

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

ELIZABETH SNIDER and JAMES  
TWIGGER, on behalf of themselves and all  
others similarly situated,  
  
Plaintiffs,

v.

HYUNDAI MOTOR AMERICA, INC.,  
HYUNDAI MOTOR COMPANY, KIA  
MOTORS AMERICA, INC., and KIA  
MOTORS CORPORATION,  
  
Defendants.

No. 2:19-cv-00371

COMPLAINT—CLASS ACTION

JURY DEMAND

(2:19-cv-00371)

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1 Plaintiffs bring this action on behalf of themselves and all others similarly situated,  
2 against the Defendants collectively referred to as “Hyundai”—Hyundai Motor America, Inc., and  
3 Hyundai Motor Company—and the Defendants collectively referred to as “Kia”—Kia Motors  
4 America, Inc., and Kia Motors Corporation. Hyundai owns a controlling interest in Kia and  
5 directs its operations. Plaintiffs allege the following based upon information and belief, the  
6 investigation of counsel, and personal knowledge as the factual allegations pertaining to  
7 themselves.  
8

### 9 I. INTRODUCTION

10 1. This case arises out of Hyundai’s and Kia’s failure to disclose or remedy several  
11 serious defects of design and manufacturing that can cause the engines of certain vehicles  
12 equipped with gasoline direct-injection (“GDI”) engines to suddenly stall while at speed or to  
13 burst into flames.  
14

15 2. These vehicles include the 2011-2013 Hyundai Tucson and the 2012-2016 Kia  
16 Soul.

17 3. Hyundai and Kia knew or should have known about these defects before these  
18 vehicles were offered for sale, and they failed to correct these dangerous defects or disclose them  
19 to their customers. Moreover, once the vehicles were on the road, Hyundai and Kia failed to  
20 recall and repair these defective vehicles for years, leading to hundreds or thousands of engine  
21 failures, sudden stalls, and fires.  
22

23 4. Only recently—after years of concealing serious safety defects—have Hyundai  
24 and Kia begun to recall certain of these vehicles, but as described more fully below, such a recall  
25 will be inadequate to remedy the problem or to compensate the customers who bore the risk that  
26 their cars might suddenly stall while driving or, worse, burst into flames.

1           5.       Moreover, the proposed recalls do not go far enough. The proposed recall of the  
2       Kia Soul covers 375,000 vehicles equipped with one engine—the 1.6-liter “Gamma” engine—  
3       but does not address Kia Soul Plus vehicles equipped with what is, on information and belief, a  
4       second defective engine, the 2.0-liter “Nu” engine. The 2.0-liter engine—as Plaintiff James  
5       Twigger’s experience demonstrates—is similarly subject to fire risk. For the Hyundai Tucson,  
6       Hyundai has announced a recall, but its recall documents indicate that, nearly ten years after  
7       these vehicles were manufactured, and after numerous reports of engine fails, stalls, and fires,  
8       Hyundai still does not know the cause of the defect and does not have a proposed fix for the  
9       recall campaign.  
10

11           6.       Not only have numerous Hyundai and Kia vehicles been previously recalled for  
12       serious defects, which is concerning in and of itself, but the companies’ track record of actually  
13       fixing the vehicles that it recalls is also studded with problems. In the past, Hyundai and Kia  
14       have recalled numerous other models with GDI engines to repair defects that could lead to  
15       engine failures and fires, but these issues have recurred despite the recalls. Hyundai and Kia are  
16       recalling many of those vehicles yet again for the same problems. Consumers have every reason  
17       to suspect that a recall for the vehicles at issue in this Complaint—which were not part of the  
18       previous recalls but appear to suffer from similar defects—at this late date will not be an  
19       adequate solution.  
20

21           7.       Further, these consumers also have every reason to suspect that now that the  
22       problems have become known and publicized, the market values of their vehicles have likely  
23       plummeted. These consumers did not get the vehicles they bargained for at the time of purchase,  
24       have gone years without an adequate repair, may have suffered diminished resale value, and  
25       cannot now be made whole merely by recalling and repairing the vehicles.  
26

8. According to the National Highway Traffic Safety Administration (NHTSA), Hyundai is recalling 120,000 Tucsons, and Kia is recalling over 378,000 Souls with the 1.6-liter “Gamma” engine, each of which suffers from a serious defect. On information and belief, there are another roughly 300,000 Souls equipped with the 2.0-liter “Nu” engine that are also defective but are not currently the subject of any proposed recall. The affected vehicles (“Class Vehicles”) are as follows:

Model Year	Model	Number
2012-2016	Kia Soul 1.6-liter	378,967
2012-2016	Kia Soul 2.0-liter	300,000+
2011-2013	Hyundai Tucson	120,000+

9. Over 375,000 2012-2016 model year Kia Soul vehicles equipped with the 1.6-liter “Gamma” engine are being recalled due to a design defect wherein the catalytic converter can overheat and become damaged, resulting in abnormal combustion in the engine, damage to the pistons and resulting connecting rod failure. These catastrophic failures can result in sudden stalls during normal driving and engine fires. Kia’s proposed recall and repair involves changing the catalytic converter software to a reprogrammed version used on 2017 and up vehicles, meaning that Kia has known about—but concealed and failed to remedy—this defect since at least 2016. Moreover, due to the rigorous regulatory certification process for emissions components, it is unlikely that this repair could actually be effectuated without the involvement, consent, and testing of environmental regulators.

10. Over 120,000 2011-2013 model year Hyundai Tucson SUVs are being recalled due to a manufacturing defect wherein, due to improper sealing during engine production, oil

1 leaks can lead to engine damage, sudden stalls during normal operation, and/or engine fires.  
2 Hyundai professes not to know—nine years after the first of these vehicles entered production—  
3 the cause of this defect and has not yet proposed a solution despite agreeing to recall the  
4 vehicles.

5 11. Finally and surprisingly, Kia has not yet recalled 300,000+ Kia Souls equipped  
6 with the 2.0-liter “Nu” engine despite numerous reports of similar engine failures, stalls, and  
7 fires, such as the one suffered by Plaintiff Twigger.

8 12. Hyundai and Kia alike have concealed these defects for years, despite hundreds of  
9 consumer complaints of spontaneous catastrophic engine failures, stalls, and fires. In the case of  
10 the Kia Souls with Nu engines, Kia continues to conceal the defects. The recalls now being  
11 conducted were forced by a NHTSA investigation that grew in part out of concern over the  
12 timeliness and scope of Hyundai’s prior recalls for defects that could lead to engine fires in  
13 vehicles equipped with similar engines. Congress eventually summoned Kia and Hyundai  
14 executives to appear and testify about these defects, but these executives refused to appear.

15 13. Because of the inherent engine defects and Defendants’ concealment of the same,  
16 Plaintiffs and other owners and lessees of the Class Vehicles unknowingly assumed the risk of  
17 catastrophic engine failures and fires—and concomitant risk of injury or death—resulting from  
18 defects that Hyundai and Kia knew or should have known about before the vehicles were ever  
19 sold; learned of or should have learned of from the hundreds or thousands of engine failures,  
20 fires, and complaints from consumers that followed; and concealed and failed to remedy for  
21 years.

22 14. As a result of Defendants’ conduct, Plaintiffs and other owners and lessees of the  
23 Class Vehicles overpaid at the time of purchase or lease for vehicles that were actually defective,  
24

1 have or will suffer the costs associated with extensive repairs, have owned and leased vehicles  
2 that were less valuable than those for which they bargained, and have seen their vehicles likely  
3 lose market value. Defendants still have not provided to Plaintiffs the vehicles bargained for, and  
4 even a future repair would not restore purchasers and lessees to the benefits of ownership for  
5 which they bargained and that they would have received but for the defect.  
6

## 7 II. PARTIES

### 8 A. Defendants

9 15. Defendant **Hyundai Motor America, Inc.**, (HMA) is a manufacturer and  
10 distributor of new motor vehicles under the Hyundai brand and is incorporated and  
11 headquartered in the state of California. Its principal place of business is located at 10550 Talbert  
12 Avenue, Fountain Valley, California. Hyundai Motor America distributes, markets, leases,  
13 warrants, and oversees regulatory compliance and warranty servicing of Hyundai brand vehicles  
14 through a network of over 800 dealers throughout the United States from its headquarters in  
15 California. Hyundai Motor America also creates and distributes the warranties and other written  
16 materials that accompany the sale and lease of Hyundai-branded vehicles throughout the United  
17 States, and makes decisions concerning warranty coverage of customer vehicles when problems  
18 arise.  
19

20 16. Defendant **Hyundai Motor Company** (HMC) is a multinational auto  
21 manufacturer with its headquarters in Seoul, South Korea. Hyundai Motor Company controls and  
22 operates its subsidiaries in the Hyundai Motor Group, which includes Hyundai Motor America,  
23 Inc., as well as Kia Motors Corporation and Kia Motors America, Inc. Activities of the Hyundai  
24 Motor Group include the design, manufacture, and testing of the engines and vehicles at issue in  
25 this Complaint. Revenue from the distribution and sale of Hyundai-branded vehicles in the  
26



1 United States flows from Hyundai Motor America, Inc., to its corporate parent, Hyundai Motor  
2 Company.

3 17. Defendant **Kia Motors America, Inc.**, (KMA) is a manufacturer and distributor  
4 of new motor vehicles under the Kia brand and is incorporated and headquartered in the state of  
5 California. Its principal place of business is located at 111 Peters Canyon Road, Irvine,  
6 California. Kia Motors America, Inc. markets, leases, warrants, and oversees regulatory  
7 compliance and warranty servicing of Kia-brand vehicles through a network of over 700 dealers  
8 throughout the United States from its headquarters in California. KMA also creates and  
9 distributes the warranties and other written materials that accompany the sale and lease of Kia-  
10 branded vehicles throughout the United States, and makes decisions concerning warranty  
11 coverage of customer vehicles when problems arise.  
12

13 18. Defendant **Kia Motors Corporation** (KMC) is a multinational auto manufacturer  
14 with its headquarters in Seoul, South Korea. It is the corporate parent of Kia Motors America,  
15 Inc. and is a part of the Hyundai Motor Group. Defendant Hyundai Motor Company holds a  
16 controlling stake in Kia Motors Corporation. Revenue from the distribution and sale of Kia-  
17 branded vehicles in the United States flows from KMA to its corporate parent, KMC.  
18

19 **B. Plaintiffs**

20 19. Plaintiff **Elizabeth Snider** is a citizen of Washington state who resides in  
21 Shelton, Washington. In June 2012 she purchased a new 2012 Kia Soul equipped with the 2.0-  
22 liter “Nu” engine for approximately \$21,000. Had the defect and risk of fire or stalling been  
23 known at the time of purchase, Plaintiff would not have purchased the vehicle or would have  
24 paid considerably less for it. Plaintiff has serviced the vehicle regularly but is now concerned  
25  
26

1 about driving it due to the dangers resulting from the defect and believes that its market value  
2 has been diminished as a result of the defect.

3         20. Plaintiff **James Michael “Mike” Twigger** is a citizen of West Virginia who  
4 resides in Charleston, West Virginia. In July 2014, he purchased a new 2014 Kia Soul Plus  
5 equipped with the 2.0-liter “Nu” engine for approximately \$19,500. Had the defect and risk of  
6 fire or stalling been known at the time of purchase, Plaintiff would not have purchased the  
7 vehicle or would have paid considerably less for it. On July 1, 2017, while driving on I-64, a  
8 major highway, his vehicle’s engine spontaneously stopped working, so he moved the car to the  
9 shoulder of the highway. Moments later, the engine started smoking, ignited, and burned,  
10 destroying the vehicle:  
11





COMPLAINT—CLASS ACTION

8 (2:19-cv-00371)

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21. The vehicle was declared a total loss by his insurer:





22. Plaintiff Twigger believes that the fire was caused by an engine defect that resulted in a connecting rod failure that led to a hole in his engine block through which oil leaked, ultimately touching hot engine components and sparking this destructive fire.

### III. JURISDICTION AND VENUE

23. This Court has subject matter jurisdiction under the Class Action Fairness Act of 2005 (“CAFA”), 28 U.S.C. §§ 1332(d), because the putative class numbers more than 100, the aggregate amount in controversy exceeds \$5,000,000 excluding costs and interest, and at least one plaintiff and one defendant are citizens of different states. This Court has supplemental jurisdiction over the state law claims alleged herein pursuant to 28 U.S.C. § 1367.

24. Venue is proper in this District pursuant to 28 U.S.C. § 1391 because a substantial part of the events or omissions giving rise to Plaintiffs' claims occurred in this District. Defendants have marketed, advertised, and sold the affected vehicles, including Plaintiff Snider's vehicle, and otherwise conducted extensive business, within this District.

#### IV. FACTUAL ALLEGATIONS COMMON TO ALL CLAIMS

25. Hyundai Motors Company, Hyundai Motor America, Kia Motors Corporation, and Kia Motors America Inc. manufactured and sold defective engines and then concealed the true nature of the engines and vehicles from consumers for years—consumers who were driving vehicles that could burst into flames or suffer catastrophic engine failures at any moment.

##### 1. 2011 Hyundai Tucson and 2012-2016 Kia Soul 1.6- and 2.0-liter Engines Are Defective.

##### a. 2012-2016 Kia Soul 1.6 catalytic converters overheat, resulting in catastrophic engine damage and fires.

26. In February 2019, Kia Motors America, Inc. (KMA) issued a recall for 378,967 **Soul** vehicles from the 2012 to 2016 model years, all of which have 1.6-liter direct injection gasoline engines. In these engines, the catalytic converter, which reduces pollutants in exhaust emissions, is susceptible to overheating due to—according to Kia—a programming error. When the catalytic converter overheats, abnormal combustion in the engine can result. This can damage the pistons' connecting rods, potentially fracturing the engine block and causing an oil leak. Connecting rod failure, damaged pistons, and a cracked engine block can all cause sudden and catastrophic engine failure during normal driving, and the resulting leakage of oil onto hot engine parts can result in engine fires.<sup>1</sup>

<sup>1</sup> Letter to Mr. J.S. Park: Overheated Catalytic Converter May Damage Engine for NHTSA Recall No. 19V120000 (Feb. 27, 2019), <https://static.nhtsa.gov/odi/rcf/2019/RCAK-19V120-4114.pdf> (last visited Mar. 1, 2019).



27. On November 16, 2018, KMA and Kia Motors Corporation (KMC), (collectively Kia) submitted a response to Defect Petition (DP18-003) for the Kia Soul vehicle and did not identify or report any potential defect trends. Between November 16 and December 5, 2018, KMC analyzed Soul engine claim data and identified a relationship between catalytic converter damage and engine fires. Upon KMC's request, KMA collected data throughout December for an evaluation of defect trends in suspect vehicles. Between January 7 and February 20, 2019, KMC engineers traveled to the United States to inspect 120 collected, potentially hazardous parts. They identified the defect and confirmed the risk of sudden engine stalls and fires. More than three months after Kia's investigation began, KMC decided to conduct a safety recall due to potential risk of fire on February 21, 2019.<sup>2</sup>

28. This investigation and recall amount to too little, too late. Kia was aware of the dangers of an overheating catalytic converter in these engines since 2016. The Safety Recall Report for the February 21, 2019 recall discloses that "[t]he [Electronic Control Unit] ECU logic for the Catalytic Overheating Protection (COP) was changed and improved to prevent overheating of the catalytic converter on July 27, 2016, beginning with the start of the 2017 MY Soul production. However, the 2016 MY Soul production ended on August 11, 2016 with the previous COP ECU logic."<sup>3</sup>

<sup>2</sup> 2012-2016 MY Soul Engine Control Unit (ECU) Logic Chronology for NHTSA Recall No. 19V120000 (Feb. 22, 2019), <https://static.nhtsa.gov/odi/rcl/2019/RMISC-19V120-6176.pdf> (last visited Mar. 1, 2019).

<sup>3</sup> Part 573 Safety Recall Report for NHTSA Recall No. 19V120000 (Feb. 22, 2019), <https://static.nhtsa.gov/odi/rcl/2019/RCLRPT-19V120-1711.PDF> (last visited Mar. 1, 2019).

**b. 2012-2016 Kia Soul 2.0-liter engines also suffer from defects that can result in catastrophic failures, stalls, and engine fires.**

29. Like the 1.6-liter Kia Soul and numerous other Kia models before it, on information and belief, the 2.0-liter version suffers from a defect or defects that can result in catastrophic failures, stalls, and engine fires.

30. For the 2012-2016 model years, Kia sold at least 300,000 2.0-liter Souls in the United States.

31. Kia's prior recalls involve manufacturing and design defects that result in oil starvation or lubrication failures. When these conditions occur, the connecting rods between the engine pistons and crankshaft can fail and puncture the engine block. When this occurs, engine oil can leak out of the punctured engine block, contact hot engine components, and ignite engine fires. Even if the engine block is not punctured, connecting rod and rod bearing failures can result in sudden, catastrophic engine failures or stalls at speed, which can be just as dangerous as an engine fire. Kia's proposed recall blames an overheating catalytic converter for this type of failure in the 1.6-liter engines, and has blamed manufacturing problems with oil seals or with metal debris left in engine components for this type of failure in prior recalls of 2.0- and 2.4-liter engines.

32. On information and belief, and as demonstrated by the experiences of Plaintiff Twigger and other class members whose 2.0-liter Kia Souls have suffered engine failures and fires, these vehicles, too, apparently suffer from one or both of the same defects as the 1.6-liter Kia Souls. However, as of yet, Kia has failed to announce any recall or repair for these vehicles.



c. **2011-2013 Hyundai Tucson oil pans were improperly sealed during manufacturing, leading to spontaneous and catastrophic engine stalls and fires.**

33. Manufacturing defects leading to oil pan leaks in 2011-2013 Hyundai Tucson vehicles have caused serious risk of harm in the form of spontaneous engine stalling and engine fire.

34. Alongside the Kia Soul recall described above, Hyundai issued a recall of at least 120,000 Tucson SUVs from the 2011 to 2013 model years due to potential engine pan oil leaks caused by insufficient sealing between the oil pan and the engine block.<sup>4</sup> If unaddressed, the engine oil pan leakage may cause engine damage that leads to increased risk of fire or a stalled engine at high speeds. These engines were also manufactured at the Ulsan plant and sold to unsuspecting consumers.

35. Two Hyundai Tucson Safety Recall Reports were submitted on February 5, 2019 and February 15, 2019. Both reports identified that vehicles produced from March 1, 2010, to December 31, 2012, needed to be recalled for safety purposes, but the later Safety Recall Report specified that potentially hazardous Tucson vehicles were equipped with 2.4-liter engines manufactured at the Ulsan plant—the same engines identified in the Kia 2011-2012 Sportage recall. More telling, this is also the same engine involved in 2015 and 2017 recalls of other vehicles for engine fire defects, some of which were recalled yet again in 2019 because the fires could recur even after recall repairs were conducted. Based on information NHTSA received

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<sup>4</sup> Part 573 Safety Recall Report for NHTSA Recall No. 19V063000 (Feb. 15, 2019), <https://static.nhtsa.gov/odi/rcl/2019/RCLRPT-19V063-6813.PDF> (last visited Mar. 2, 2019).

1 from HMC, the recall of Tucson vehicles was required to minimize exposure to risk of stalling or  
2 fire.<sup>5</sup>

3 36. Despite the fact that this dangerous defect persists in vehicles manufactured as  
4 long ago as 2010, and despite several failed recalls of other models equipped with the same  
5 engine over the past several years, as of March 2019 Hyundai *still* has not identified the cause of  
6 the defect or proposed a repair for it, despite agreeing to recall the Tucson.  
7

8 **2. Hyundai and Kia Knew Or Should Have Known About These Defects.**

9 37. For each of these defects, Hyundai and Kia durability testing before these vehicles  
10 ever went on sale should have identified the issue. But the Defendants have also been on notice  
11 for years of the defects through NHTSA complaints and warranty claims, as well as prior recalls  
12 of vehicles equipped with the same or similar engines, and have done nothing but conceal the  
13 defect until now. The proposed recalls now follow investigations prompted by Defendants'  
14 failure to adequately remedy *another* set of defects that can cause engine fires.  
15

16 **a. Hyundai and Kia Have a Pattern of Defects That Can Result In  
17 Engine Failure and Fires.**

18 38. Hyundai and Kia are familiar with engine defects and have a track record of  
19 failing to adequately remedy them. The companies issued a similar recall in September 2015  
20 after prompting by the NHTSA. Specifically, Hyundai issued Recall No. 15V568000 for 470,000  
21 MY 2011-2012 Hyundai Sonata vehicles manufactured at Hyundai Motor Manufacturing  
22 Alabama that were equipped with 2.0-liter and 2.4-liter "Theta II" GDI engines due to reported  
23  
24  
25  
26

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<sup>5</sup> Part 573 Safety Recall Report for NHTSA Recall No. 19V063000 (Feb. 5, 2019),  
<https://static.nhtsa.gov/odi/rcr/2019/RCLRPT-19V063-6690.PDF> (last visited Mar. 2, 2019); *Id.*

1 stalling events and numerous engine-related warranty claims.<sup>6</sup> At the time, Kia did not recall any  
2 vehicles, though some shared the same “Theta II” engines.

3 39. The defect and its consequences were described in NHTSA’s Safety Recall  
4 Report from September 2015 as follows:

5  
6 Hyundai has determined that metal debris may have been generated from factory  
7 machining operations as part of the manufacturing of the engine crankshaft during the  
8 subject production period. As part of the machining processes, the engine crankshaft is  
9 cleaned to remove metallic debris. If the debris is not completely removed from the  
10 crankshaft’s oil passages, it can be forced into the connecting rod oiling passages  
11 restricting oil flow to the bearings. Since bearings are cooled by oil flow between the  
12 bearing and journal, a reduction in the flow of oil may raise bearing temperatures  
13 increasing the potential of premature bearing wear. A worn connecting rod bearing will  
14 produce a metallic, cyclic knocking noise from the engine which increases in frequency  
15 as the engine rpm increases. A worn connecting rod bearing may also result in  
16 illumination of the oil pressure lamp in the instrument cluster. If the vehicle continues to  
17 be driven with a worn connecting rod bearing, the bearing can fail, and the vehicle could  
18 stall while in motion.<sup>7</sup>

19 40. Unfortunately, in a now-familiar pattern, Hyundai did not recall nearly enough  
20 vehicles. In March 2017, Hyundai expanded its initial recall to 572,000 MY 2013-2014 Sonata  
21 and Santa Fe Sport vehicles with 2.0-liter and 2.4-liter GDI “Theta II” engines for the same  
22 manufacturing debris-related issues, describing the defect as follows:

23  
24 The subject engines may contain residual debris from factory machining operations,  
25 potentially restricting oil flow to the main bearings and leading to premature bearing  
26 wear. A worn connecting rod bearing will produce a cyclic knocking noise from the  
engine and may also result in the illumination of the oil pressure lamp in the instrument  
panel. Over time, the bearing may fail and the vehicle could lose motive power while in  
motion.<sup>8</sup>

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<sup>6</sup> Part 573 Safety Recall Report Chronology for NHTSA Recall No. 15V568000,  
(Sept. 10, 2015), <https://static.nhtsa.gov/odi/rcl/2015/RCLRPT-15V568-9490.PDF> (last visited Mar. 1, 2019), at 2.

<sup>7</sup> *Id.* at 1.

<sup>8</sup> Part 573 Safety Recall Report for NHTSA Recall No. 17V226000 (Mar. 31, 2017), available at  
<https://static.nhtsa.gov/odi/rcl/2017/RCLRPT-17V226-4558.pdf> (last visited Mar. 1, 2019), at 1.

41. That same day, Kia recalled 618,000 MY 2011-2014 Optima, 2012-2014 Sorento and 2011-2013 Sportage vehicles, all of which had the “Theta II” engine as well.<sup>9</sup> Just like Hyundai’s recall, the potentially restricted oil flow to the main bearings could lead to premature bearing wear and eventual bearing failure, causing the engine to stall.

Metal debris may have been generated from factory machining operations as part of the manufacturing of the engine crankshaft which may not have been completely removed from the crankshaft’s oil passages during the cleaning process. In addition, the machining processes of the crankpins caused an uneven surface roughness. As a result, the metal debris and uneven surface roughness can restrict oil flow to the bearings, thereby increasing bearing temperatures causing premature bearing wear. A worn connecting rod bearing will produce a cyclic knocking noise from the engine and may also result in the illumination of the engine warning lamp and/or oil pressure lamp in the instrument panel. If the warnings are ignored and the vehicle is continued to be driven, the bearing may fail and the vehicle could stall while in motion.<sup>10</sup>

42. The delay in expanding the recall to all affected vehicles between 2015 and 2017 caught the attention of NHTSA, which launched an investigation in May of 2017 into concerns that both companies’ recalls should have been issued earlier. Nearly two more years went by as Hyundai and Kia kept receiving reports of engine fires in vehicles containing Theta II engines.

43. While NHTSA was investigating the “timeliness and scope” of the March 2017 Sonata and Santa Fe engine recalls, it relayed to Hyundai that there had been a number of engine-stall and spontaneous fire claims for the Tucson equipped with GDI engines. This investigation eventually led to the 2011-2013 Hyundai Tucson and 2011-2012 Kia Sportage oil leak recall described above.<sup>11</sup>

<sup>9</sup> David Shepardson, *Kia, Hyundai expand U.S. engine fire recalls by 534,000 vehicles*, Reuters (Feb. 28, 2019), <https://www.reuters.com/article/us-kia-motors-recall/kia-hyundai-expand-u-s-engine-fire-recalls-by-534000-vehicles-idUSKCN1QH2EB> (last visited Mar. 1, 2019).

<sup>10</sup> Part 573 Safety Recall Report for NHTSA Recall No. 17V224000 (Mar. 31, 2017) available at <https://static.nhtsa.gov/odi/rcr/2017/RCLRPT-17V224-2355.PDF> (last visited Mar. 1, 2019), at 2.

<sup>11</sup> Andrew Krok, *Hyundai, Kia recall 500,000 cars over fire concerns*, CNet (Feb. 28, 2019), <https://www.cnet.com/show/news/hyundai-kia-recall-500000-cars-fire-concerns/> (last visited Mar. 1, 2019).

44. In January 2019, Hyundai recalled 100,000 2011-2014 Sonata and 2013-2014 Santa Fe Sport vehicles, and Kia recalled 68,000 2011-2014 Optima, 2012-2014 Sorento, and 2011-2013 Sportage vehicles.<sup>12</sup> These vehicles had already been involved in an earlier recall that could include engine replacement, but fires could recur despite that purported repair. Hyundai has previously repaired cars with similar defects, only to have the problems recur either because the replacement parts suffered from the same defects or because other parts were damaged by the repair process. Consumers therefore have reason to worry that just recalling and repairing the Class Vehicles may not solve these serious and dangerous defects.

45. Alongside the February 2019 recalls of the 1.6-liter Kia Souls and Hyundai Tucson, KMA issued another recall of approximately 32,296 Sportage vehicles from the 2011 and 2012 model years due to potential oil pan leaks. The affected vehicles are equipped with 2.4-liter engines supplied by HMC's Ulsan plant.<sup>13</sup>

46. Like the explanation Hyundai offers for the Tucson recall, during vehicle assembly these oil pans may have received insufficient sealing, leading to low oil levels that can cause engine damage. A damaged engine can cause the engine to stall, increasing the risk of a crash. Furthermore, oil leaks increase the risk of fire.<sup>14</sup>

47. On January 29, 2019, Kia Motors Corporation (KMC) was notified by HMC's Ulsan factory of a potential production issue related to the assembly of the oil pan seal that could

<sup>12</sup> Andrew Krok, *Hyundai adds 100,000 cars to Kia's engine-fire recall*, CNet (January 17, 2019), <https://www.cnet.com/roadshow/news/hyundai-recall-engine-fire-kia/> (last visited Mar. 4, 2019); Andrew Krok, *Kia Optima, Sorento, Sportage recalled a second time for fire risks*, CNet (January 16, 2019), <https://www.cnet.com/news/kia-optima-sorento-sportage-recall-fire-risks/> (last visited Mar. 4, 2019).

<sup>13</sup> Part 573 Safety Recall Report for NHTSA Recall No. 19V101000 (Feb. 15, 2019), <https://static.nhtsa.gov/odi/rcl/2019/RCLRPT-19V101-5937.PDF> (last visited Mar 1, 2019).

<sup>14</sup> Letter to Mr. J.S. Park, Engine Oil Leak May Cause Stall or Fire for NHTSA Recall No. 19V101000 (Feb. 27, 2019), <https://static.nhtsa.gov/odi/rcl/2019/RCAK-19V101-1869.pdf> (last visited Mar 1, 2019).

1 cause engine stalling or fire. Between then and February 7, 2019, KMC reviewed engine oil pan  
 2 replacement warranty claims that had been submitted due to reports of oil leakage. Only then did  
 3 KMC advise KMA to conduct a review of its respective data. From February 8 to February 12,  
 4 2019, KMA conducted review of warranty claim data before advising KMC to review results. By  
 5 February 13, 2019, KMC had decided to conduct a recall of more than 30,000 Kia Sportage  
 6 vehicles.<sup>15</sup>

8 48. Despite the fact that this dangerous defect persists in vehicles manufactured as  
 9 long ago as 2010, it took until 2019 for Kia to admit the defect existed, identify the cause of the  
 10 problem, and commence a recall. This is, again, despite the fact that Kia has previously recalled  
 11 several vehicles equipped with the same or similar engines, which suffered the same or similar  
 12 defects, over the past several years.

14 49. As with the other defects described above, numerous owners and lessees of 2011-  
 15 2012 Kia Sportage vehicles have complained of sudden engine stalls and fires to NHTSA. Some  
 16 examples follow.

17 2011 Kia Sportage NHTSA ID Number: 11099905

18 MY SON WAS DRIVING ON ROUTE 1 IN DELAWARE AT AROUND 60 MILES AN  
 19 HOUR. ROUTE 1 IS A 2 LANE HIGHWAY. THE CAR SHUT OFF WHILE HE WAS  
 20 DRIVING AT THE ABOVE MENTIONED SPEED. AFTER SEVERAL ATTEMPTS TO  
 21 START THE CAR WE HAD TO GET THE CAR TOWED TO MY MECHANIC. MY  
 22 MECHANIC DID A DIAGNOSTIC ON THE ENGINE AND TOLD ME THE ENGINE  
 HAD LOCKED. HE SAID THE ENGINE WASN'T GETTING THE PROPER OIL FLOW  
 TO IT.

23 2012 Kia Sportage NHTSA ID Number: 11170454

24 MY DAUGHTER WAS DRIVING ON THE INTERSTATE AT ABOUT 70MPH WHEN  
 25 ENGINE SEIZED. SHE WAS IN THE LEFT LANE BUT THANKFULLY MANAGED TO  
 26 GET INTO THE EMERGENCY LANE WITHOUT BEING HIT BY OTHER MOTORIST.

<sup>15</sup> 2011-2012 MY Sportage Engine Oil Pan Leak Chronology for NHTSA Recall No. 19V101000  
 (Feb. 15, 2019), <https://static.nhtsa.gov/odi/rcl/2019/RMISC-19V101-5877.pdf> (last visited Mar. 2, 2019).

1 VEHICLE ONLY HAD 68K MILES ON IT. KIA DOES NOT ACCEPT  
2 RESPONSIBILITY FOR THIS EVEN THOUGH IT COVERS OTHER SPORTAGES &  
3 OPTIMAS WITH THE SAME ENGINE FOR SAME EXACT PROBLEM. THANKFUL  
4 MY DAUGHTER DID NOT GET HURT BUT SHE WAS LEFT WITH A \$5,500 BILL  
5 THAT WE HAD TO PAY TO FIX. KIA NEEDS TO EXPAND THE ENGINE RECALL  
6 TO ALL OF THE ENGINES AND NOW THEY ARE RECALLING SOME FOR A FIRE  
7 HAZARD. KIA NEEDS TO STEP UP BEFORE SOMEONE IS KILLED!

8 **b. Pre-sale Durability Testing Should Have Revealed These Defects.**

9 50. Before vehicles are certified and offered for sale in the United States, they are  
10 supposed to undergo rigorous durability testing in order to identify defects such as these.  
11 Defendants are required to do this testing for each vehicle model and model year to be sold in the  
12 United States. Kia's website, press releases, and marketing materials describe "rigorous" testing  
13 of both normal and extraordinary driving conditions, over long hours and thousands of miles and  
14 in extreme weather and geography, to ensure the durability of Kia vehicles. Kia's website touts  
15 its testing: "We put our engines through rigorous testing in the highest, hottest, and coldest  
16 places that a car can possibly be before we put them in our cars."<sup>16</sup>

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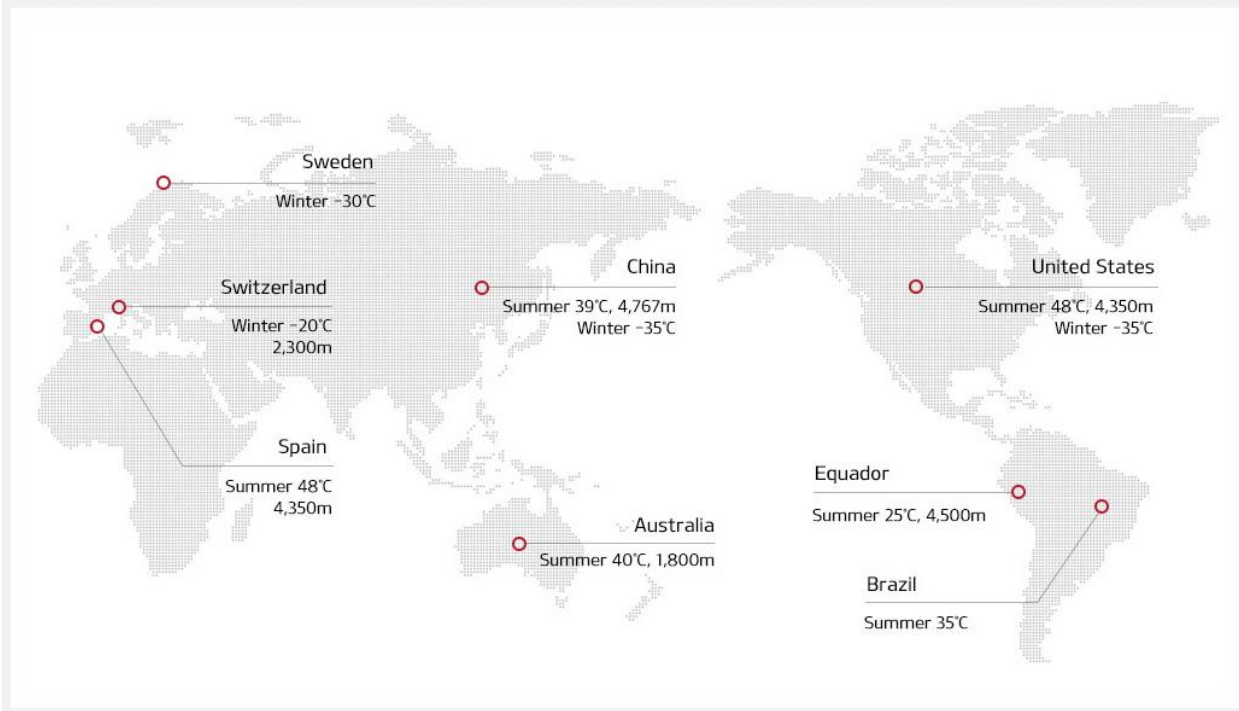
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<sup>16</sup> [http://www.kia.com/worldwide/experience\\_kia/rnd/performance.do](http://www.kia.com/worldwide/experience_kia/rnd/performance.do) (last visited Mar. 4, 2019).



## Engines that can provide the power to run in any condition

We put our engines through rigorous testing in the highest, hottest and coldest places that a car can possibly be before we use them in our cars.



51. Kia's website goes on to describe several specific durability tests it conducts, under the motto "We ruin our cars in various ways, identify causes and find solutions to them to make our cars endure over a long time without fault."<sup>17</sup> These tests include: 1. "item durability tests" of individual parts, 2. "module durability tests" of entire assembled components, 3. a "Belgian road test" of driving over rough cobbles to test noise, vibration, and harshness, 4. a "high speed test," 5. a "corrosion test," 6. a "P/T test" of engine performance and temperature, and 7. whole-vehicle safety/crash testing. It further describes testing for extreme weather conditions as well as durability testing conducted on numerous test facilities around the world.

<sup>17</sup> [http://www.kia.com/worldwide/experience\\_kia/rnd/performance.do](http://www.kia.com/worldwide/experience_kia/rnd/performance.do) (last visited March 4, 2019).



## Durability test

### Seven ways to ruin your car

We ruin our cars in various ways, identify causes and find solutions to them to make our cars endure over a long time without fault.



52. Kia therefore knew or should have known about these defects before each affected model year ever went to market as a result of its durability testing. But Kia definitely knew about the problem in at least the 1.6-liter engine and had a fix for it by mid-2016 at the latest, and introduced new programming that (presumably) remedied the problem for 2017 model year Soul vehicles. Kia's proposed recall repair is to simply reprogram 2012-2016 model year 1.6-liter Souls with the newer programming, which illustrates that between 2016 and 2019, if not beginning before the 2012 model year went on the market, Kia actively concealed its knowledge of this dangerous defect from consumers and safety regulators alike despite hundreds of reports of catastrophic engine failures.

53. On information and belief, Hyundai conducts similarly rigorous pre-sale durability testing, which should have revealed the existence of the engine defect in the Tucson.

c. **NHTSA Reports From Consumers Put Defendants On Notice, But They Did Nothing.**

54. Numerous owners and lessees of 2012-2016 Soul vehicles equipped with both the 1.6-liter and 2.0-liter engines have submitted complaints about catastrophic engine failures and fires to the National Highway Traffic Safety Administration. Some examples appear below.

2012 Kia Soul – NHTSA ID Number: 11128688

VEHICLE HAS 96000 MILES. WHILE DRIVING ON HIGHWAY BEGAN TO HEAR RATTLING AND PINGING. ATTEMPTED TO MAKE IT TO REST AREA TO PULL OVER AND INSPECT. HEARD LOUD BANG AND ENGINE STALLED. COASTED INTO REST AREA. INSPECTION REVEALED OIL LEAKING FROM HOLE BLOWN IN LOWER ENGINE BLOCK.

2014 Kia Soul – NHTSA ID Number: 11173144

WHILE DRIVING ON THE HIGHWAY, THE DASH BOARD STARTED TURN OFF AND ON THE CAR BEGAN TO LOSE POWER. I PULLED OFF TO THE SIDE AND THE LIGHTS ON THE DASH CAME ON AND THE CAR SHUT DOWN COMPLETELY. WITHIN A FEW MINUTES SMOKE STARTED COMING FROM THE HOOD OF THE CAR FOLLOWED BY A SMALL FIRE. I GOT OUT OF THE CAR AND THE FIRE GREW AND COMPLETELY BURNED THE CAR.

2016 Kia Soul – NHTSA ID Number: 11180538

AFTER A SHORT DRIVE, I PARKED MY 2016 KIA SOUL IN THE GARAGE AND 15 MINUTES LATER I HEARD A NOISE IN THE GARAGE. MY HUSBAND OPENED THE DOOR TO THE GARAGE AND FOUND FLAMES COMING FROM THE STATIONARY KIA. THE ENTIRE GARAGE CAUGHT FIRE AND INCLUDED MY OTHER CAR WHICH WAS AN INFINITI G35. THE PRIMARY FLAMES WERE COMING OUT OF THE HOOD/FRONT RIGHT FENDER SEAM WITH MINOR FLAMES UNDERNEATH THE KIA. WE KNOW THAT THE FIRE STARTED IN THE PASSENGER SIDE OF THE ENGINE COMPARTMENT OF THE KIA SOUL. THE VEHICLE WAS LESS THAN ONE YEAR OLD, HAD APPROXIMATELY 6000 MILES, AND HAD ONLY BEEN SERVICED ONCE AT THE HENDERSON KIA DEALERSHIP FOR AN OIL CHANGE. ... WE HAD TO MOVE OUT OF OUR HOME FOR FIVE MONTHS WHILE THE HOUSE WAS BEING REPAIRED. THERE WAS OVER \$142,000 DAMAGE TO OUR HOME AND PERSONAL PROPERTY.

55. Similarly, numerous owners and lessees of 2011-2013 Hyundai Tucson SUVs complained to NHTSA. Some examples follow:

COMPLAINT—CLASS ACTION

23 (2:19-cv-00371)

**KELLER ROHRBACK L.L.P.**

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1 2012 Hyundai Tucson NHTSA ID Number: 11103584

2 CATASTROPHIC ENGINE FAILURE ON A 2012 TUCSON WITH ONLY 80K MILES.  
3 THE VEHICLE WAS REGULARLY SERVICED. HEARD A FAINT TICKING COMING  
4 FROM THE ENGINE WHILE DRIVING, AND LATER THAT DAY, THE ENGINE  
5 BLEW. APPARENTLY THE THETA 2 ENGINE THE VEHICLE USES IS KNOWN FOR  
6 FAILURE, BUT THE HYUNDAI DEALERSHIP I TOOK THE VEHICLE TO CLAIMED  
7 ONLY ABOUT 2% OF THESE CARS WERE AFFECTED, AND I WAS JUST  
8 "UNLUCKY". NO WARNING LIGHTS, NOTHING. WAS ON THE INTERSTATE  
9 DURING RUSH HOUR AT THE TIME OF THE INCIDENT, AND WAS ALMOST HIT  
10 BY MULTIPLE VEHICLES BECAUSE OF THIS.

11 2013 Hyundai Tucson NHTSA ID Number: 11119738

12 ON JUNE 17, 2018 MY ENGINE BLEW ON MY 2013 TUCSON, LESS THAN 75000  
13 MILES. WE WERE TRAVELING ON THE INTERSTATE AT SPEEDS OF 75 MILES  
14 PER HOUR WHEN THE ENGINE BEGAN TO KNOCK THEN LOOSE SPEED.  
15 TRAFFIC ALL AROUND US WAS TRAVELING AT 75-80 MILES PER HOUR, VERY  
16 SCARY AS WE WERE GOING 10-15 MILES PER HOUR WHEN WE MANAGED TO  
17 PULL OFF ON AN EXIT AND THE ENGINE SIMPLY DIED AND NEVER WOULD  
18 RESTART. WE HAD TO PUSH IT THROUGH A BUSY INTERSECTION TO A GAS  
19 STATION. WE HAD IT TOWED TO THE LOCAL HYUNDAI DEALER WHERE IT  
20 STILL SITS 2 MONTHS LATER WAITING ON AN ENGINE TO BE DELIVERED.

21 56. Despite the 300-plus vehicle fire reports NHTSA received, Hyundai and Kia  
22 representatives initially dismissed the dangers their vehicles posed to consumers, claiming that  
23 “[i]n some very rare instances—a rate of less than 1 percent—the affected engines have caught  
24 on fire. An exhaustive study has confirmed that there is no defect trend outside of that identified  
25 in the related recalls causing non-collision fires in Hyundai vehicles.”<sup>18</sup> Even if this estimate is  
26 accurate, 1% of the over 1.7 million or more vehicles Defendants have recalled for engine fire  
risks so far amount to 17,000 engine fires suffered by American consumers, more than 5,000 of  
them concerning the Class Vehicles at issue here.

<sup>18</sup> Kyle Hyatt, *Center for Auto Safety calls out Hyundai and Kia over lack of fire recall*, CNet (Oct. 12, 2018),  
<https://www.cnet.com/roadshow/news/hyundai-kia-center-for-auto-safety-fire-recall/> (last visited Mar. 1, 2019).

57. Defendants’ irresponsibly slow reaction and failure to adequately remedy the stalling and engine fires caused by their defective vehicles drew the interest of the Senate Commerce Committee, which invited the automakers to defend their lack of response. Though they were asked to “promptly identify and respond to defects that may pose a fire risk” at a November 14, 2018 hearing, and despite the ongoing investigation into why hundreds or thousands of their vehicles were spontaneously bursting into flames, the Hyundai and Kia executives refused to attend the congressional hearing.

58. In response to Defendants’ refusal to appear before Congress, Jason Levine, executive director of the Center for Auto Safety, said: “Until Hyundai and Kia are willing to take responsibility for the three million vehicles on the road that could burst into flames at any minute—with no apparent warning to the driver—we will continue to press for a recall and full and thorough investigation. There has already been one death and a few injuries associated with these vehicle fires. How many people need to be horrifically burned before someone takes action?”<sup>19</sup>

59. Though more than three years had gone by since the original 2015 recall of vehicles with “Theta II” engines, Kia claimed in late 2018 that the company was working with the Senate committee to “analyze all relevant information associated with any fire or other safety-related matters and will take any necessary corrective action in a timely manner.”<sup>20</sup> However, Defendants’ failure to respond proactively to these dangerous defects, and lengthy

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<sup>19</sup> Jackie Callaway, *Kia, Hyundai CEOs refuse to attend Senate hearing to explain cause of car fires*, ABC Action News (Nov. 8, 2018, updated Dec. 10, 2018), <https://www.abcactionnews.com/news/local-news/i-team-investigates/kia-hyundai-ceos-refuse-to-attend-senate-hearing-to-explain-cause-of-car-fires> (last visited Mar. 1, 2019).

<sup>20</sup> *Id.*

1 concealment of them, is unsurprising in light of the previous delays and failed recall of the  
2 “Theta II” engines.

3         60. For the 2011-2013 Hyundai Tucson, despite the announced recall, Hyundai still  
4 has not identified or announced the cause of the defect or any proposed repair. For the 2012-  
5 2016 1.6-liter Kia Soul, Kia proposes to simply reprogram the catalytic converter, which may not  
6 be permissible under emissions regulations and, in any event, is unlikely to repair an engine  
7 defect of this severity. Finally, for the 2012-2016 2.0-liter Kia Soul, Kia has not taken any  
8 action. These recalls—or lack thereof—are too little, too late.

10         **3. Defendants’ Actions Have Caused Class Members Significant Harm.**

11         61. Owners and lessees of Class Vehicles did not receive the vehicles they bargained  
12 for at the time of purchase. Had they known the true nature of these vehicles, they would have  
13 paid less for them, or chosen to purchase other vehicles instead, because they believed that they  
14 were purchasing safe vehicles free of major, dangerous defects. As a result of Defendants’  
15 conduct—in failing to remedy dangerous defects Defendants knew or should have known about,  
16 and in actively concealing these defects even in the face of complaints and regulatory  
17 investigations—consumers have been driving cars that could suddenly stall at speed or burst into  
18 flames.

19  
20         62. Plaintiffs are skeptical that the proposed recalls can or will actually repair the  
21 defects, based both on Defendants’ track record of failed recall repairs for similar defects and on  
22 the nature of these defects and the proposed repairs. But even if the recall is successful, Plaintiffs  
23 will not be made whole for the overpayment injury suffered at the time of purchase, for the risk  
24 associated with years of driving vehicles with dangerous defects, or for the inconvenience and  
25  
26

1 expense associated with extensive repairs. Finally, Plaintiffs believe that, as a result of  
 2 Defendants' conduct, the market values of the Class Vehicles have been reduced.

3 63. Defendants' new recalls affect more than half a million vehicles on the road, and  
 4 are part of a lengthy string of recalls for engine fires and failures. Defendants delayed taking  
 5 action despite the fact that they received hundreds of complaints about engine fires, despite the  
 6 fact that durability testing should have informed them of the defects before the Class Vehicles  
 7 went on sale, and despite the fact that they knew about the dangerous defect in the 1.6-liter Soul  
 8 long enough ago to develop a solution for 2017 model year vehicles manufactured in 2016.<sup>21</sup> For  
 9 the 2011-2013 Hyundai Tucson, nine years of inaction is too long, and the proposed recall still  
 10 does not actually propose a cause or repair of the defect. Defendants have still done nothing to  
 11 remedy the defect in the 2.0-liter Kia Soul.  
 12

## 13 V. CLASS ACTION ALLEGATIONS

### 14 A. Class Definitions

15 64. Pursuant to Rules 23(a), (b)(2), and (b)(3) of the Federal Rules of Civil Procedure,  
 16 Plaintiffs bring this action on behalf of themselves, the Nationwide Class, and State Classes,  
 17 defined as:  
 18

#### 19 Nationwide Class:

20 All persons or entities in the United States (including its territories and the  
 21 District of Columbia) who purchased or leased a Class Vehicle.

22 65. In addition to the Nationwide class, and pursuant to Federal Rules of Civil  
 23 Procedure Rule 23(c)(5), Plaintiffs seek to represent the following State Classes as well as any  
 24  
 25

26 <sup>21</sup> Tracy Samilton, *Hyundai and Kia recall more vehicles over engine fires/failures*, NPR Michigan Radio (Feb. 28, 2019), <https://www.michiganradio.org/post/hyundai-and-kia-recall-more-vehicles-over-engine-firesfailures> (last visited Mar. 2, 2019).

subclasses or issue classes as Plaintiffs may propose and/or the Court may designate at the time of class certification:

**Washington State Class:**

All persons or entities in the state of Washington who purchased or leased a Class Vehicle.

**West Virginia State Class:**

All persons or entities in the state of West Virginia who purchased or leased a Class Vehicle.

66. Excluded from the Classes are individuals who have personal injury claims resulting from the conduct and defects alleged herein; Defendants and their subsidiaries, affiliates, and officers; all persons who timely elect to exclude themselves from the Classes; and the Judge to whom this case is assigned and his or her immediate family. Plaintiffs reserve the right to revise the Class definitions based on information learned through discovery.

67. Certification of Plaintiffs' claims for classwide treatment is appropriate because Plaintiffs can prove the elements of their claims regarding liability and entitlement to damages on a classwide basis using the same evidence as would be used to prove those elements in individual actions alleging the same claim. This action has been brought and may be properly maintained on behalf of the Nationwide Class and/or State Class proposed herein under Federal Rule of Civil Procedure 23.

68. Plaintiffs reserve the right to modify the definition of the Nationwide and/or any State Class prior to class certification.

**B. Class Certification Requirements**

69. **Numerosity: Rule 23(a)(1):** The members of the Class are so numerous and geographically dispersed that individual joinder of all Class members is impracticable. Plaintiffs

COMPLAINT—CLASS ACTION

28 (2:19-cv-00371)

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are informed and believe, based on available information on the volume of sales and recalls of Class Vehicles, that there are no fewer than 500,000 members of the Class. The precise number of Class members may be ascertained from Defendants' records and vehicle registration records. Class members may be notified of the pendency of this action by recognized, Court-approved notice dissemination methods, which may include U.S. mail, electronic mail, Internet postings, social media, and published notice.

70. **Commonality and Predominance: Rules 23(a)(2) and 23(b)(3):** This action involves significant common questions of law and fact, which predominate over any questions affecting individual Class members, including, but not limited to:

- A. Whether Defendants engaged in the conduct alleged herein;
- B. Whether Defendants designed, advertised, marketed, distributed, leased, sold, or otherwise placed Class Vehicles into the stream of commerce in the United States;
- C. Whether the Class Vehicles have the defects alleged herein, and whether those defects constitute a safety defect;
- D. Whether Defendants knew or should have known that the Class Vehicles contained defects as alleged herein;
- E. Whether a reasonable consumer would consider the defects alleged herein and their consequences material to the decision to purchase or lease a Class Vehicle;
- F. When Defendants discovered, knew, or should have known of the existence of the defects alleged herein;



G. Whether the Class Vehicles can be made to comply with applicable emissions standards if the proposed recall repairs are effectuated without substantially degrading the performance, efficiency, or advertised emissions of the Class Vehicles;

H. Whether Plaintiffs and the other Class members overpaid for their Class Vehicles as a result of the defects and Defendants' concealment thereof;

I. Whether Defendants had a duty to disclose the true nature of the Class Vehicles to Plaintiffs and Class members;

J. Whether Plaintiffs suffered out-of-pocket losses as a result of the defects alleged herein and whether they will suffer out-of-pocket losses as a result of the proposed recalls;

K. Whether Defendants omitted, concealed, and/or failed to disclose material facts about the Class Vehicles;

L. Whether Defendants' concealment of the true nature of the Class Vehicles would have induced a reasonable consumer to act to his or her detriment by purchasing and/or leasing the Class Vehicles;

M. Whether Plaintiffs and the other Class members are entitled to equitable relief, including, but not limited to, restitution or injunctive relief;

N. Whether the remedies proposed below for each group of Class Vehicles would constitute adequate and appropriate relief for the Class;

<b>Year and Model</b>	<b>Defendants' Proposed Recall</b>	<b>Proposed Class Relief</b>
2012-2016 Kia Soul 1.6	Reprogram catalytic converter	Buyback or, if repair is possible, recall and monetary compensation

2012-2016 Kia Soul 2.0	Unknown	Buyback or, if repair is possible, recall and monetary compensation
2011-2013 Hyundai Tucson	Unknown	Buyback or, if repair is possible, recall and monetary compensation

O. Whether Plaintiffs and the other Class members are entitled to damages and other monetary relief and, if so, in what amount; and

P. Whether Defendants continue to unlawfully conceal and misrepresent whether additional vehicles, besides those reported in the press to date, are in fact Class Vehicles.

71. **Typicality: Rule 23(a)(3):** Plaintiffs' claims are typical of the claims of the Class members whom they seek to represent under Federal Rule of Civil Procedure 23(a)(3), because Plaintiffs and each Class member purchased a Class Vehicle and were similarly injured through Defendants' wrongful conduct as described above. Plaintiffs and the other Class members suffered damages as a direct, proximate result of the same wrongful practices by Defendants. Plaintiffs' claims arise from the same practices and courses of conduct that give rise to the claims of the other Class members. Plaintiffs' claims are based upon the same legal theories as the claims of the other Class members.

72. **Adequacy: Rule 23(a)(4).** Plaintiffs will fairly and adequately represent and protect the interests of the Class members as required by Federal Rule of Civil Procedure 23(a)(4). Plaintiffs have retained counsel competent and experienced in complex class action litigation, including vehicle defect litigation and other consumer protection litigation. Plaintiffs intend to prosecute this action vigorously. Neither Plaintiffs nor their counsel have interests that

1 conflict with the interests of the other Class members. Therefore, the interests of the Class  
2 members will be fairly and adequately protected.

3       **73. Declaratory and Injunctive Relief: Rule 23(b)(2).** Defendants have acted or  
4 refused to act on grounds generally applicable to Plaintiffs and the other members of the Class,  
5 thereby making appropriate final injunctive relief and declaratory relief, as described below, with  
6 respect to the Class as a whole.

7  
8       **74. Superiority: Rule 23(b)(3).** A class action is superior to any other available  
9 means for the fair and efficient adjudication of this controversy, and no unusual difficulties are  
10 likely to be encountered in the management of this class action. The damages or other financial  
11 detriment suffered by Plaintiffs and the other Class members are relatively small compared to the  
12 burden and expense that would be required to individually litigate their claims against  
13 Defendants, so it would be impracticable for members of the Class to individually seek redress  
14 for Defendants' wrongful conduct. Even if Class members could afford individual litigation, the  
15 court system could not. Individualized litigation creates a potential for inconsistent or  
16 contradictory judgments, and increases the delay and expense to all parties and the court system.  
17 By contrast, the class action device presents far fewer management difficulties and provides the  
18 benefits of single adjudication, economies of scale, and comprehensive supervision by a single  
19 court.  
20  
21

## 22                                   **VI. EQUITABLE TOLLING**

### 23       **A. Discovery Rule**

24       **75.** Plaintiffs and Class members did not discover, and could not have discovered  
25 through the exercise of reasonable diligence, Defendants' deception concerning the defects  
26 alleged herein.

1           76. Defendants' concealment was effective until a NHTSA investigation prompted by  
2 consumer complaints forced Defendants to institute the recent recall campaign.

3           77. Plaintiffs and Class members could not have discovered through the exercise of  
4 reasonable diligence that Defendants were concealing the defects alleged herein until the  
5 NHTSA recall campaign revealed it to the public.

6           78. Unless a Class member experienced a catastrophic engine failure, Plaintiffs and  
7 Class members would have no reason to discover the defects alleged herein, and even if they did  
8 experience such a failure, would have no reason to discover the existence of a widespread defect  
9 and effort to conceal it.

10           79. Plaintiffs and Class members therefore did not discover, and did not know of,  
11 facts that would have caused a reasonable person to suspect that Defendants had concealed  
12 information about defects in the Class Vehicles until shortly before this action was filed.

13           80. For these reasons, all applicable statutes of limitation have been tolled by  
14 operation of the discovery rule with respect to claims as to the Class Vehicles.

15  
16  
17 **B. Fraudulent Concealment**

18           81. All applicable statutes of limitation have also been tolled by Defendants'  
19 knowing, active and ongoing fraudulent concealment of the facts alleged herein.

20           82. Defendants concealed the defects, minimized the cause, effects, and dangers of  
21 the defects, and failed to disclose or remedy the defects. Even now, with NHTSA recalls  
22 pending, Defendants offer a fix that is almost certainly inadequate for one defect. As to another,  
23 Defendants do not even pretend to know the cause of the defect—a defect that has existed for at  
24 least nine years and is, purportedly, to be fixed by a recall that fails to identify any available  
25  
26

1 repair. As to the third, Defendants still have not admitted the existence of or proposed any action  
2 to remedy the defect.

3 **C. Estoppel**

4 83. Defendants were and are under a continuous duty to disclose to Plaintiffs and  
5 Class members the true character, quality, and nature of the Class Vehicles, including the  
6 vehicles' defects as alleged herein, and the inevitable repairs, costs, time, and monetary damage  
7 resulting therefrom. Defendants actively concealed the true character, quality, and nature of the  
8 Class Vehicles.  
9

10 84. Based on the foregoing, Defendants are estopped from relying on any statutes of  
11 limitations in defense of this action.

12 **VII. CLAIMS FOR RELIEF**

13 85. California state law applies to the claims of the Nationwide Class because  
14 Defendants' United States operations are headquartered in California. Defendants HMA and  
15 KMA distribute, market, warrant, and test all Hyundai and Kia vehicles, respectively, sold or  
16 leased in the United States, including the Class Vehicles. Although these actions take place and  
17 have effects wherever in the United States the vehicles are sold, leased, registered, and operated,  
18 Defendants' operations for distributing, engineering and testing, marketing, warranting and  
19 supervising service of the Class Vehicles are located in California, and on information and belief,  
20 many of the decisions concerning Defendants' unfair, deceptive, and unlawful conduct emanated  
21 from these California headquarters.  
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**COUNT I**  
**FRAUD BY CONCEALMENT**  
**(Common Law)**

86. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

87. Plaintiffs bring this claim on behalf of themselves and the Nationwide Class, or alternatively, each of the State Classes, against all Defendants.

88. The Defendants intentionally concealed, suppressed, and failed to disclose the material fact that the Class Vehicles had design and manufacturing defects that could result in sudden and catastrophic engine stalling, failure, and fire. Defendants knew or should have known the true facts, due to their involvement in the design, installation, calibration, manufacture, durability testing, and warranty service of the engines, catalytic converters, and ECU programming in the Class Vehicles. And yet, at no time did any of these Defendants reveal the truth to Plaintiffs or the Class. To the contrary, each Defendant concealed the truth, intending for Plaintiffs and the Class to rely on these omissions. Each Plaintiff and Class member purchased or leased a Class Vehicle believing, in reliance on Defendants' statements and omissions, it to be safe and free from major engine defects.

89. A reasonable consumer would not know that the catalytic converter in Kia Soul vehicles could overheat, resulting in catastrophic engine failure and/or fire. Plaintiffs and the members of the Class did not know of the facts which were concealed from them by Defendants. Moreover, as ordinary consumers, Plaintiffs and the members of the Class did not, and could not, unravel the deception on their own.

90. Defendants had a duty to disclose that these defects existed. Defendants had such a duty because the true facts were known and/or accessible only to them and because they knew

1 these facts were not known to or reasonably discoverable by Plaintiffs or the members of the  
2 Class unless and until the defect manifested in their personal vehicle. As alleged herein,  
3 Defendants denied and concealed the defects in the face of consumer complaints and regulatory  
4 investigations. Plaintiffs and Class members did not, and could not, unravel Defendants'  
5 deception on their own.  
6

7 91. Defendants also had a duty to disclose the true nature of these vehicles as a result  
8 of their prior recalls. By issuing recalls of certain vehicles and representing that these  
9 represented the full population of affected vehicles, Defendants led consumers and even safety  
10 regulators to believe, at least for a time, that they were remedying the engine fire problems. In  
11 fact, these recalls—in addition to being unsuccessful—failed to include hundreds of thousands  
12 of additional vehicles that suffered from similar major defects.  
13

14 92. Had the material facts been timely revealed, Plaintiffs and the Class would not  
15 have purchased the Class Vehicles, or would have paid less for them. Class Vehicles have also  
16 diminished in value as a result of Defendants' fraud. Accordingly, Defendants are liable to  
17 Plaintiffs and the members of the Class for damages in an amount to be proven at trial.  
18

19 93. Defendants' acts were committed wantonly, maliciously, oppressively,  
20 deliberately, with intent to defraud; in reckless disregard of the rights of Plaintiffs and the Class;  
21 and to enrich themselves. Their misconduct warrants an assessment of punitive damages in an  
22 amount sufficient to deter such conduct in the future, which amount shall be determined  
23 according to proof at trial.

24 94. Plaintiffs plead this count pursuant to the laws of California, where Defendants'  
25 United States operations are headquartered, on behalf of all members of the Class. As necessary,  
26 and in the alternative, Plaintiffs may allege state subclasses, based on the residences at pertinent

1 times of members of the Class, to allege fraudulent concealment under the laws of states other  
2 than California.

3  
4 **COUNT II**  
5 **IMPLIED AND WRITTEN WARRANTY**  
6 **Magnuson-Moss Warranty Act (15 U.S.C. §§ 2301 *et seq.*)**

7 95. Plaintiffs incorporate by reference each and every prior and subsequent allegation  
8 of this Complaint as if fully restated here.

9 96. Plaintiffs assert this cause of action on behalf of themselves and the other  
10 members of the Nationwide Class.

11 97. This Court has jurisdiction to decide claims brought under 15 U.S.C. § 2301 by  
12 virtue of 15 U.S.C. § 2310(d).

13 98. The Class Vehicles are a “consumer product,” as that term is defined in 15 U.S.C.  
14 § 2301(1).

15 99. Plaintiffs and Class members are “consumers,” as that term is defined in 15  
16 U.S.C. § 2301(3).

17 100. Each Defendant is a “warrantor” and “supplier” as those terms are defined in 15  
18 U.S.C. § 2301(4) and (5).

19 101. 15 U.S.C. § 2310(d)(1) provides a cause of action for any consumer who is  
20 damaged by the failure of a warrantor to comply with an implied or written warranty.

21 102. As described herein, Defendants provided Plaintiffs and Class members with  
22 “implied warranties” and “written warranties” as those terms are defined in 15 U.S.C. § 2301.

23 103. Defendants have breached these warranties. The Class Vehicles are defective, as  
24 described above, which resulted in the problems and failures also described above.  
25  
26



105. In their capacity as warrantors, and by the conduct described herein, any attempts by Defendants to limit the implied warranties in a manner that would exclude coverage of the defects is unconscionable and any such effort to disclaim, or otherwise limit, liability for the defective software and supporting systems is null and void.

107. Plaintiffs and members of the Class are in privity with Defendants in that they purchased Class Vehicles from Defendants via their agents.

108. As a result of Defendants' breach of warranties, Plaintiffs and Class members are entitled to revoke their acceptance of the vehicles, obtain damages and equitable relief, and obtain costs pursuant to 15 U.S.C. § 2310.

109. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

110. Plaintiffs bring this action on behalf of themselves and the Nationwide Class against all Defendants.

111. California Business and Professions Code § 17200 prohibits any “unlawful, unfair, or fraudulent business act or practices.”

1           112. Defendants have engaged in unlawful, fraudulent, and unfair business acts and  
2 practices in violation of the UCL by knowingly and intentionally concealing the serious defects  
3 in the Class Vehicles from Plaintiffs and Class members, as well as the risks of serious harm and  
4 monetary damage stemming therefrom. This information was material to Plaintiffs and Class  
5 members, just as it would be to any reasonable consumer.  
6

7           113. Defendants were in a superior position to know the true nature of the Class  
8 Vehicles and Plaintiffs and Class members could not discover the true facts about the defects  
9 through ordinary and reasonable diligence. Defendants also had a duty to disclose the defects  
10 because they constitute a safety issue for drivers and passengers of Class Vehicles.  
11

12           114. Defendants' failure to disclose these facts violated the UCL, breached these duties  
13 to disclose, and injured Plaintiffs and Class members. Plaintiffs and Class members could not  
14 reasonably have avoided these injuries.

15           115. These acts were likely to deceive the public, and did in fact deceive Plaintiffs,  
16 about material information.

17           116. Plaintiffs request that this Court enter such orders or judgments as may be  
18 necessary to enjoin Defendants from continuing their unfair, unlawful, and/or deceptive practices  
19 and to restore to Plaintiffs and members of the Class any money Defendants acquired by unfair  
20 competition, including restitution and/or restitutionary disgorgement, as provided in Cal. Bus. &  
21 Prof. Code § 17203 and Cal. Bus. & Prof. Code § 3345; and for such other relief set forth below.  
22

23                                   **COUNT IV**  
24                   **VIOLATIONS OF THE CALIFORNIA FALSE ADVERTISING LAW**  
                                  **(Cal. Bus. & Prof. Code § 17500, *et seq.*)**

25           117. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set  
26 forth herein.

1           118. Plaintiffs bring this action on behalf of themselves and the Nationwide Class  
2 against all Defendants.

3           119. California Business & Professions Code § 17500 provides that “It is unlawful for  
4 any . . . corporation . . . with intent directly or indirectly to dispose of real or personal property . .  
5 . to induce the public to enter into any obligation relating thereto, to make or disseminate or  
6 cause to be made or disseminated . . . from this state before the public in any state, in any  
7 newspaper or other publication, or any advertising device, . . . or in any other manner or means  
8 whatever, including over the Internet, any statement . . . which is untrue or misleading, and  
9 which is known, or which by the exercise of reasonable care should be known, to be untrue or  
10 misleading.”  
11

12           120. Defendants caused to be made and/or disseminated untrue or misleading  
13 statements throughout California and the United States, which were known or should have been  
14 known to Defendants to be untrue and misleading to consumers, including Plaintiffs and Class  
15 members.  
16

17           121. This conduct occurred in the course of Defendants’ businesses, and is part of a  
18 continuing pattern or generalized course of conduct in California and throughout the United  
19 States.  
20

21           122. Defendants’ conduct violated the California False Advertising law because their  
22 misleading omissions concerning the safety and functionality of Class Vehicles were material  
23 and likely to deceive a reasonable consumer.

24           123. Plaintiffs and the other Class Members have suffered an injury in fact, including  
25 the loss of money or property, as a result of Defendants’ unfair, unlawful, and/or deceptive  
26 practices. In purchasing or leasing Class Vehicles, Plaintiffs and Class members relied on

Defendants’ misrepresentations and/or omissions concerning the safety and reliability of the Class Vehicles. These representations were untrue because the Class Vehicles contained serious safety defects that could result in catastrophic engine failure, engine stalls, and fires. Had Plaintiffs and Class members known this, they would not have purchased or leased Class Vehicles at all, or would have paid significantly less for them. Plaintiffs and other Class members overpaid at the time of purchase for vehicles that were not what they bargained for, and did not receive and still have not received the benefit of their bargain.

124. Plaintiffs request that this Court enter such orders or judgments as may be necessary to enjoin Defendants from continuing their unfair, unlawful, and/or deceptive practices and to restore to Plaintiffs and Class members any money Defendants acquired by these practices, including restitution and/or restitutionary disgorgement, and for such other relief set forth below.

**COUNT V**  
**VIOLATIONS OF THE CONSUMER LEGAL REMEDIES ACT**  
**(Cal. Civ. Code § 1750 *et seq.*)**

125. Plaintiffs incorporate by reference each preceding paragraph as though fully set forth herein.

126. Plaintiffs bring this action on behalf of themselves and the Nationwide Class against all Defendants or, in the alternative,

127. Defendants are “person[s]” under Cal. Civ. Code § 1761(c).

128. Plaintiffs and Class members are “consumers,” as defined by Cal. Civ. Code § 1761(d), who purchased or leased one or more Class Vehicles.

129. The California Legal Remedies Act (“CLRA”) prohibits “unfair or deceptive acts or practices undertaken by any person in a transaction intended to result or which results in the

1 sale or lease of goods or services to any consumer[.]” Cal. Civ. Code § 1770(a). Defendants have  
2 engaged in unfair or deceptive acts or practices that violated Cal. Civ. Code § 1750, *et seq.*, as  
3 described above and below by, at a minimum, representing that Class Vehicles have  
4 characteristics, uses, benefits, and qualities which they do not have; representing that Class  
5 Vehicles are of a particular standard, quality, and grade when they are not; advertising Class  
6 Vehicles with the intent not to sell or lease them as advertised; and representing that the subject  
7 of a transaction involving Class Vehicles has been supplied in accordance with a previous  
8 representation when it has not.  
9

10 130. In the course of their business, Defendants intentionally or negligently concealed  
11 and suppressed material facts concerning the serious and dangerous engine defects affecting the  
12 Class Vehicles. The Defendants concealed the truth about the defects and failed to make any  
13 adequate effort to remedy them despite the fact that they knew or should have known about them  
14 for years.  
15

16 131. Plaintiffs and Class members had no way of discerning that Defendants had  
17 falsely and deceptively concealed these latent defects unless and until the defects manifested  
18 themselves by causing catastrophic and sudden engine failures, stalls, or fires. Plaintiffs and  
19 Class members could not unravel this deception on their own until the announcement—too  
20 late—of the inadequate proposed recall described above. For the Hyundai Tucson, Defendants do  
21 not even know the cause or extent of the defect and have no proposed repair despite announcing  
22 a recall. For the Kia Soul, the proposed recall is likely to be inadequate, if not impossible,  
23 because it requires reprogramming an emissions component without regulatory certification.  
24

25 132. Defendants’ actions constitute a violation of the CLRA. Defendants knew or  
26 should have known the true nature of these vehicles as a result of pre-sale durability testing, of

1 complaints and warranty claims by consumers to Defendants directly as well as to NHTSA, and  
2 of their previous failed recalls of related engines for similar defects.

3 133. Defendants owed Plaintiffs a duty to disclose the defects and their resulting safety  
4 risks because they:

5 A. Possessed exclusive knowledge that they were manufacturing, selling, and  
6 distributing vehicles throughout the United States with dangerous defects;

7 B. Intentionally concealed the foregoing from regulators, Plaintiffs, and Class  
8 members; and/or

9 C. Made incomplete representations, via earlier recalls of related vehicles for  
10 similar defects, concerning the safety and presence of defects in the Class Vehicles, while  
11 actually purposefully withholding material facts from Plaintiffs that contradicted these  
12 representations.  
13

14 134. Defendants' unfair and deceptive acts or practices were likely to and did in fact  
15 deceive reasonable consumers, including Plaintiffs, about the true safety, roadworthiness, and  
16 value of the Class Vehicles.  
17

18 135. Plaintiffs and Class members have suffered ascertainable loss and actual damages  
19 as a direct and proximate result of Defendants' concealment of and failure to disclose material  
20 information. Plaintiffs and Class members who purchased or leased Class Vehicles would not  
21 have done so at all, or would have paid significantly less for them, if their true nature was  
22 known.  
23

24 136. Meanwhile, Defendants had an ongoing duty to all of their customers to refrain  
25 from unfair and deceptive practices under the CLRA. All owners of Class Vehicles suffered  
26



1 ascertainable loss as a result of Defendants' deceptive and unfair acts and practices made in the  
 2 course of Defendants' business.

3 137. Defendants' violations present a continuing risk to Plaintiffs as well as to the  
 4 general public. Defendants' unlawful acts and practices complained of herein affect the public  
 5 interest.  
 6

7 138. Under Cal. Civ. Code § 1780(a), Plaintiffs and the California Class seek monetary  
 8 relief against Defendants measured as the overpayment for their vehicles caused by Defendants'  
 9 violations of the CLRA as alleged herein.

10 139. Plaintiffs also seek punitive damages against Defendants because they carried out  
 11 reprehensible conduct with willful and conscious disregard of the rights and safety of others,  
 12 subjecting Plaintiffs and the California Class to potential cruel and unjust hardship as a result.  
 13 Defendants intentionally and willfully deceived Plaintiffs on life-or-death matters, and concealed  
 14 material facts that only Defendants knew. Defendants' unlawful conduct constitutes malice,  
 15 oppression, and fraud warranting punitive damages under Cal. Civ. Code § 3294.  
 16

17 140. Plaintiffs further seek an order enjoining Defendants' unfair or deceptive acts or  
 18 practices, restitution, punitive damages, costs of court, and attorneys' fees under Cal. Civ. Code  
 19 § 1780(e), and any other just and proper relief available under the CLRA.  
 20

21 141. Plaintiffs, through undersigned counsel, have provided Defendants notice of their  
 22 violations of the CLRA in compliance with Cal. Civ. Code § 1782(a).

23 **COUNT VI**  
 24 **VIOLATIONS OF THE WASHINGTON CONSUMER PROTECTION ACT**  
 25 **(Wash. Rev. Code Ann. §§ 19.86.010, *et seq.*)**

26 142. Plaintiffs incorporate by reference each preceding paragraph as though fully set  
 forth herein.

1           143. Plaintiff Snider brings this action on behalf of herself and the Washington State  
2 Class.

3           144. Defendants, Plaintiff Snider, and members of the Washington State Class are  
4 “persons” within the meaning of Wash. Rev. Code § 19.86.010(2).  
5

6           145. Defendants are engaged in “trade” or “commerce” within the meaning of Wash.  
7 Rev. Code § 19.86.010(2).

8           146. The Washington Consumer Protection Act (“Washington CPA”) makes unlawful  
9 “[u]nfair methods of competition and unfair or deceptive acts or practices in the conduct of any  
10 trade or commerce.” Wash. Rev. Code § 19.86.020.

11           147. In the course of their business, Defendants intentionally or negligently concealed  
12 and suppressed material facts concerning the serious and dangerous engine defects affecting the  
13 Class Vehicles. The Defendants concealed the truth about the defects and failed to make any  
14 effort to remedy them despite the fact that they knew or should have known about them for  
15 years.  
16

17           148. Plaintiffs and Class members had no way of discerning that Defendants had  
18 falsely and deceptively concealed these latent defects unless and until the defects manifested  
19 themselves by causing catastrophic and sudden engine failures, stalls, or fires. Plaintiffs and  
20 Class members could not unravel this deception on their own until the announcement—too  
21 late—of the inadequate proposed recall described above. For the Hyundai Tucson, Defendants do  
22 not even know the cause or extent of the defect and have no proposed repair despite announcing  
23 a recall. For the Kia Soul, the proposed recall is likely to be inadequate, if not impossible,  
24 because, on information and belief, it requires reprogramming an emissions component without  
25 regulatory certification.  
26

1           149. Defendants' actions constitute a violation of the Washington CPA. Defendants  
2 knew or should have known the true nature of these vehicles as a result of pre-sale durability  
3 testing, of complaints and warranty claims by consumers to Defendants directly as well as to  
4 NHTSA, and of their previous failed recalls of related engines for similar defects.

5           150. Defendants owed Plaintiffs a duty to disclose the defects and their resulting safety  
6 risks because they:  
7

8           A. Possessed exclusive knowledge that they were manufacturing, selling, and  
9 distributing vehicles throughout the United States with dangerous defects;

10           B. Intentionally concealed the foregoing from regulators, Plaintiffs, and Class  
11 members; and/or

12           C. Made incomplete representations, via earlier recalls of related vehicles for  
13 similar defects, concerning the safety and presence of defects in the Class Vehicles, while  
14 actually purposefully withholding material facts from Plaintiffs that contradicted these  
15 representations.  
16

17           151. Defendants' unfair and deceptive acts or practices were likely to and did in fact  
18 deceive reasonable consumers, including Plaintiffs, about the true safety, roadworthiness, and  
19 value of the Class Vehicles.  
20

21           152. Plaintiffs and Class members have suffered ascertainable loss and actual damages  
22 as a direct and proximate result of Defendants' concealment of and failure to disclose material  
23 information. Plaintiffs and Class members who purchased or leased Class Vehicles would not  
24 have done so at all, or would have paid significantly less for them, if their true nature was  
25 known.  
26

1 153. Meanwhile, Defendants had an ongoing duty to all of their customers to refrain  
2 from unfair and deceptive practices under the Washington CPA in the course of their business.

3 154. Defendants' violations present a continuing risk to Plaintiffs as well as to the  
4 general public. Defendants' unlawful acts and practices complained of herein affect the public  
5 interest.  
6

7 155. Pursuant to Wash. Rev. Code § 19.86.090, Plaintiff and the Washington Class  
8 seek an order enjoining Defendants' unfair and/or deceptive acts or practices, damages, punitive  
9 damages, and attorneys' fees, costs, and any other just and proper relief available under the  
10 Washington CPA. Because Defendants' actions were willful and knowing, Plaintiff's damages  
11 should be trebled. *Id.*  
12

13 **COUNT VII**  
14 **BREACH OF THE IMPLIED WARRANTY OF MERCHANTABILITY**  
15 **(Wash. Rev. Code Ann. §§ 62A.2-314 and 62A.2A-212)**  
16

17 156. Plaintiffs incorporate by reference each preceding paragraph as though fully set  
18 forth herein.

19 157. Plaintiff Snider brings this Count on behalf of herself and the Washington State  
20 Class against all Defendants.

21 158. Defendants are and were at all relevant times "merchants" with respect to motor  
22 vehicles under Wash. Rev. Code § 62A.2-104(1) and 62A.2A-103(1)(t), and "sellers" of motor  
23 vehicles under § 2.103(a)(4).

24 159. With respect to leases, Defendants are and were at all relevant times "lessors" of  
25 motor vehicles under Wash. Rev. Code § 62A.2A-103(1)(p).

26 160. The Class Vehicles are and were at all relevant times "goods" within the meaning  
of Wash. Rev. Code §§ 62A.2-105(1) and 62A.2A-103(1)(h).

1           161. A warranty that the Class Vehicles were in merchantable condition and fit for the  
2 ordinary purpose for which vehicles are used is implied by law pursuant to Wash. Rev. Code §§  
3 62A.2-314 and 62A.2A-212.

4           162. Defendants sold and/or leased Class Vehicles that were not in merchantable  
5 condition and/or fit for their ordinary purpose in violation of the implied warranty. The vehicles  
6 were not in merchantable condition because they were not in merchantable condition or fit for  
7 the ordinary purpose for which they were sold—namely, providing safe and reliable  
8 transportation.  
9

10           163. Defendants’ breach of the implied warranty of merchantability caused damage to  
11 the Plaintiff and Washington State Class members who purchased or leased the defective  
12 vehicles. The amount of damages due will be proven at trial.  
13

14                                   **COUNT VIII**  
15                                   **WASHINGTON “LEMON LAW”**  
16                                   **(Wash. Rev. Code Ann. § 19.118.005, *et seq.*)**

17           164. Plaintiffs incorporate by reference each preceding paragraph as though fully set  
18 forth herein.

19           165. Plaintiff Snider brings this Count on behalf of herself and the Washington State  
20 Class against all Defendants.

21           166. Plaintiff and the Washington Class own or lease “new motor vehicles” within the  
22 meaning of Wash. Rev. Code § 19.118.021(12), because these vehicles are self-propelled  
23 primarily designed for the transportation of persons or property over the public highways and  
24 were originally purchased or leased at retail from a new motor vehicle dealer or leasing company  
25 in Washington. These vehicles do not include vehicles purchased or leased by a business as part  
26 of a fleet of ten or more vehicles at one time or under a single purchase or lease agreement or

1 those portions of a motor home designated, used, or maintained primarily as a mobile dwelling,  
2 office, or commercial space.

3 167. Defendants are “manufacturer[s]” of the Class Vehicles within the meaning of  
4 Wash. Rev. Code § 19.118.021(8) because they are in the business of constructing or assembling  
5 new motor vehicles or are engaged in the business of importing new motor vehicles into the  
6 United States for the purpose of selling or distributing new motor vehicles to new motor vehicle  
7 dealers.  
8

9 168. Plaintiff and the Washington Class are “consumers” within the meaning of Wash.  
10 Rev. Code § 19.118.021(4) because they entered into an agreement or contract for the transfer,  
11 lease, or purchase of a new motor vehicle, other than for purposes of resale or sublease, during  
12 the eligibility period as defined by Wash. Rev. Code § 19.118.021(6).  
13

14 169. The Class Vehicles did not conform to their implied or express warranties as  
15 defined by Wash. Rev. Code § 19.118.021(22), during the “eligibility period,” defined by Wash.  
16 Rev. Code § 19.118.021(6), or the coverage period under the applicable written warranty,  
17 because they contained dangerous inherent defects. These defects substantially impaired the use,  
18 market value, and/or safety of the Class Vehicles.

19 170. Defendants had actual knowledge of the nonconformities during warranty periods.  
20 But the nonconformities continued to exist throughout this term, as they have not been fixed.  
21 Plaintiff and class members are excused from notifying Defendants of the nonconformities  
22 because they were already fully aware of the problem and any repair attempt is futile.  
23

24 171. Defendants have had a reasonable opportunity to cure the nonconformities  
25 because of their actual knowledge of, creation of, and attempt to conceal the nonconformities,  
26 but have not done so as required under Wash. Rev. Code § 19.118.031.



172. For vehicles purchased, Plaintiff and the Washington Class demand a full refund of the contract price, all collateral charges, and incidental costs. Wash. Rev. Code § 19.118.041(1)(b). For vehicles leased, Plaintiff and the Washington Class demand all payments made under the lease including but not limited to all lease payments, trade-in value or inception payment, security deposit, and all collateral charges and incidental costs. The Plaintiff and the Washington Class also ask to be relieved of any future obligation to the lessor or lienholder. *Id.* Plaintiff and the Washington Class reject an offer of replacement and will retain their vehicles until payment is tendered.

**COUNT IX**  
**BREACH OF EXPRESS WARRANTY**  
**(W. Va. Code § § 46-2-313 and 46-2A-210)**

173. Plaintiffs reallege and incorporate by reference all preceding allegations as though fully set forth herein.

174. This count is brought on behalf of the West Virginia State Class against Defendants.

175. Defendants are and were at all relevant times “merchants” with respect to motor vehicles under W. Va. Code §§ 46-2-104(1) and 46-2A-103(1)(t), and “sellers” of motor vehicles under § 46-2-103(1)(d).

176. With respect to leases, Defendants are and were at all relevant times “lessors” of motor vehicles under W. Va. Code § 46-2A-103(1)(p).

177. The Class Vehicles are and were at all relevant times “goods” within the meaning of W. Va. Code §§ 46-2-105(1) and 46-2A-103(1)(h).

178. Federal law requires manufacturers of light-duty vehicles to provide two federal warranties: a “Performance Warranty” and a “Design and Defect Warranty.” The Performance

1 Warranty applies to repairs that are required during the first two years or 24,000 miles,  
2 whichever occurs first. Under this warranty, certain major components are covered for the first  
3 eight years or 80,000 miles, whichever comes first. The Design and Defect Warranty covers  
4 repair of certain parts which fail to function or function improperly due to a defect in materials or  
5 workmanship. This warranty provides protection for two years or 24,000 miles, whichever  
6 comes first, or, for the major components, for eight years or 80,000 miles, whichever comes first.

8 179. Defendants provided these warranties to the West Virginia State Class. These  
9 warranties formed the basis of the bargain that was reached when the West Virginia State Class  
10 purchased or leased their Class Vehicles.

11 180. However, Defendants knew or should have known that the warranties were false  
12 and/or misleading. As a result of Defendants' conduct—in failing to remedy dangerous defects  
13 Defendants knew or should have known about, and in actively concealing these defects even in  
14 the face of complaints and regulatory investigations—consumers have been driving cars that  
15 could suddenly stall at speed or burst into flames.

17 181. The West Virginia State Class reasonably relied on Defendants' express  
18 warranties when purchasing or leasing the Class Vehicles. However, the Class Vehicles did not  
19 perform as warranted. Unbeknownst to the West Virginia State Class, the Class Vehicles were  
20 designed to pollute at higher than legal limits during normal driving, and could not achieve  
21 advertised performance and efficiency metrics without this cheating design. This design and the  
22 devices that effectuate it are defects. Defendants therefore breached their express warranty by  
23 providing a product containing defects that were never disclosed to the West Virginia State  
24 Class.  
25

26 182. Any opportunity to cure the express breach is unnecessary and futile.

1 183. As a direct and proximate result of Defendants' breach of express warranties, the  
2 West Virginia State Class suffered significant damages, and seek damages in an amount to be  
3 determined at trial.

4  
5 **COUNT X**  
6 **BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY**  
7 **(W. Va. Code § § 46-2-314 and 46-2A-212)**

8 184. Plaintiffs reallege and incorporate by reference all allegations of the preceding  
9 paragraphs as though fully set forth herein.

10 185. This count is brought on behalf of the West Virginia State Class against  
11 Defendants.

12 186. Defendants were at all relevant times "merchants" with respect to motor vehicles  
13 under W. Va. Code §§ 46-2-104(1) and 46-2A-103(1)(t), and "sellers" of motor vehicles under  
14 § 46-2-103(1)(d).

15 187. With respect to leases, Defendants are and were at all relevant times "lessors" of  
16 motor vehicles under W. Va. Code § 46-2A-103(1)(p).

17 188. The Class Vehicles are and were at all relevant times "goods" within the meaning  
18 of W. Va. Code §§ 46-2-105(1) and 46-2A-103(1)(h).

19 189. A warranty that the Class Vehicles were in merchantable condition and fit for the  
20 ordinary purpose for which vehicles are used is implied by law pursuant to W. Va. Code §§ 46-  
21 2-314 and 46-2A-212.

22 190. Defendants sold and/or leased Class Vehicles that were not in merchantable  
23 condition and/or fit for their ordinary purpose in violation of the implied warranty. The Class  
24 Vehicles were not in merchantable condition because their design violated state and federal laws.  
25  
26

1 The Class Vehicles were not fit for their ordinary purpose — namely, providing safe and reliable  
2 transportation.

3 191. Defendants’ breaches of the implied warranty of merchantability caused damage  
4 to the West Virginia State Class. The amount of damages due will be proven at trial.  
5

### 6 **VIII. PRAYER FOR RELIEF**

7 WHEREFORE, Plaintiffs, individually and on behalf of the members of the Nationwide  
8 Class and State Classes, respectfully request that the Court grant certification of the proposed  
9 Nationwide Class and State Classes, including the appointment of Plaintiffs as named  
10 representatives thereof, the appointment of the undersigned as Class Counsel, and the  
11 designation of any appropriate issue classes and/or subclasses, under the applicable provisions of  
12 Fed. R. Civ. P. 23, and that the Court enter judgment in their favor and against Defendants, as  
13 follows:  
14

15 A. A declaration that any applicable statutes of limitations are tolled due to the  
16 fraudulent concealment alleged in this Complaint, and that Defendants are estopped from relying  
17 on any statutes of limitation in defense;

18 B. An order enjoining Defendants from continuing the unlawful, unfair, and  
19 fraudulent business practices alleged herein;  
20

21 C. Appropriate injunctive and equitable relief requiring Defendants to repair and/or  
22 buy back all Class Vehicles, and to fully reimburse and make whole all Class members for all  
23 costs and economic losses associated therewith;

24 D. Damages, including actual, compensatory, restitution, incidental, consequential,  
25 costs, multiple or punitive under applicable law, and disgorgement in an amount to be  
26 determined at trial;

1 E. A determination that Defendants are financially responsible for all Class notice  
2 and administration of Class relief;

3 F. An order requiring Defendants to pay both pre- and post-judgment interest on any  
4 amounts awarded;

5 G. An award of costs and attorneys' fees;

6 H. Leave to amend this Complaint to conform to the evidence produced in discovery  
7 and at trial; and  
8

9 I. Such other or further relief as the Court may deem appropriate, just, and  
10 equitable.

11 **IX. DEMAND FOR JURY TRIAL**

12 Plaintiffs hereby demand a jury trial for all claims so triable.  
13

14  
15 DATED this 13th day of March, 2019.  
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17  
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22  
23  
24  
25  
26

KELLER ROHRBACK L.L.P.

By s/ Lynn Lincoln Sarko

By s/ Gretchen Freeman Cappio

By s/ Ryan McDevitt

Lynn Lincoln Sarko #16569

Gretchen Freeman Cappio #29576

Ryan McDevitt #43305

1201 Third Avenue, Suite 3200

Seattle, WA 98101-3052

(206) 623-1900

Fax (206) 623-3384

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gcappio@kellerrohrback.com

rmcdevitt@kellerrohrback.com

Benjamin L. Bailey, *pro hac vice forthcoming*

Jonathan D. Boggs, *pro hac vice forthcoming*

BAILEY GLASSER LLP

209 Capitol Street

Charleston, WV 25301

(304) 345-6555

Fax (304) 342-1110

bbailey@baileyglasser.com

jboggs@baileyglasser.com

*Attorneys for Plaintiffs*



## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

ELIZABETH SNIDER and JAMES TWIGGER, on behalf of themselves and all others similarly situated,

(b) County of Residence of First Listed Plaintiff Mason County

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Keller Rohrbach L.L.P. (206) 623-1900

1201 Third Ave, Suite 3200

Seattle, WA 98101

**DEFENDANTS**

HYUNDAI MOTOR AMERICA, INC., HYUNDAI MOTOR COMPANY, KIA MOTORS AMERICA, INC., and KIA MOTORS CORPORATION,

County of Residence of First Listed Defendant \_\_\_\_\_

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                                   | DEF                        |   | PTF                        | DEF                                   |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State                   | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4            |
| Citizen of Another State                | <input type="checkbox"/> 2            | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6            |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input checked="" type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice <b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education <b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

**V. ORIGIN** (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding    ☐ 2 Removed from State Court    ☐ 3 Remanded from Appellate Court    ☐ 4 Reinstated or Reopened    ☐ 5 Transferred from Another District (specify)    ☐ 6 Multidistrict Litigation - Transfer    ☐ 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
28 U.S.C. § 1332

Brief description of cause:

Breach of warranty and consumer fraud action under federal and state law

**VII. REQUESTED IN COMPLAINT:**

☒ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

**VIII. RELATED CASE(S)**

IF ANY

(See instructions):

JUDGE Judge James L. Robart

DOCKET NUMBER 2:19-cv-00318

DATE  
3/13/19

SIGNATURE OF ATTORNEY OF RECORD  
s/ Gretchen Freeman Cappio

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

Print

Save As...

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## Western District of Washington

ELIZABETH SNIDER and JAMES TWIGGER,

Plaintiff(s)

V.

HYUNDAI MOTOR AMERICA, INC., HYUNDAI  
MOTOR COMPANY, KIA MOTORS AMERICA, INC.,  
and KIA MOTORS CORPORATION,

Defendant(s)

Civil Action No. 2:19-cv-00371

## SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) HYUNDAI MOTOR AMERICA, INC.

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Gretchen Freeman Cannon

Gretchen Freeman Cappio  
Keller Rohrback L.L.P.  
1201 Third Ave, Suite 3200  
Seattle, WA 98101

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: \_\_\_\_\_

Signature of Clerk or Deputy Clerk

Civil Action No. 2:19-cv-318

**PROOF OF SERVICE***(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
 was received by me on *(date)* \_\_\_\_\_ .

☐ I personally served the summons on the individual at *(place)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
 \_\_\_\_\_, a person of suitable age and discretion who resides there,  
 on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* \_\_\_\_\_, who is  
 designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

☐ I returned the summons unexecuted because \_\_\_\_\_ ; or

☐ Other *(specify)*:

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

**Print**

**Save As...**

**Reset**

## Western District of Washington

ELIZABETH SNIDER and JAMES TWIGGER,

Plaintiff(s)

V.

HYUNDAI MOTOR AMERICA, INC., HYUNDAI  
MOTOR COMPANY, KIA MOTORS AMERICA, INC.,  
and KIA MOTORS CORPORATION,

Defendant(s)

Civil Action No.2:19-cv-00371

## SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) HYUNDAI MOTOR COMPANY

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Gretchen Freeman Gannio

Gretchen Freeman Cappio  
Keller Rohrback L.L.P.  
1201 Third Ave, Suite 3200  
Seattle, WA 98101

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: \_\_\_\_\_

Signature of Clerk or Deputy Clerk

Civil Action No. 2:19-cv-318

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 \_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

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 \_\_\_\_\_, a person of suitable age and discretion who resides there,  
 on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

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Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

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## Western District of Washington

ELIZABETH SNIDER and JAMES TWIGGER,

Plaintiff(s)

V.

HYUNDAI MOTOR AMERICA, INC., HYUNDAI  
MOTOR COMPANY, KIA MOTORS AMERICA, INC.,  
and KIA MOTORS CORPORATION,

Defendant(s)

Civil Action No. 2:19-cv-00371

## SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* KIA MOTORS AMERICA, INC.

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Gretchen Freeman Cannon

Gretchen Freeman Cappio  
Keller Rohrback L.L.P.  
1201 Third Ave, Suite 3200  
Seattle, WA 98101

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

*CLERK OF COURT*

Date: \_\_\_\_\_

Signature of Clerk or Deputy Clerk



Civil Action No. 2:19-cv-318

**PROOF OF SERVICE***(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

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 \_\_\_\_\_, a person of suitable age and discretion who resides there,  
 on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

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 designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

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☐ Other *(specify)*:

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Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

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## Western District of Washington

ELIZABETH SNIDER and JAMES TWIGGER,

Plaintiff(s)

V.

HYUNDAI MOTOR AMERICA, INC., HYUNDAI  
MOTOR COMPANY, KIA MOTORS AMERICA, INC.,  
and KIA MOTORS CORPORATION,

Defendant(s)

Civil Action No. 2:19-cv-00371

## SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* KIA MOTORS CORPORATION

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Gretchen Freeman Gannio

Gretchen Freeman Cappio  
Keller Rohrback L.L.P.  
1201 Third Ave, Suite 3200  
Seattle, WA 98101

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: \_\_\_\_\_

Signature of Clerk or Deputy Clerk

Civil Action No. 2:19-cv-318

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 \_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
 \_\_\_\_\_ , a person of suitable age and discretion who resides there,  
 on *(date)* \_\_\_\_\_ , and mailed a copy to the individual's last known address; or

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 designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

☐ I returned the summons unexecuted because \_\_\_\_\_ ; or

☐ Other *(specify)*:

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I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

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# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [More Consumers Allege Recall of Hyundai Tucson, Kia Soul Vehicles with Defective GDI Engines Is Inadequate](#)

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