial (31)
- Residential (32)
- Drugs (38) *(if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)*

Judicial Review

- Asset Forfeiture (05)
- Petition Re: Arbitration Award (11)
- Writ of Mandate (02)
- Writ—Administrative Mandamus
- Writ—Mandamus on Limited Court Case Matter
- Writ—Other Limited Court Case Review
- Other Judicial Review (39)
- Review of Health Officer Order
- Notice of Appeal—Labor Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

- Antitrust/Trade Regulation (03)
- Construction Defect (10)
- Claims Involving Mass Tort (40)
- Securities Litigation (28)
- Environmental/Toxic Tort (30)
- Insurance Coverage Claims *(arising from provisionally complex case type listed above)* (41)

Enforcement of Judgment

- Enforcement of Judgment (20)
- Abstract of Judgment (Out of County)
- Confession of Judgment *(non-domestic relations)*
- Sister State Judgment
- Administrative Agency Award *(not unpaid taxes)*
- Petition/Certification of Entry of Judgment on Unpaid Taxes
- Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

- RICO (27)
- Other Complaint *(not specified above)* (42)
- Declaratory Relief Only
- Injunctive Relief Only *(non-harassment)*
- Mechanics Lien
- Other Commercial Complaint Case *(non-tort/non-complex)*
- Other Civil Complaint *(non-tort/non-complex)*

Miscellaneous Civil Petition

- Partnership and Corporate Governance (21)
- Other Petition *(not specified above)* (43)
- Civil Harassment
- Workplace Violence
- Elder/Dependent Adult Abuse
- Election Contest
- Petition for Name Change
- Petition for Relief From Late Claim
- Other Civil Petition

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**CIVIL CASE COVER SHEET ADDENDUM AND
STATEMENT OF LOCATION
(CERTIFICATE OF GROUNDS FOR ASSIGNMENT TO COURTHOUSE LOCATION)**

This form is required pursuant to Local Rule 2.3 in all new civil case filings in the Los Angeles Superior Court.

Step 1: After completing the Civil Case Cover Sheet (Judicial Council form CM-010), find the exact case type in Column A that corresponds to the case type indicated in the Civil Case Cover Sheet.

Step 2: In Column B, check the box for the type of action that best describes the nature of the case.

Step 3: In Column C, circle the number which explains the reason for the court filing location you have chosen.

Applicable Reasons for Choosing Court Filing Location (Column C)

- | | |
|--|---|
| <ul style="list-style-type: none"> 1. Class actions must be filed in the Stanley Mosk Courthouse, Central District. 2. Permissive filing in central district. 3. Location where cause of action arose. 4. Mandatory personal injury filing in North District. 5. Location where performance required or defendant resides. 6. Location of property or permanently garaged vehicle. | <ul style="list-style-type: none"> 7. Location where petitioner resides. 8. Location wherein defendant/respondent functions wholly. 9. Location where one or more of the parties reside. 10. Location of Labor Commissioner Office. 11. Mandatory filing location (Hub Cases – unlawful detainer, limited non-collection, limited collection, or personal injury). |
|--|---|

Auto Tort

Other Personal Injury/Property Damage/Wrongful Death Tort

A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above	
Auto Tort	<input type="checkbox"/> A7100 Motor Vehicle - Personal Injury/Property Damage/Wrongful Death	1, 4, 11	
	<input type="checkbox"/> A7110 Personal Injury/Property Damage/Wrongful Death – Uninsured Motorist	1, 4, 11	
Other Personal Injury/Property Damage/Wrongful Death Tort	<input type="checkbox"/> A8070 Asbestos Property Damage	1, 11	
	<input type="checkbox"/> A7221 Asbestos - Personal Injury/Wrongful Death	1, 11	
	<input type="checkbox"/> A7260 Product Liability (not asbestos or toxic/environmental)	1, 4, 11	
	<input type="checkbox"/> A7210 Medical Malpractice - Physicians & Surgeons	<input type="checkbox"/> A7240 Other Professional Health Care Malpractice	1, 4, 11
			1, 4, 11
	<input type="checkbox"/> Other Personal Injury/Property Damage/Wrongful Death (23)	<input type="checkbox"/> A7250 Premises Liability (e.g., slip and fall)	1, 4, 11
<input type="checkbox"/> A7230 Intentional Bodily Injury/Property Damage/Wrongful Death (e.g., assault, vandalism, etc.)		1, 4, 11	
<input type="checkbox"/> A7270 Intentional Infliction of Emotional Distress		1, 4, 11	
<input type="checkbox"/> A7220 Other Personal Injury/Property Damage/Wrongful Death		1, 4, 11	

SHORT TITLE: Quinn v. Hyundai Capital America	CASE NUMBER
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	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Non-Personal Injury/Property Damage/Wrongful Death Tort	Business Tort (07)	<input type="checkbox"/> A6029 Other Commercial/Business Tort (not fraud/breach of contract)	1, 2, 3
	Civil Rights (08)	<input type="checkbox"/> A6005 Civil Rights/Discrimination	1, 2, 3
	Defamation (13)	<input type="checkbox"/> A6010 Defamation (slander/libel)	1, 2, 3
	Fraud (16)	<input type="checkbox"/> A6013 Fraud (no contract)	1, 2, 3
	Professional Negligence (26)	<input type="checkbox"/> A6017 Legal Malpractice	1, 2, 3
		<input type="checkbox"/> A6050 Other Professional Malpractice (not medical or legal)	1, 2, 3
Other (35)	<input type="checkbox"/> A6025 Other Non-Personal Injury/Property Damage tort	1, 2, 3	
Employment	Wrongful Termination (36)	<input type="checkbox"/> A6037 Wrongful Termination	1, 2, 3
	Other Employment (15)	<input type="checkbox"/> A6024 Other Employment Complaint Case	1, 2, 3
		<input type="checkbox"/> A6109 Labor Commissioner Appeals	10
Contract	Breach of Contract/Warranty (06) (not insurance)	<input type="checkbox"/> A6004 Breach of Rental/Lease Contract (not unlawful detainer or wrongful eviction)	2, 5
		<input type="checkbox"/> A6008 Contract/Warranty Breach - Seller Plaintiff (no fraud/negligence)	2, 6
		<input type="checkbox"/> A6019 Negligent Breach of Contract/Warranty (no fraud)	1, 2, 5
		<input checked="" type="checkbox"/> A6028 Other Breach of Contract/Warranty (not fraud or negligence)	1, 2, 5
	Collections (09)	<input type="checkbox"/> A6002 Collections Case-Seller Plaintiff	5, 8, 11
		<input type="checkbox"/> A6012 Other Promissory Note/Collections Case	5, 11
	<input type="checkbox"/> A6034 Collections Case-Purchased Debt (Charged Off Consumer Debt Purchased on or after January 1, 2014)	5, 6, 11	
Insurance Coverage (18)	<input type="checkbox"/> A6015 Insurance Coverage (not complex)	1, 2, 5, 8	
Other Contract (37)	<input type="checkbox"/> A6009 Contractual Fraud	1, 2, 3, 5	
	<input type="checkbox"/> A6031 Tortious Interference	1, 2, 3, 5	
	<input type="checkbox"/> A6027 Other Contract Dispute(not breach/insurance/fraud/negligence)	1, 2, 3, 8, 9	
Real Property	Eminent Domain/Inverse Condemnation (14)	<input type="checkbox"/> A7300 Eminent Domain/Condemnation Number of parcels _____	2, 6
	Wrongful Eviction (33)	<input type="checkbox"/> A6023 Wrongful Eviction Case	2, 6
	Other Real Property (26)	<input type="checkbox"/> A6018 Mortgage Foreclosure	2, 6
<input type="checkbox"/> A6032 Quiet Title		2, 6	
<input type="checkbox"/> A6060 Other Real Property (not eminent domain, landlord/tenant, foreclosure)		2, 6	
Unlawful Detainer	Unlawful Detainer-Commercial (31)	<input type="checkbox"/> A6021 Unlawful Detainer-Commercial (not drugs or wrongful eviction)	6, 11
	Unlawful Detainer-Residential (32)	<input type="checkbox"/> A6020 Unlawful Detainer-Residential (not drugs or wrongful eviction)	6, 11
	Unlawful Detainer- Post-Foreclosure (34)	<input type="checkbox"/> A6020F Unlawful Detainer-Post-Foreclosure	2, 6, 11
	Unlawful Detainer-Drugs (38)	<input type="checkbox"/> A6022 Unlawful Detainer-Drugs	2, 6, 11

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	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Judicial Review	Asset Forfeiture (05)	<input type="checkbox"/> A6108 Asset Forfeiture Case	2, 3, 6
	Petition re Arbitration (11)	<input type="checkbox"/> A6115 Petition to Compel/Confirm/Vacate Arbitration	2, 5
	Writ of Mandate (02)	<input type="checkbox"/> A6151 Writ - Administrative Mandamus	2, 8
		<input type="checkbox"/> A6152 Writ - Mandamus on Limited Court Case Matter	2
<input type="checkbox"/> A6153 Writ - Other Limited Court Case Review		2	
	Other Judicial Review (39)	<input type="checkbox"/> A6150 Other Writ /Judicial Review	2, 8
Provisionally Complex Litigation	Antitrust/Trade Regulation (03)	<input type="checkbox"/> A6003 Antitrust/Trade Regulation	1, 2, 8
	Construction Defect (10)	<input type="checkbox"/> A8007 Construction Defect	1, 2, 3
	Claims Involving Mass Tort (40)	<input type="checkbox"/> A8006 Claims Involving Mass Tort	1, 2, 8
	Securities Litigation (28)	<input type="checkbox"/> A6035 Securities Litigation Case	1, 2, 8
	Toxic Tort Environmental (30)	<input type="checkbox"/> A6036 Toxic Tort/Environmental	1, 2, 3, 8
	Insurance Coverage Claims from Complex Case (41)	<input type="checkbox"/> A8014 Insurance Coverage/Subrogation (complex case only)	1, 2, 5, 8
Enforcement of Judgment	Enforcement of Judgment (20)	<input type="checkbox"/> A6141 Sister State Judgment	2, 5, 11
		<input type="checkbox"/> A6180 Abstract of Judgment	2, 6
		<input type="checkbox"/> A6107 Confession of Judgment (non-domestic relations)	2, 9
		<input type="checkbox"/> A6140 Administrative Agency Award (not unpaid taxes)	2, 8
		<input type="checkbox"/> A6114 Petition/Certificate for Entry of Judgment on Unpaid Tax	2, 8
		<input type="checkbox"/> A6112 Other Enforcement of Judgment Case	2, 8, 9
Miscellaneous Civil Complaints	RICO (27)	<input type="checkbox"/> A6033 Racketeering (RICO) Case	1, 2, 8
	Other Complaints (Not Specified Above) (42)	<input type="checkbox"/> A6030 Declaratory Relief Only	1, 2, 8
		<input type="checkbox"/> A6040 Injunctive Relief Only (not domestic/harassment)	2, 8
		<input type="checkbox"/> A6011 Other Commercial Complaint Case (non-tort/non-complex)	1, 2, 8
<input type="checkbox"/> A6000 Other Civil Complaint (non-tort/non-complex)	1, 2, 8		
Miscellaneous Civil Petitions	Partnership Corporation Governance (21)	<input type="checkbox"/> A6113 Partnership and Corporate Governance Case	2, 8
	Other Petitions (Not Specified Above) (43)	<input type="checkbox"/> A6121 Civil Harassment With Damages	2, 3, 9
		<input type="checkbox"/> A6123 Workplace Harassment With Damages	2, 3, 9
		<input type="checkbox"/> A6124 Elder/Dependent Adult Abuse Case With Damages	2, 3, 9
		<input type="checkbox"/> A6190 Election Contest	2
		<input type="checkbox"/> A6110 Petition for Change of Name/Change of Gender	2, 7
		<input type="checkbox"/> A6170 Petition for Relief from Late Claim Law	2, 3, 8
<input type="checkbox"/> A6100 Other Civil Petition		2, 9	


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Step 4: Statement of Reason and Address: Check the appropriate boxes for the numbers shown under Column C for the type of action that you have selected. Enter the address which is the basis for the filing location, including zip code. (No address required for class action cases).

REASON: <input checked="" type="checkbox"/> 1. <input type="checkbox"/> 2. <input type="checkbox"/> 3. <input type="checkbox"/> 4. <input type="checkbox"/> 5. <input type="checkbox"/> 6. <input type="checkbox"/> 7. <input type="checkbox"/> 8. <input type="checkbox"/> 9. <input type="checkbox"/> 10. <input type="checkbox"/> 11.	ADDRESS:	
CITY:	STATE:	ZIP CODE:

Step 5: Certification of Assignment: I certify that this case is properly filed in the Central District of the Superior Court of California, County of Los Angeles [Code Civ. Proc., §392 et seq., and Local Rule 2.3(a)(1)(E)].

Dated: October 8, 2021


 (SIGNATURE OF ATTORNEY/FILING PARTY)

PLEASE HAVE THE FOLLOWING ITEMS COMPLETED AND READY TO BE FILED IN ORDER TO PROPERLY COMMENCE YOUR NEW COURT CASE:

1. Original Complaint or Petition.
2. If filing a Complaint, a completed Summons form for issuance by the Clerk.
3. Civil Case Cover Sheet, Judicial Council form CM-010.
4. Civil Case Cover Sheet Addendum and Statement of Location form, LACIV 109, LASC Approved 03-04 (Rev. 02/16).
5. Payment in full of the filing fee, unless there is court order for waiver, partial or scheduled payments.
6. A signed order appointing the Guardian ad Litem, Judicial Council form CIV-010, if the plaintiff or petitioner is a minor under 18 years of age will be required by Court in order to issue a summons.
7. Additional copies of documents to be conformed by the Clerk. Copies of the cover sheet and this addendum must be served along with the summons and complaint, or other initiating pleading in the case.

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Lawsuit Claims Hyundai Capital America Retains Unused GAP Waiver Fees When Borrowers Pay Off Loans Early](#)
