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CLERK U.S. DISTRICT COURT  
CENTRAL DISTRICT OF CALIF.  
LOS ANGELES

BY \_\_\_\_\_

8 *Attorneys for Plaintiffs and the Class*

9 [Additional Counsel Listed on Signature Page]

10 **UNITED STATES DISTRICT COURT**  
11 **CENTRAL DISTRICT OF CALIFORNIA**

12 **BRIAN WEBER, KEVIN GOBEL,**  
13 **ERIC LARSON, on behalf of themselves**  
14 **and all others similarly situated,**

15 **Plaintiffs,**

16 **v.**

17 **HYUNDAI MOTOR AMERICA, and**  
18 **KIA MOTORS AMERICA, INC.,**

19 **Defendants.**

CASE NO. *SA CV 13-00027-AG*  
*(mLGx)*

CLASS ACTION

**CLASS ACTION COMPLAINT**

**JURY TRIAL DEMANDED**

1 Plaintiffs Brian Weber, Kevin Gobel, and Eric Larson, individually and on  
2 behalf of all others similarly situated, bring this class action suit against Hyundai  
3 Motor America and Kia Motors America, Inc. (collectively “Defendants”). Plaintiffs  
4 make the following allegations based upon personal knowledge as to their own acts,  
5 and upon information and belief as well as upon their attorneys’ investigative efforts  
6 as to Defendants’ actions and misconduct, and allege as follows:  
7

## 8 I. OVERVIEW

9  
10 1. Plaintiffs bring this class action on behalf of themselves and all others  
11 similarly situated who purchased or leased a Hyundai or Kia automobile whose EPA  
12 fuel economy ratings were less than the fuel economy rating produced by the  
13 applicable federal test, as described in detail below (the “Class”).  
14

15  
16 2. Defendants have represented, through an extensive, nationwide  
17 marketing and advertising campaign, inaccurate fuel efficiency numbers for a variety  
18 of their 2011-2013 vehicle models. The fuel efficiency numbers reported and  
19 advertised result from mandated tests outlined and specified by federal law. The  
20 required tests are designed to foster realistic fuel efficiency numbers to enable  
21 consumers to compare one vehicle against another.  
22

23  
24 3. Defendants’ Environmental Protection Agency (“EPA”) fuel economy  
25 ratings represented false information concerning the fuel efficiency of its vehicles.  
26 Defendants overstated the actual number that the federal testing would have produced  
27 by a material amount—at least a 3% difference. Defendants advertised and displayed  
28

1 false information concerning their vehicles' estimated miles-per-gallon ("MPG") fuel  
2 economy on stickers affixed to the windows of more than 900,000 Hyundai and Kia  
3 vehicles sold or leased in the United States through October 31, 2012.

4  
5 4. Each Plaintiff purchased either a Hyundai or Kia whose EPA ratings and  
6 advertised fuel efficiency numbers did not match the vehicle's actual fuel economy.  
7  
8 The EPA ratings and advertised fuel efficiency numbers were inaccurate and, had the  
9 proper testing procedures been followed, the numbers would have been lower than  
10 Defendants reported and advertised.

11  
12 5. Plaintiff Brian Weber's 2012 Kia Sorento was marketed as having a fuel  
13 economy of 22 MPG in the city, and 32 miles per gallon on the highway. According  
14 to Kia Motors America's announcement, the 2012 Kia Sorento's fuel economy is  
15 subject to at least a three-percent downward adjustment. That means Plaintiff's  
16 Sorento actually has a fuel economy of approximately 21.34 city MPG and 31.04  
17 highway MPG.  
18

19  
20 6. Plaintiff Kevin Gobel also purchased a 2012 Kia Sorento that was  
21 marketed as having a fuel economy of 22 MPG in the city, and 32 MPG on the  
22 highway. According to Kia Motors America's announcement, the 2012 Kia Sorento's  
23 fuel economy is subject to at least a three-percent downward adjustment. That means  
24 Plaintiff's Sorento actually has a fuel economy of approximately 21.34 city MPG and  
25 31.04 highway MPG.  
26  
27  
28

7. Plaintiff Eric Larson purchased a 2011 Hyundai Sonata that was marketed as having a fuel economy of 35 MPG in the city, and 40 MPG on the highway. According to Hyundai Motor America's announcement, the 2011 Hyundai Sonata's fuel economy is subject to at least a three-percent downward adjustment. That means Plaintiff's Sonata actually has a fuel economy of approximately 33.95 city MPG and 38.80 highway MPG.

8. Defendants have admitted that they misrepresented the fuel efficiency number on the following vehicle models whose testing was improperly performed (herein referred to as the "Published Vehicles"):

**Hyundai Vehicles**

- (a) 2011-2013 Elantra (including the Coupe and the GT);
- (b) 2011-2012 Sonata Hybrid;
- (c) 2012-2013 Accent; and
- (d) 2013 Santa Fe Sport

**Kia vehicles**

- (a) 2012 Optima Hybrid;
- (b) 2012-2013 Rio;
- (c) 2012-2013 Sorento;
- (d) 2012-2013 Soul (including the ECO); and
- (e) 2012-2013 Sportage.

1           9.     The testing errors may extend to other Hyundai and Kia models and  
2 model years in addition to the Published Vehicles above. These vehicles are referred  
3 to herein as “Affected Vehicles.” The “Published Vehicles” and the “Affected  
4 Vehicles” are collectively referred to herein as the “Vehicles.”

5  
6           10.    Defendants conducted inadequate and inaccurate EPA fuel economy  
7 testing that produced artificially high fuel economy rates on various Vehicle models.  
8 Had the appropriate federal testing been performed, the MPG EPA fuel economy  
9 rating would have reflected lower fuel efficiency numbers. The EPA numbers provide  
10 a necessary tool for vehicle comparison for consumers when evaluating vehicles to  
11 lease and purchase. Defendant’s misrepresentations, as a result, are material.

12  
13           11.    Defendants represented to customers that their Vehicles had achieved  
14 specific fuel economy ratings based on mandated testing methods specified by federal  
15 law. Defendants’ methods, however, were inaccurate and insufficient. They resulted  
16 in fuel economy ratings that did not comport with federal regulations.

17  
18           12.    Defendants’ representations concerning MPG and fuel economy rating of  
19 their Vehicles were misleading and false. Defendants knew or should have known  
20 facts indicating the inaccuracies in the gas mileage of their Vehicles. Defendants  
21 consciously or recklessly disregarded facts that indicated fuel economy ratings were  
22 erroneous and overstated. Consumer complaints to the National Highway Traffic  
23 Safety Administration’s (“NHTSA”) Office of Defects Administration (“ODI”)  
24 should have alerted Defendants to the problem—consumers complained that they  
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28

1 were not getting the mileage promised. But, Defendants nonetheless refused to  
2 correct their misrepresentations. Defendants' conduct and failure to disclose the  
3 defects in their fuel economy ratings constitutes actionable misrepresentation, an  
4 unfair, unlawful, fraudulent, and deceptive business practice in violation of  
5 California's consumer protection law, violation of California's unfair competition law,  
6 and a breach of the express warranties offered by Hyundai and Kia.  
7

9 13. Plaintiffs and the Class seek relief for the injuries suffered as a result of  
10 the flawed and insufficient testing methods Defendants used to determine the fuel  
11 economy ratings of their Vehicles and the material misrepresentations regarding the  
12 fuel economy ratings which Defendants used to advertise and sell certain 2011-2013  
13 Hyundai and Kia Vehicles in the United States.  
14

16 14. Plaintiffs and the Class have been damaged by Defendants' misleading,  
17 false, and deceitful misrepresentations concerning the fuel economy ratings because  
18 they purchased and/or leased Vehicles of a different quality than they were promised,  
19 and are paying higher fuel costs than they would have had the Defendants not misled  
20 Plaintiffs and the Class with incorrect fuel economy numbers.  
21

## 22 II. JURISDICTION AND VENUE 23

24 15. This Court has jurisdiction over this action pursuant to 28 U.S.C. §  
25 1332(a) and (d) because the amount in controversy exceeds \$5,000,000 exclusive of  
26 interests and costs, there are more than 100 members of the class, and Plaintiffs are  
27 citizens of a different state than Defendants.  
28

1           16. This Court has personal jurisdiction over Defendants because  
2 Defendants' principal places of business and headquarters are located in the District  
3 and both Defendants conduct substantial business in the District, including the  
4 conduct complained of in this Complaint.  
5

6           17. Venue in this District is proper under 28 U.S.C. § 1391 because a  
7 substantial part of the events or omissions giving rise to the claims occurred in the  
8 Central District of California, Defendants are subject to personal jurisdiction in this  
9 District, Defendants conduct business within this District, and Defendants' principal  
10 places of business and corporate headquarters are located in this District.  
11  
12

### 13                                   III. PARTIES

14           18. Plaintiff Brian Weber is a resident and citizen of Wisconsin. Plaintiff  
15 purchased a 2012 Kia Sorento in 2011. Prior to purchasing the Sorento, he saw  
16 advertisements and the EPA fuel economy window stickers that represented a certain  
17 number of miles per gallon. Plaintiff relied on the advertisements and fuel economy  
18 window stickers when deciding to purchase the vehicle. Plaintiff would not have  
19 purchased the vehicle or would not have paid as much for the vehicle had he been  
20 aware of Defendants' misrepresentations regarding the fuel economy.  
21  
22

23           19. Plaintiff Kevin Gobel is a resident and citizen of Wisconsin. Plaintiff  
24 purchased a 2012 Kia Sorento in or around May, 2012. Prior to purchasing the  
25 Sorento, he saw advertisements and the EPA fuel economy window stickers that  
26 represented a certain number of miles per gallon. Plaintiff relied on the  
27  
28

1 advertisements and fuel economy window stickers when deciding to purchase the  
2 vehicle. Plaintiff would not have purchased the vehicle or would not have paid as  
3 much for the vehicle had he been aware of Defendants' misrepresentations regarding  
4 the fuel economy.  
5

6         20. Plaintiff Eric Larson is a resident and citizen of Wisconsin. Plaintiff  
7 purchased a 2011 Hyundai Sonata on or about March, 2011. Prior to purchasing the  
8 Sonata, he saw advertisements and the EPA fuel economy window stickers that  
9 represented a certain number of miles per gallon. Plaintiff relied on the  
10 advertisements and fuel economy window stickers when deciding to purchase the  
11 vehicle. Plaintiff would not have purchased the vehicle or would not have paid as  
12 much for the vehicle had he been aware of Defendants' misrepresentations regarding  
13 the fuel economy.  
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17         21. Defendant Hyundai Motor America is a corporation with its national  
18 headquarters located at 10550 Talbert Avenue, Fountain Valley, California 92708.  
19 Hyundai Motor America is a wholly owned subsidiary of Hyundai Motor Company, a  
20 Korean corporation. Hyundai Motor America markets, designs, manufactures,  
21 assembles, distributes, and sells automobiles from its California headquarters and also  
22 from the Irvine, California Hyundai & Kia California Design & Technical Center.  
23  
24

25         22. Defendant Kia Motors America, Inc. is a California corporation with its  
26 national headquarters and principal place of business located at 111 Peters Canyon  
27 Road Irvine, California 92606. Kia Motors America, Inc. is a subsidiary of Kia  
28

1 Motors Corporation, a Korean corporation. Kia Motors America, Inc. markets,  
2 designs, manufactures, assembles, distributes, and sells automobiles from its  
3 California headquarters.  
4

#### 5 IV. FACTUAL ALLEGATIONS

##### 6 A. The EPA requires all automakers to use certain standard testing 7 procedures to determine a vehicle's fuel economy estimates.

8 23. Under the Energy Policy Conservation Act of 1975 ("EPCA"), the EPA  
9 promulgated regulations that require every new car and truck or SUV up to 10,000  
10 pounds sold in the United States to have a fuel economy label, or "window sticker,"  
11 that contains the vehicle's MPG estimates.  
12

13 24. The window sticker must provide certain information about the vehicle  
14 including the manufacturer's suggested retail price, its engine and transmission  
15 specification, warranty information, and fuel economy estimates. The fuel economy  
16 ratings are posted, among other things, for the customers' benefit to help them  
17 compare vehicles' estimated fuel economy when evaluating vehicles to lease or  
18 purchase.  
19

20 25. The EPA establishes the testing methods and calculations for determining  
21 the fuel economy estimates that are displayed on a vehicle's mandatory window  
22 sticker. The EPA requires all automobile manufacturers to use standard testing  
23 procedures to determine a vehicle's ratings for city and highway fuel economy.  
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1           26. The EPA's tests measure various aspects of the vehicle's design,  
2 including aerodynamics and road resistance. In addition, EPA testing incorporates  
3 several factors including high speeds, quick acceleration, accessory use (i.e., air  
4 conditioning), and driving in cold temperatures. Based on the results of the standard  
5 test methods, the EPA releases city and highway fuel economy estimates each year for  
6 all new vehicles that a manufacturer plans to sell.  
7

9           27. Fuel economy estimates are calculated pursuant to a methodology  
10 developed by the EPA, but each vehicle manufacturer typically conducts the required  
11 tests and then transmits the data to the EPA, which certifies the numbers reported.  
12 The EPA tests roughly fifteen percent of all possible vehicle configurations to ensure  
13 the vehicle performance accurately reflects the data submitted to the EPA by vehicle  
14 manufacturers.  
15  
16

17           **B. Defendants did not comply with EPA testing procedures.**  
18

19           28. The Defendants have joint operations in both Korea, where their parent  
20 corporations are headquartered, and in California. Defendants perform their EPA tests  
21 at a joint testing facility in Korea. Defendants' inaccurate fuel economy ratings  
22 resulted from procedural errors encountered during "coastdown" testing at the  
23 companies' joint testing operations in Korea. Automobile manufacturers use  
24 coastdown tests to assist in calculating their fuel economy ratings. Coastdown testing  
25 simulates aerodynamic drag, tire rolling resistance, and drivetrain frictional losses that  
26  
27  
28

1 are ultimately used to generate EPA fuel economy ratings. Standard coastdown tests  
2 must comply with federal regulation.

3  
4 29. The methods implemented by Defendants to test fuel economy were  
5 insufficient in design, procedure, content, execution, and/or completeness as a result  
6 of errors during coastdown testing. As a result, the methods Defendants used did not  
7 adhere to the EPA standards. Defendants' fuel economy ratings were consequently  
8 inaccurate and overstated.

9  
10 30. Part of a proper coastdown test is validation of the test results.  
11 Defendants therefore either knew or should have known that their testing  
12 methodology was flawed because their fuel economy ratings were uniformly  
13 inaccurate across a large segment of vehicles and model years.

14  
15  
16 **C. Certain 2011-2013 vehicles manufactured by Defendants uniformly**  
17 **overstated the estimated gas mileage.**

18 31. Defendants have sold or leased at least 900,000 Vehicles containing  
19 window stickers that incorrectly overstated the Vehicles' estimated fuel economy  
20 rating. Defendants manufactured, marketed, and sold at least eight Hyundai models  
21 that contained flawed MPG estimates and at least five Kia models that contained  
22 flawed MPG estimates.

23  
24 32. Numerous consumers complained to the EPA and to NHTSA's ODI,  
25 alleging Vehicle owners were getting substantially less MPG than the manufacturers  
26 represented. Consumer complaints expressed frustration because consumers based  
27

1 their decisions to purchase Defendants' Vehicles, in part or whole, on the fuel  
2 economy factor indicated on each Vehicle's window sticker.

3  
4 33. An owner of a 2011 Hyundai Elantra Limited complained to Consumer  
5 Watchdog's website that the "average gas rating [of the Vehicle] is about 18 or 19  
6 miles per gallon" and that he or she "completely bought this car with the claimed  
7 '29/40 mpg' in mind. It was the primary reason [he or she] bought the car."<sup>1</sup>  
8

9 34. An owner of a 2012 Kia Sorento complained that, although advertised as  
10 achieving an EPA miles-per-gallon rating of 21 city/28 highway/23 combined, he or  
11 she had "never once achieved true calculated fuel economy of over 20 MPG" even  
12 though the car carried no excess weight, was driven in "fairly rural areas" with little  
13 stop-and-go-traffic, and all four tires were inflated to manufacturers specifications.<sup>2</sup>  
14  
15

16 35. An owner of a 2012 Hyundai Santa Fe complained that the Vehicle "is  
17 supposed to get 20-26 miles per gallon," but "while driving [on] the highway from  
18 Florida to North Carolina, it got 15 miles to the gallon." The owner further  
19 complained, "[t]he mileage is a lie. The car is not getting what they claim it should."<sup>3</sup>  
20  
21

22  
23 <sup>1</sup> See <http://www.consumerwatchdog.org/resources/elantra-dh-1.pdf> (last visited Dec.  
24 13, 2012).

25 <sup>2</sup> See  
26 [http://www.arfc.org/complaints/2012/kia/sorento/unknown\\_or\\_other/problem.aspx](http://www.arfc.org/complaints/2012/kia/sorento/unknown_or_other/problem.aspx)  
(last visited Dec. 13, 2012).

27 <sup>3</sup> See <http://www.carproblemzoo.com/hyundai/santafe/2011/noises-during-shifting-problems.php>  
28 (last visited Dec. 13, 2012).

1           36. On November 2, 2012, in response to consumer complaints, the EPA  
2 announced the results of an investigation into allegations that certain 2011-2013  
3 Vehicles manufactured by Defendants uniformly overstated the estimated gas mileage.  
4 According to the EPA investigation, Defendants' advertised mileage ratings varied  
5 from the actual ratings by as much as six miles per gallon, depending on the particular  
6 model, and the average of all Defendants' models combined is 3% worse than what  
7 Defendants had represented.  
8

9  
10           **D. Defendants actively promoted the inaccurate fuel economy of their**  
11           **Vehicles.**

12           37. Consistent with trends in consumer interest for fuel-efficient cars,  
13 Defendants have consistently promoted the fuel economy of their Vehicles.  
14 Defendants have instituted advertising and marketing campaigns designed, in large  
15 part, to boast the "superior" fuel efficiency of their Vehicles.  
16

17           38. As part of its marketing campaign, amongst other things, Hyundai  
18 developed "ebrochures" that refer to its Vehicles' MPG estimates. The 2013  
19 ebrochure for the Genesis sedan stated: "In 2012, Hyundai announced plans to strive  
20 for a corporate fuel economy rating that exceeds the U.S. government's stated average  
21 fuel economy (CAFE) standards for our lineup of passenger cars and light duty trucks.  
22 Through May 2012, our vehicles and technologies are well on their way towards  
23 keeping Hyundai ahead of National Highway Traffic Safety Administration  
24  
25  
26  
27  
28

1 guidelines.”<sup>4</sup> Hyundai additionally aired commercials during the 2010 Super Bowl  
2 stating it aimed to become the “most fuel efficient car maker in America and . . .  
3 according to the EPA, [it] did it.”<sup>5</sup>

4  
5 39. Kia, like Hyundai, also boasted inaccurate fuel efficiency of its Vehicles  
6 though marketing and advertising campaigns conveyed to the consuming public in the  
7 United States. Kia’s website states that the Optima Hybrid, Rio, and Sportage have all  
8 received the EPA Smart Way Certification Mark given by the EPA “to the cleanest  
9 most fuel efficient vehicles.”<sup>6</sup> According to Kia’s website, the Sorento was named  
10 NADAguides June Featured Vehicle of the Month, an honor based in part on the  
11 Sorento’s MPG.<sup>7</sup> In addition, Kia, like Hyundai, aired commercials promoting  
12 inaccurate MPG estimates.<sup>8</sup>

13  
14  
15  
16 40. Defendants’ executives have also boasted the superior fuel efficiency of  
17 the Vehicles—“The all-new Elantra, with its 29 mpg city and 40 mpg highway  
18 standard fuel economy rating, is a perfect vehicle for consumers looking for an  
19

20 <sup>4</sup> See <http://viewer.zmags.com/publication/235df2e8#/235df2e8/16> (last visited Dec.  
21 13, 2012).

22 <sup>5</sup> See [http://www.youtube.com/watch?v=V\\_nK2l-C0bE](http://www.youtube.com/watch?v=V_nK2l-C0bE) (last visited Dec. 13, 2012).

23 <sup>6</sup> See <http://www.kia.com/#/optima-hybrid/allawards/recognition>;  
24 <http://www.kia.com/#/rio/allawards/recognition>; and  
25 <http://www.kia.com/#/sportage/allawards/recognition>.

26 <sup>7</sup> See <http://www.kia.com/#/sorento/allawards/recognition> (last visited Dec. 13,  
27 2012).

28 <sup>8</sup> See <http://www.youtube.com/watch?v=1Q3fQaNRkN8> (last visited Dec. 13, 2012).

1 affordable solution to rising gas prices,” said Mike O’Brien, vice president, Product  
2 and Corporate Planning, Hyundai Motor America. “Elantra is at the core of Hyundai’s  
3 fuel economy strategy. In February, 20 percent of all Hyundai vehicles sold achieved  
4 40 mpg on the highway thanks in large part to Elantra’s success.”<sup>9</sup>

6 **E. Defendants had knowledge of flawed MPG testing and estimates.**

7  
8 41. Defendants possessed knowledge and superior information to that of  
9 consumers regarding the inaccurate results of their fuel economy testing and the false  
10 MPG ratings reported to consumers through advertisements and the Vehicles’ window  
11 stickers.  
12

13 42. To help them make informed choices about the vehicles they purchase,  
14 consumers reasonably rely on the gas mileage estimates and fuel economy ratings  
15 contained on vehicle window stickers and featured in manufacturers’ websites,  
16 brochures, and advertisements.  
17

18 43. Defendants willfully intended consumers would rely on their advertised  
19 MPG estimates and fuel economy ratings, and consumers, including Plaintiffs, did  
20 rely on Defendants’ representations that the Vehicles would perform consistent with  
21 the estimated MPG and fuel economy rating information contained on the window  
22 stickers.  
23  
24  
25  
26

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27 <sup>9</sup> See [http://www.autointhenews.com/hyundai-elantra-gets-40-mpg-without-hybrid-](http://www.autointhenews.com/hyundai-elantra-gets-40-mpg-without-hybrid-tech/)  
28 [tech/](http://www.autointhenews.com/hyundai-elantra-gets-40-mpg-without-hybrid-tech/) (last visited Dec. 13, 2012).



1 All persons who currently own or lease a Hyundai or Kia automobile whose EPA fuel  
2 economy ratings were less than the fuel economy rating produced by the applicable  
3 federal test.  
4

5  
6 Excluded from the Class are Defendants, their employees, co-conspirators, officers,  
7 directors, legal representatives, heirs, successors and wholly or partly owned  
8 subsidiaries or affiliated companies, as well as the judicial officers assigned to this  
9 case and their immediate family members.  
10  
11

12 47. The Class is so numerous that individual joinder of all its members is  
13 impracticable. Hyundai sold at least 600,000 Vehicles marketed with inaccurate fuel  
14 economy estimates, and Kia sold approximately 300,000 Vehicles marketed with  
15 inaccurate fuel economy estimates. The precise number of Class members is  
16 unknown to Plaintiffs. The class can be readily identified, however, through  
17 information currently within the Defendants' control including, sales records,  
18 production records, and Vehicle window stickers.  
19  
20

21 48. Common questions of law and fact exist as to all members of the Class  
22 and predominate over questions affecting only individual Class members. These  
23 common questions include, but are not limited to, the following:  
24

25 (a) Whether a model year of Vehicle was properly tested using the  
26 EPA accepted methodology for its fuel economy rating;  
27

28 (b) Whether a model year's stated EPA fuel economy was inaccurate;

- 1 (c) Whether Defendants violated federal or state law as a result of  
2 their testing methods or dissemination of EPA fuel economy ratings;  
3  
4 (d) Whether a failure to accurately state EPA fuel economy ratings  
5 constitutes an unlawful business practice or act;  
6  
7 (e) Whether Defendants willfully concealed the misrepresentations  
8 regarding fuel economy ratings or recklessly disregarded their falsity;  
9  
10 (f) Whether Defendants breached any warranties by misstating the  
11 EPA fuel economy ratings;  
12  
13 (g) Whether Defendants engaged in unfair, unlawful and/or fraudulent  
14 business practices under California's Unfair Competition Law ("UCL"),  
15 Cal. Bus. & Prof. Code §§ 17200, *et seq.*, by misstating the EPA fuel  
16 economy ratings on their Vehicles' window stickers or in their  
17 advertisements, or in communications with the EPA;  
18  
19 (h) Whether the same conduct violated California's Consumer Legal  
20 Remedies Act ("CLRA"), Cal. Civ. Code §§ 1750, *et seq.*;  
21  
22 (i) Whether Defendants intentionally or negligently misrepresented  
23 material facts relating to the character and quality of the vehicles;  
24  
25 (j) Whether Defendants' unlawful, unfair and/or deceptive practices  
26 harmed Plaintiffs and the members of the Class;  
27  
28 (k) Whether Plaintiffs and the members of the Class are entitled to  
equitable or injunctive relief;

1 (1) Whether Plaintiffs and the Class are entitled to restitution or  
2 damages, and what is the proper measure of damages.  
3

4 49. Plaintiffs' claims are typical of the claims of the Class in that Defendants  
5 manufactured, sold, warranted, and marketed defectively designed Vehicles to  
6 Plaintiffs, like all other Class members, and the claims arise from the same conduct by  
7 Defendants. Plaintiffs seek the same relief for themselves and for the absent Class  
8 members.  
9

10 50. Plaintiffs will fairly and adequately protect the interests of the Class  
11 members. Each Plaintiff is a member of the Class and their interests do not conflict  
12 with the interests of the Class members they seek to represent. Plaintiffs have retained  
13 counsel highly experienced in complex consumer class action litigation.  
14

15 51. A class action is superior to all other available means for the fair and  
16 efficient adjudication of this litigation since individual litigation of the claims of all  
17 Class members is impracticable. Even if every Class member could afford individual,  
18 the court system could not. It would be unduly burdensome to the courts, in which  
19 individual litigation of thousands of cases would proceed. Individual litigation  
20 presents a potential for inconsistent or contradictory judgments, the prospect of a race  
21 for the courthouse, and an inequitable allocation of recovery among those with equally  
22 meritorious claims. Individual litigation increases the expense and delay to all parties  
23 and the court system in resolving the legal and factual issues common to all claims.  
24 By contrast, the class action device presents far fewer management difficulties and  
25  
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1 provides the benefit of a single adjudication, economies of scale, and comprehensive  
2 supervision by a single court.

3  
4 52. Individualized litigation would also create the danger of inconsistent or  
5 contradictory adjudications arising from the same set of facts which would establish  
6 incompatible standards of conduct for Defendants. By contrast, a class action  
7 provides the benefits of adjudication in a single proceeding, protects the rights of each  
8 Class member, and presents no unusual management difficulties under the  
9 circumstances here.

10  
11  
12 53. Defendants have acted or refused to act on grounds generally applicable  
13 to the entire Class, thereby making appropriate declaratory and injunctive relief with  
14 respect to the Class as a whole.

## 15 16 VI. CAUSES OF ACTION

### 17 FIRST CAUSE OF ACTION 18 VIOLATION OF THE CALIFORNIA UNFAIR COMPETITION LAW 19 (Cal. Bus. & Prof. Code § 17200, *et seq.*)

20 54. Plaintiffs incorporate by reference and re-allege all paragraphs previously  
21 alleged herein.

22  
23 55. By engaging in the above-described acts and practices, Defendants have  
24 committed one or more acts of unfair competition within the meaning of California's  
25 Unfair Competition Law ("UCL"). California Business and Professions Code section  
26 17200 prohibits any "unlawful, unfair, or fraudulent business acts or practices."  
27 Defendants have engaged in unlawful, unfair, and fraudulent business acts and  
28

1 practices within the meaning of California business and Professions Code § 17200, *et*  
2 *seq.*  
3

4 56. Defendants have violated the unlawful prong because they have failed to  
5 comply with the testing methods required by the EPA and federal requirements that  
6 the Vehicles' window stickers reflect their fuel economy information. 71 Fed. Reg.  
7 77, 872-01 (Dec. 27, 2006); 40 C.F.R. § 86, 600, 1037, 1066 (2011). Procedural  
8 errors during "coastdown" testing at the companies' joint operations in Korea  
9 produced inaccurate fuel economy estimates requiring at least a three percent  
10 downward adjustment across the entire Class.  
11  
12

13 57. Defendants have violated the unfair prong of the UCL statute because the  
14 Defendants' acts, omissions, misrepresentations, practices, and nondisclosures alleged  
15 herein offend established public policy and because the harm Defendants cause to  
16 consumers greatly outweighs any benefits associated with Defendants' acts and  
17 practices. In addition, Defendants' conduct has prevented Plaintiffs and Class  
18 members from making fully informed decisions when evaluating which vehicles to  
19 lease and purchase. As a result, Defendants' conduct has impeded competition within  
20 the automotive industry.  
21  
22  
23

24 58. Defendants have violated the fraudulent prong of the UCL statute  
25 because their misrepresentations and omissions regarding the MPG of their Vehicles  
26 were likely to, and did, deceive reasonable consumers. The false representations and  
27  
28

1 omissions were material because a reasonable consumer would consider MPG to be a  
2 factor when purchasing a car  
3

4 59. Plaintiffs request this Court enter such orders or judgments to enjoin  
5 Defendants from continuing their unfair, unlawful, and/or deceptive practices and to  
6 restore to Plaintiffs and members of the Class any money Hyundai and Kia acquired  
7 by unfair competition pursuant to California Business and Professions Code § 17203,  
8 and for such other relief set forth below.  
9

10  
11 **SECOND CAUSE OF ACTION**  
12 **VIOLATION OF THE CALIFORNIA FALSE ADVERTISING LAW**  
13 **(Cal. Bus. & Prof. Code § 17500, *et. seq.*)**

14 60. Plaintiffs incorporate by reference and re-allege all paragraphs previously  
15 alleged herein.

16 61. California Business and Professions Code § 17500 states: “It is unlawful  
17 for any . . . corporation . . . to make or disseminate or cause to be made or  
18 disseminated . . . in any newspaper or other publication, or an advertising device, . . .  
19 or in any other manner or means whatever, including over the Internet, any statement .  
20 . . which is untrue or misleading, and which is known or which by the exercise of  
21 reasonable care should be known, to be untrue or misleading.”  
22

23 62. Defendants have spent millions of dollars to publically disseminate their  
24 false fuel economy ratings throughout California and the United States, through  
25 marketing and advertising campaigns, including their websites on the Internet.  
26  
27  
28

1 Defendants' marketing and advertising statements were untrue or misleading, and  
2 were known, or should have been known through the exercise of reasonable care, to  
3 Defendants to be untrue and misleading to consumers.  
4

5 63. Plaintiffs and Class members based their decisions to purchase or lease  
6 their vehicles in substantial part on Defendants' misrepresentations and omitted  
7 material facts. Because the misrepresentations and omissions regarding the fuel  
8 economy of their vehicles as set forth were material and likely to deceive a reasonable  
9 consumer, Defendants have violated section 17500.  
10  
11

12 64. Defendants' unfair, unlawful and/or deceptive practices have caused and  
13 continue to cause substantial injury to Plaintiffs and Class members. Plaintiffs have  
14 suffered injury in fact, including lost money or property as a result of Defendants'  
15 conduct. Plaintiffs relied on the Defendants' misrepresentations and/or omissions  
16 regarding the MPG of the Vehicle when ultimately purchasing the vehicle. Plaintiffs  
17 would not have purchased their Vehicles or paid as much for them had they known the  
18 actual MPG. Plaintiffs have already paid, and will be required to pay in the future,  
19 fuel costs over what they would have paid if Defendants had accurately disclosed their  
20 Vehicles' fuel economy.  
21  
22

23 65. Defendants' wrongful conduct is ongoing and continues to this date.  
24 Defendants' wrongful conduct continues to be repeated as a part of Defendants'  
25 business practices both in California and nationwide.  
26  
27  
28

1           66. Plaintiffs and the Class request this Court enjoin Defendants from  
2 continuing to violate California Business and Professions Code §17500 *et seq.*, and to  
3 restore to Plaintiffs and the Class any money Defendants acquired by false advertising  
4 in violation of section 17500, and for such other relief as set forth below.  
5

6  
7                   **THIRD CAUSE OF ACTION**  
8                   **VIOLATIONS OF THE CONSUMER LEGAL REMEDIES ACT**  
9                   **(Cal. Civ. Code § 1750, *et seq.*)**

10           67. Plaintiffs incorporate by reference and re-allege all paragraphs previously  
11 alleged herein.

12           68. Defendants participated and continue to participate in unfair or deceptive  
13 acts or practices that violate the Consumer Legal Remedies Act (“CLRA”), Cal. Civ.  
14 Code § 1750, *et seq.*  
15

16           69. Defendants are “persons” under Cal. Civ. Code § 1761(c). Plaintiffs are  
17 “consumers” under Cal. Civ. Code § 1761(d) who purchased or leased one or more  
18 Vehicles manufactured by Defendants.  
19

20           70. Defendants violated the CLRA by engaging in deceptive business  
21 practices prohibited by the CLRA, Cal. Civ. Code § 1750, *et seq.*, including:  
22

- 23           (a) Representing that their Vehicles have characteristics, uses, benefits, and  
24 qualities, which they do not actually have;  
25  
26           (b) Representing that their Vehicles are of a particular standard, quality, or  
27 grade, which they are not;  
28

1 (c) Advertising their Vehicles with the intent not to sell them as advertised;  
2 and

3  
4 (d) Representing that their Vehicles have been supplied in accordance with  
5 previous representations when they have not.

6 71. Defendants employed deficient testing methods that produced inaccurate  
7 fuel economy estimates. Defendants knew, or should have known, that their testing  
8 methods were deficient and therefore produced inaccurate fuel economy ratings.  
9 Despite their knowledge, Defendants failed to provide proper disclosures revealing  
10 Defendants' misrepresentations.  
11

12  
13 72. A reasonable consumer would base his or her decision to purchase or  
14 lease a Vehicle in substantial part on Defendants' stated fuel economy ratings.  
15 Because fuel economy of a Vehicle is material to a reasonable consumer, a reasonable  
16 consumer would not have purchased or paid as much for the Vehicle had Defendants  
17 disclosed the actual fuel economy of the Vehicles.  
18

19  
20 73. As a result of Defendants' violations of the CLRA, Plaintiffs and the  
21 Class have been damaged and continue to be damaged. Plaintiffs would not have  
22 purchased their Vehicles or paid as much for them had they known the actual MPG.  
23 Plaintiffs have already paid, and will be required to pay in the future, fuel costs over  
24 what they would have paid if Defendants had accurately disclosed their vehicles' fuel  
25 economy.  
26  
27  
28

1           74. Pursuant to California Civil Code § 1780(a), Plaintiffs and the Class seek  
2 a court order enjoining the Defendants' above described wrongful acts and any other  
3 equitable relief for Defendants' violations of the CLRA. After mailing the appropriate  
4 notice and demand pursuant to California Civil Code § 1782(a) and (d), Plaintiffs will  
5 amend this Complaint to include a request for damages, including actual damages,  
6 statutory damages, and punitive damages. Plaintiffs and the Class seek any other such  
7 relief as may be necessary and just, including attorney fees and costs as provided in  
8 California Civil Code § 1780.  
9

10  
11  
12           75. Plaintiffs include, pursuant to Cal. Civ. Code § 1780(d), an affidavit with  
13 this Complaint that shows venue in this District is proper.  
14

15                           **FOURTH CAUSE OF ACTION**  
16                           **BREACH OF EXPRESS WARRANTY**  
17                           **(Cal. Com. Code § 2313)**

18           76. Plaintiffs incorporate by reference and re-allege all paragraphs previously  
19 alleged herein.

20           77. Defendants' marketing and advertising constitute express warranties that  
21 their vehicles experienced a favorable fuel economy of specific a MPG, depending on  
22 the vehicle model, which served as part of the basis of the bargain between the parties.  
23

24           78. Defendants' breached these express warranties because the warranties  
25 were false—the Defendants' vehicles did not provide the promised fuel economy  
26 ratings.  
27  
28

1           79. Defendants are and were at all times merchants with respect to motor  
2 vehicles under Cal. Com. Code § 2104.

3  
4           80. Under Cal. Com. Code § 2607(3)(A), Plaintiffs sent notice to Defendants.

5           81. As a result of Defendants' breach of express warranties, Plaintiffs and the  
6 Class are entitled to recover damages they suffered as a result of Defendants' conduct.  
7

8                           **FIFTH CAUSE OF ACTION**  
9                           **FRAUD**  
10                          **(Based on California Common Law)**

11           82. Plaintiffs incorporate by reference and re-allege all paragraphs previously  
12 alleged herein.

13           83. Defendants actively concealed and affirmatively misrepresented material  
14 facts regarding the fuel economy of their Vehicles.  
15

16           84. Defendants had a duty to disclose the actual fuel economy of their  
17 Vehicles as a result of their superior knowledge and affirmative misrepresentations to  
18 the contrary.  
19

20           85. Defendants willfully, falsely, and knowingly misrepresented or actively  
21 concealed material facts regarding the fuel efficiency ratings of their Vehicles.  
22 Defendants' representations were made, in whole or part, to induce the general public,  
23 including Plaintiffs and the Class, to rely on the representations and to purchase their  
24 Vehicles at prices higher than they otherwise would have.  
25  
26  
27  
28

1           86. Plaintiffs and the Class were unaware of the omitted material facts and,  
2 had they been aware of the suppressed facts, Plaintiffs and the Class would not have  
3 purchased the Vehicles as they did.  
4

5           87. Because of Defendants' concealment and/or suppression of the facts,  
6 Plaintiffs and the Class are entitled to recover damages they suffered as a result of  
7 Defendants' conduct.  
8

9                                   **SIXTH CAUSE OF ACTION**  
10                                  **NEGLIGENT MISREPRESENTATION**  
11                                  **(Based on California Common Law)**

12           88. Plaintiffs incorporate by reference and re-allege all paragraphs previously  
13 alleged herein.  
14

15           89. Defendants negligently and recklessly made fuel economy  
16 representations to Plaintiffs and the Class that were false. These misrepresentations  
17 were contained and disseminated through various advertising and marketing materials  
18 by Defendants.  
19

20           90. Defendants had no reasonable grounds for believing the representations  
21 to be true when they made them, but Defendants nonetheless intended that Plaintiffs  
22 and the Class rely on these false representations to Defendants' benefit.  
23

24           91. Plaintiffs and the Class purchased their Vehicles under the impression  
25 that they would function and perform as advertised. Plaintiffs reasonably relied on  
26 Defendants' representations and, as a result, Plaintiffs and the Class were harmed.  
27  
28

**SEVENTH CAUSE OF ACTION  
UNJUST ENRICHMENT  
(Based on California Common Law)**

92. Plaintiffs incorporate by reference and re-allege all paragraphs previously alleged herein.

93. Defendants have benefited and been enriched by Defendants' wrongful acts and omissions. Defendants charged a higher price for their Vehicles than the Vehicles' true value and Defendants, as a result, generated revenue that rightfully belongs to Plaintiffs and the Class.

94. Because of their wrongful conduct and omissions, Defendants have enjoyed the increased financial gains to the detriment of Plaintiffs and the Class.

95. The circumstances, as described herein, are such that it would be inequitable and unjust for Defendants to retain these wrongfully obtained profits.

96. Plaintiffs, as a result, seek an order requiring Defendants to make restitution to themselves and the Class.

**VII. PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs, on behalf of themselves and all others similarly situated, pray for relief and judgment against Defendants as follows:

A. An order certifying the Class and any appropriate subclasses thereof, and appointing Plaintiffs as Class Representatives and the undersigned counsel as Class Counsel;

1 B. An order or decree declaring the conduct of Defendants as alleged herein  
2 to be unlawful, unfair, and/or deceptive;

3  
4 C. An order requiring Defendants to notify all Class members about the  
5 inaccurate fuel economy ratings of their Vehicles at the Defendants' expense and to  
6 provide the correct fuel economy ratings to the Class;

7  
8 D. An award to Plaintiffs and the Class of actual and compensatory  
9 damages, as proven at trial;

10 E. An award to Plaintiffs and the Class of restitution of all monies paid to  
11 Defendants as a result of unlawful, deceptive, and unfair business practices;

12  
13 F. An award to Plaintiffs and the Class of reasonable attorney fees, costs,  
14 and pre- and post-judgment interest; and


15  
16 G. Any such other and further relief as this Court deems just, equitable, and  
17 proper.

18 **VIII. JURY DEMAND**

19  
20 Plaintiffs, on behalf of themselves and all others similarly situated, hereby  
21 demand a trial by jury in this case as to all issues so triable.

22 Dated: January 4, 2013

23 Respectfully submitted,

24  
25  
26   
27 Jon A. Tostrud (SBN 199502)  
28 **TOSTRUD LAW GROUP, P.C.**  
1901 Avenue of the Stars, Suite 200

1 Los Angeles, CA. 90067  
2 Telephone: (310) 278-2600  
3 Facsimile: (310) 278-2640  
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5 Daniel E. Gustafson  
6 Jason S. Kilene  
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9 650 Canadian Pacific Plaza  
10 120 South 6th Street, Suite 2600  
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12 Tel: (612) 333-8844  
13 Fax: (612) 339-6622  
14 dgustafson@gustafsongluek.com  
15 jkilene@gustafsongluek.com  
16 lmassopust@gustafsongluek.com

17 *ATTORNEYS FOR PLAINTIFFS AND THE*  
18 *PROPOSED CLASS*

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

**NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY**

This case has been assigned to District Judge Andrew Guilford and the assigned discovery Magistrate Judge is Marc Goldman.

The case number on all documents filed with the Court should read as follows:

**SACV13- 27 AG (MLGx)**

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====

**NOTICE TO COUNSEL**

*A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).*

Subsequent documents must be filed at the following location:

☐ **Western Division**  
312 N. Spring St., Rm. G-8  
Los Angeles, CA 90012

☒ **Southern Division**  
411 West Fourth St., Rm. 1-053  
Santa Ana, CA 92701-4516

☐ **Eastern Division**  
3470 Twelfth St., Rm. 134  
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA  
CIVIL COVER SHEET**

<b>I (a) PLAINTIFFS</b> (Check box if you are representing yourself <input type="checkbox"/> BRIAN WEBER, KEVIN GOBEL, and ERIC LARSON, individually and on behalf of all others similarly situated		<b>DEFENDANTS</b> HYUNDAI MOTOR AMERICA, and KIA MOTORS AMERICA, INC.	
<b>(b) Attorneys</b> (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)  Jon Tostrud (SBN 199502), Tostrud Law Group, PC, 1901 Avenue of the Stars, 2nd Fl., Los Angeles, CA 90067 Tel: (310) 278-2600		<b>Attorneys (If Known)</b>	

<b>II. BASIS OF JURISDICTION</b> (Place an X in one box only.)  <input type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)  <input type="checkbox"/> 2 U.S. Government Defendant <input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	<b>III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only</b> (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%; border: none;"> <tr> <td style="width:35%;"></td> <td style="width:10%; text-align: center;"><b>PTF</b></td> <td style="width:10%; text-align: center;"><b>DEF</b></td> <td style="width:45%;"></td> <td style="width:10%; text-align: center;"><b>PTF</b></td> <td style="width:10%; text-align: center;"><b>DEF</b></td> </tr> <tr> <td>Citizen of This State</td> <td align="center"><input type="checkbox"/> 1</td> <td align="center"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business in this State</td> <td align="center"><input type="checkbox"/> 4</td> <td align="center"><input checked="" type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td align="center"><input checked="" type="checkbox"/> 2</td> <td align="center"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td align="center"><input type="checkbox"/> 5</td> <td align="center"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td align="center"><input type="checkbox"/> 3</td> <td align="center"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td align="center"><input type="checkbox"/> 6</td> <td align="center"><input type="checkbox"/> 6</td> </tr> </table>		<b>PTF</b>	<b>DEF</b>		<b>PTF</b>	<b>DEF</b>	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input checked="" type="checkbox"/> 4	Citizen of Another State	<input checked="" type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input 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
	<b>PTF</b>	<b>DEF</b>		<b>PTF</b>	<b>DEF</b>																				
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input checked="" type="checkbox"/> 4																				
Citizen of Another State	<input checked="" type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input 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																				

<b>IV. ORIGIN</b> (Place an X in one box only.) <input checked="" type="checkbox"/> 1 Original Proceeding <input type="checkbox"/> 2 Removed from State Court <input type="checkbox"/> 3 Remanded from Appellate Court <input type="checkbox"/> 4 Reinstated or Reopened <input type="checkbox"/> 5 Transferred from another district (specify): <input type="checkbox"/> 6 Multi-District Litigation <input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judge
--

<b>V. REQUESTED IN COMPLAINT:</b> JURY DEMAND: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (Check "Yes" only if demanded in complaint.) <b>CLASS ACTION under F.R.C.P. 23:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <b>MONEY DEMANDED IN COMPLAINT:</b> \$ _____
--

<b>VI. CAUSE OF ACTION</b> (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.) Cal. Bus. & Prof. Code §§ 17200 and 17500, Consumer Legal Remedies Act, Breach of Express Warranty, Fraud, Negligent Misrepresentation, Unjust Enrichment	
--	--

<b>VII. NATURE OF SUIT</b> (Place an X in one box only.)					
<b>OTHER STATUTES</b> <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	<b>CONTRACT</b> <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 Loan (Excl. 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>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>TORTS</b> <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 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<b>TORTS</b> <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 <b>BANKRUPTCY</b> <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER</b> <b>PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General Habeas Corpus <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <b>FORFEITURE / PENALTY</b> <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety /Health <input type="checkbox"/> 690 Other	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <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

FOR OFFICE USE ONLY: Case Number:

SACV13-00027

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA**  
**CIVIL COVER SHEET**

**VIII(a). IDENTICAL CASES:** Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes

If yes, list case number(s): \_\_\_\_\_

**VIII(b). RELATED CASES:** Have any cases been previously filed in this court that are related to the present case? ☐ No ☒ Yes

If yes, list case number(s): SA CV12-01909-JVS(JPRx)

**Civil cases are deemed related if a previously filed case and the present case:**

- (Check all boxes that apply) ☒ A. Arise from the same or closely related transactions, happenings, or events; or  
☒ B. Call for determination of the same or substantially related or similar questions of law and fact; or  
☒ C. For other reasons would entail substantial duplication of labor if heard by different judges; or  
☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

**IX. VENUE:** (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.

☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
	Brian Weber is a resident of Wisconsin Kevin Gobel is a resident of Wisconsin Eric Larson is a resident of Wisconsin

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.

☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Hyundai Motor America resides in Orange County, CA Kia Motors America, Inc. resides in Orange County, CA	

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.

**Note: In land condemnation cases, use the location of the tract of land involved.**

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Orange County, CA	

\* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

**Note: In land condemnation cases, use the location of the tract of land involved**

X. SIGNATURE OF ATTORNEY (OR PRO PER): [Signature] Date January 4, 2013

**Notice to Counsel/Parties:** The CV-71 (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. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

**Key to Statistical codes relating to Social Security Cases:**

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))

Jon A. Tostrud (SBN 199502)  
 Tostrud Law Group, PC  
 1901 Avenue of the Stars, 2nd Fl.  
 Los Angeles, CA 90067  
 Tel: (310) 278-2600  
 Fax: (310) 278-2640

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

BRIAN WEBER, KEVIN GOBEL, ERIC LARSON,  
 on behalf of themselves and all others similarly  
 situated,

PLAINTIFF(S)

v.

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

DEFENDANT(S).

CASE NUMBER

SACV13-00027-AG(MLGx)

**SUMMONS**

TO: DEFENDANT(S):

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached ☒ complaint ☐ \_\_\_\_\_ amended complaint ☐ counterclaim ☐ cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Jon A. Tostrud, whose address is 1901 Avenue of the Stars, 2nd Fl., Los Angeles, CA. 90067. If you fail to do so, 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, U.S. District Court

Dated: January 4, 2012

By: \_\_\_\_\_

MARILYN DAVIS  
 Deputy Clerk

(Seal of the Court)



[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].