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

BY _____

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15 *Attorneys for Plaintiffs and the Class*

16 UNITED STATES DISTRICT COURT
17 CENTRAL DISTRICT OF CALIFORNIA

SA CV 12-01909 - JVS (JPRx)

18 NICOLE MARIE HUNTER, E.
19 BRANDON BOWRON, and
20 GIUSEPPINA ROBERTO, individually
21 and on behalf of all others similarly
22 situated,

23 Plaintiffs,

24 v.

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

27 Defendants.

28 CLASS ACTION

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

29 Plaintiffs Nicole Marie Hunter, E. Brandon Bowron, and Giuseppina Roberto,
30 individually and on behalf of all others similarly situated, allege as their Complaint
31 and Demand for Jury Trial the following:

1 **I. OVERVIEW**

2 1. Plaintiffs bring this class and representative action for a Class defined
3 as: “All persons who currently own or lease a Hyundai or Kia automobile whose
4 EPA fuel economy ratings were less than the fuel economy rating produced by the
5 applicable federal test.”

6 2. Defendants have adopted, promulgated, represented, and benefited from
7 inaccurate fuel efficiency numbers. These fuel economy ratings result from
8 mandated tests outlined and specified in federal law, and they exist to help foster
9 realistic numbers with which consumers can compare one of the most important
10 factors in new-car buyers’ purchase decisions.

11 3. Defendants’ EPA fuel economy ratings and advertising statements
12 overstated the actual numbers that the required testing would have produced by a
13 material amount. A recent press announcement confirmed at least a three percent
14 difference in 900,000 Hyundai and Kia vehicles—35 percent of all 2011 to 2013
15 model-year vehicles—sold through October 31, 2012.

16 4. Plaintiffs each purchased a car whose EPA fuel economy ratings and
17 advertised fuel efficiency numbers were inaccurate and higher than they would have
18 been if proper test procedures were followed.

19 5. Plaintiff Nicole Marie Hunter owns a 2012 Hyundai Accent. Plaintiff
20 Hunter’s Accent was marketed as having a fuel economy of 30 miles per gallon in
21 the city, and 40 miles per gallon on the highway. According to Hyundai Motor
22 America’s announcement, the 2012 Hyundai Accent’s fuel economy is subject to at
23 least a three-percent downward adjustment. Therefore, Plaintiff Hunter’s Accent
24 actually has a fuel economy of approximately 29.1 city miles per gallon and 38.8
25 highway miles per gallon or less.

1 ratings of their vehicles and material misstatements regarding those ratings used in
2 the marketing and sales of certain 2011-2013 Hyundai and Kia vehicles in the United
3 States by Defendant Hyundai Motor America (“Hyundai” or “HMA”) and Defendant
4 Kia Motors America, Inc. (“Kia” or “KMA”) (together, “Defendants”).

5 14. Plaintiffs and the Class have been damaged by Hyundai’s and Kia’s
6 misrepresentations, concealment, and non-disclosure of the incorrect fuel economy
7 numbers, because they were misled into purchasing Hyundais and Kias of a quality
8 different than they were promised, and paying higher fuel costs they would not
9 otherwise have paid.

10 II. JURISDICTION AND VENUE

11 15. This Court has diversity jurisdiction over this action under 28 U.S.C. §
12 1332(a) and (d) because the amount in controversy for the Class exceeds \$5,000,000,
13 and Plaintiffs and other putative Class members are citizens of a different state than
14 Defendants.

15 16. This Court has personal jurisdiction over the Plaintiffs because
16 Plaintiffs Hunter, Bowron, and Roberto submit to the Court’s jurisdiction. This
17 Court has personal jurisdiction over the Defendants because both Defendant Hyundai
18 Motor America and Defendant Kia Motors America are headquartered in the District
19 and conduct substantial business in the District. Many of the actions giving rise to
20 the complaint took place in the District, including all executive decisions relating to
21 the fuel efficiency and EPA numbers, and all advertising and marketing decisions for
22 the affected cars.

23 17. Venue is proper in this District under 28 U.S.C. § 1391 because
24 Defendants, as corporations, are “deemed to reside in any judicial district in which
25 [they is] subject to personal jurisdiction,” and because decisions about the design,
26 manufacture, marketing, and sale of the Hyundais’ and Kias’ fuel economy ratings
27

1 were made in the District. Because Hyundai and Kia reside in the District, Hyundai
2 and Kia transact business within the District, and a substantial part of the events
3 establishing the claims arose in this District, venue is proper.

4 18. Upon information and belief, most, if not all, of the critical acts relating
5 to Hyundai arise out of California, including Hyundai's decisions regarding the
6 content and use of the EPA fuel economy ratings and all advertising decisions
7 relating to mileage efficiency. Vehicle research and design and marketing and
8 advertising are also developed, controlled, and implemented in and from California.

9 19. Hyundai Motor America is headquartered in Fountain Valley,
10 California. According to the website for Hyundai's United States operations, HMA
11 "handles all marketing, sales, and product development, as well as administrative
12 services for Hyundai in the USA." It also contracts with a third party, Innocean,
13 headquartered in Huntington Beach, California, to help with its advertising and
14 media affairs. On the engineering and design side, Hyundai operates its California
15 Design and Technical Center, which is a \$30 million design facility "fitted with the
16 world's most advanced visualization, graphics, and clay-modeling technologies,
17 keeping Hyundai at the forefront of car technology and design." Hyundai also
18 signed a memorandum of understanding with two California research universities—
19 the University of California, Berkeley, and University of California, Davis—in
20 establishing the Hyundai Center of Excellence, which founded a collaboration
21 project in Hyundai's larger R&D joint research and professional development
22 program, working to strengthen Hyundai's R&D competency by working with the
23 world's leading universities and companies.

24 20. California is also home to Hyundai Capital America, the facility that
25 handles the leasing and financing of Hyundai automobiles in the United States.
26 Hyundai Capital America is headquartered in Irvine, California and "currently serves
27

1 more than 1,500 Hyundai and Kia dealerships and more than a million customers in
2 the U.S.” Hyundai also operates proving grounds located in California City,
3 California. According to Hyundai’s website, this testing facility “covers 4,300 acres
4 with eight different driving courses, including a 2.75-mile winding track, a 3.3-mile
5 hill road, and a durability loop that includes a range of special surfaces, from
6 cobblestones to potholes.” Hyundai has many dealerships in California, producing
7 approximately twenty percent of its total sales. In 2009, there were approximately
8 63 Hyundai dealerships in California.

9 21. Hyundai America Technical Center, Inc. (“HATCI”), a wholly owned
10 subsidiary of Hyundai Motor Company, Korea, is responsible for the technical
11 development of cars and trucks in North America, including governmental
12 certification issues. HATCI has two branch offices in the Los Angeles, California
13 area.

14 22. Upon information and belief, most, if not all, of the critical acts relating
15 to Kia arise out of California, including Kia’s decisions regarding the content and
16 use of the EPA fuel economy ratings and all advertising decisions relating to mileage
17 efficiency. Vehicle research and design and marketing and advertising are also
18 developed, controlled, and implemented in and from California.

19 23. Kia Motors America is headquartered in Irvine, California. KMA is the
20 sales, marketing, and distribution arm for all United States operations. According to
21 its website, KMA’s corporate headquarters is a \$130 million, custom-built facility
22 that houses the KMA U.S. sales division, and its marketing, public relations,
23 consumer affairs, technical service, research and development, product planning, and
24 administration departments. The Irvine, California, facility is also home to the state-
25 of-the-art Kia Design Center America, a 236,000 square foot campus on 21.7 acres.

1 receive such favorable mileage, he would not have purchased his Hyundai Genesis or
2 paid as much as for it.

3 27. Plaintiff Giuseppina Roberto is a resident and citizen of Illinois. She
4 owns a 2012 Kia Sorento 2WD. She saw advertisements and the EPA fuel economy
5 window stickers that represented a certain number of miles per gallon before she
6 purchased her vehicle on December 31, 2011. She recalls these advertisements and
7 the window sticker stating she would receive the stated miles per gallon. These
8 advertisements and the window sticker influenced her decision to purchase her Kia
9 Sorento. Had those advertisements and window sticker or any other materials
10 disclosed she would not receive such favorable mileage, she would not have
11 purchased her Kia Sorento or paid as much as for it.

12 28. Defendant Hyundai Motor America is a California corporation with its
13 national headquarters in Fountain Valley, California. HMA is a subsidiary of
14 Hyundai Motor Company. At all times, HMA was actively involved, from its
15 facilities and also from the Irvine, California Hyundai & Kia California Design &
16 Technical center, in designing, manufacturing, assembling, marketing, distributing,
17 and selling Hyundais sold in the United States.

18 29. Defendant Kia Motors America is a California corporation with its
19 national headquarters in Irvine, California. KMA is a subsidiary of Kia Motors
20 Corporation. Kia operates out of its headquarters in Irvine, California and has a
21 design center in Irvine. At all times, KMA was actively involved in designing,
22 manufacturing, assembling, marketing, distributing, and selling Kias sold in the
23 United States.

24 30. Hyundai Motor Company (“HMC”), a Korean corporation, is not a
25 party to this lawsuit. HMC is the parent corporation of HMA.

1 pounds gross vehicle weight) must have fuel economy labels. Third, the EPA
2 required a change in the design and content of window stickers for vehicles
3 manufactured after September 1, 2007, to allow consumers to more easily compare
4 the fuel economy of different vehicles.

5 36. The vehicle manufacturers conduct the MPG tests and transmit the data
6 to the EPA, which certifies the numbers. The EPA tests approximately 150 to 200
7 vehicles a year (fifteen percent of all possible vehicle configurations) to ensure their
8 performance matches the mileage and emissions data submitted to the EPA by
9 automakers.

10 **B. Hyundai's and Kia's foundation for calculating fuel economy**
11 **ratings was flawed.**

12 37. Auto manufacturers use "coastdown" tests to help calculate their fuel
13 economy ratings. Coastdown testing simulates aerodynamic drag, tire rolling
14 resistance, and drivetrain frictional losses and provides the technical data used to
15 program the test dynamometers that generate EPA fuel economy ratings. In a
16 coastdown test, a vehicle is brought to a high speed on a flat, straight road and then
17 set coasting in neutral until it slows to a low speed. By recording the time the
18 vehicle takes to slow down, it is possible to model the forces affecting the vehicle.
19 Coastdown tests are governed by tests developed by The Society of Automotive
20 Engineers ("SAE"). SAE developed a standard procedure (J2263-Dec 2008) to
21 perform road load measurement using coastdown testing, and a standard procedure
22 (J1263-Mar 2010) to perform road load measurement and dynamometer simulation
23 using coastdown testing, and the current government-approved standard for road
24 load measurement using onboard anemometry and coastdown testing techniques is
25 SAE International Standard J2263. These standards must be followed by federal
26 regulation. The data relating to speed and distance are recorded by special
27

1 instruments, and to account for various factors that might affect the results. The test
2 produces data that identifies or maps the drag of a vehicle.

3 38. Done correctly, a coastdown requires planning, data collection, and data
4 processing. Data variability and error can be controlled, but several factors must be
5 considered under the SAE standards, including calculation of the mass of the vehicle,
6 tire pressure, weather and environmental factors (e.g., wind speed, air temperature,
7 humidity, and barometric pressure), aerodynamic factors, road surface, experiment
8 design and methodology, measurement errors and data acquisition systems, and
9 vehicle qualifications. The SAE procedure on coastdown testing includes an
10 appendix with FORTRAN code that processes experimental velocity data and
11 produces a mathematical vehicle force model.

12 39. Defendants' fuel economy rating discrepancies resulted from procedural
13 errors during "coastdown" testing at the companies' joint testing operations in
14 Korea. The methods implemented by Hyundai and Kia to test fuel economy were
15 not under the EPA's requirements and were insufficient in design, procedure,
16 content, execution, and/or completeness. The fuel economy ratings were affected,
17 inaccurate, and overstated.

18 40. Part of a coastdown test is validation of results. Defendants knew or
19 should have known their testing methodology was flawed, as their stated fuel
20 economy ratings were uniformly inaccurate across a large segment of vehicles and
21 model years.

22 **C. Different Hyundai and Kia models and model years were subject to**
23 **flawed fuel economy testing methods.**

24 41. Between 2011 and 2013, Hyundai manufactured, marketed, and sold at
25 least eight models of Hyundai that contained flawed MPG estimates. Likewise,
26 between 2011 and 2013, Kia manufactured, marketed, and sold at least five models
27

1 of Kia that contained flawed MPG estimates. Consumers have complained to the
2 EPA and to NHTSA's ODI about the inaccurate fuel economy ratings in many of
3 these models. These consumers are concerned because they based their decisions to
4 purchase these Hyundai or Kia models on the material factor of fuel economy, and
5 they are not receiving the MPGs they were promised.

6 42. An owner of a 2011 Hyundai Genesis complained to ODI that although
7 the car was rated at 20 MPG city and 30 MPG highway, "the mileage has
8 consistently been poor," and that even driven on the highway with cruise control
9 with no extra weight, the car achieved only 24 MPG. The owner complained, "It has
10 never approached 25 MPG, let alone 30 MPG."¹ Likewise, Plaintiff Bowron's 2011
11 Hyundai Genesis only achieved 22.8 miles per gallon on the highway during a recent
12 trip from Arizona to California, and it only achieves approximately 17-18 miles per
13 gallon in the city.²

14 43. An owner of a 2012 Kia Sorento complained to ODI that although the
15 car had an EPA miles-per-gallon rating of 21 city/28 highway/23 combined, he or
16 she had "never once achieved true calculated fuel economy of over 20 MPG since
17 owning this vehicle," even though the car was driven "in a fairly rural area with
18 hardly any stop-and-go traffic," carrying no excess weight, and with all four tires
19 inflated to the manufacturer's specification.

20 44. An owner of a 2012 Hyundai Elantra complained to ODI he or she had
21 bought the Elantra "due to the fact it advertised 40 miles/gallon on highway and 29
22

23
24 ¹ All quotes of complaints from NHTSA's ODI database are available at
25 <http://www-odi.nhtsa.dot.gov>, date last visited November 1, 2012. For the
26 convenience of the Court, online quotes have been lightly edited for punctuation and
27 consistency of abbreviations but not for content.

28 ² Similarly, Plaintiff Hunter's 2012 Hyundai Accent did not achieve the stated 40
MPG on the highway during a recent cross-country trip.

1 city,” but was only able to achieve approximately 18 MPG, with lows of 10.9 MPG
2 and a high of 24.8 MPG.

3 45. An owner of a 2011 Hyundai Santa Fe complained to ODI that the car
4 “is supposed to get 20-26 miles per gallon,” but “while driving [on] the highway
5 from Florida to North Carolina, it got 15 miles to the gallon.” The owner
6 complained, “The mileage is a lie. The car is not getting what they claim it should.”

7 **D. Hyundai and Kia promoted the fuel economy of their vehicles.**

8 46. Hyundai has consistently promoted the fuel economy of its vehicles.
9 Hyundai refers to its vehicles’ MPG estimates in its advertising to consumers and
10 developed “ebrochures” as part of its marketing campaign. The 2013 ebrochure for
11 the Genesis sedan stated: “In 2010, Hyundai announced plans to strive for a
12 corporate fuel economy rating that exceeds the U.S. government’s stated average
13 fuel economy (CAFE) standards for our lineup of passenger cars and light duty
14 trucks. Through May of 2012, our Blue Drive products and technologies are well on
15 their way towards keeping Hyundai ahead of National Highway Traffic Safety
16 Administration guidelines.”³ The 2012 Accent ebrochure stated that the Accent
17 manages “a best-in-class standard 40 mpg fuel economy rating on the highway” and
18 “achieves a category-leading 30 mpg city/40 mpg highway rating, making it one of
19 four Hyundai nameplates to eclipse the 40 mpg mark.”⁴ The Hyundai website
20 promotes the 2013 Accent as “[t]he first subcompact to offer 40-MPG fuel
21 economy” and states it “delivers greater standard highway fuel efficiency than any
22 other car in its class.”⁵ Likewise, the 2013 Veloster ebrochure touts that the vehicle

23 _____
24 ³ See <http://viewer.zmags.com/publication/235df2e8#/235df2e8/16> (last visited
Nov. 2, 2012).

25 ⁴ See <https://www.hyundaiusa.com/ebrochure/accent/> (last visited Nov. 1, 2012).

26 ⁵ See <https://www.hyundaiusa.com/vehicles/2013/accent/> and
27 <https://www.hyundaiusa.com/vehicles/2013/accent/performance.aspx> (both last
visited Nov. 1, 2011).

1 “burns rubber, not fuel” and delivers “40 MPG on the highway—a testament to
2 Hyundai being named America’s most fuel-efficient car company.”⁶

3 47. Kia has also promoted its vehicles’ fuel economy. Kia’s website states
4 that the Optima Hybrid, Rio, Soul, and Sportage have all received the EPA
5 SmartWay Certification Mark—a designation given by the EPA “to the cleanest
6 most fuel efficient vehicles.”⁷ Kia stated the Sorento was named NADA Guides June
7 Featured Vehicle of the Month, a recognition based in part on the vehicle’s MPG.⁸

8 **E. Hyundai and Kia had superior knowledge of the inaccurate fuel**
9 **economy testing.**

10 48. At all times, Hyundai and Kia possessed vastly superior information to
11 that of consumers about the inaccurate results of their fuel economy testing and the
12 corresponding increase in MPG ratings provided to consumers through
13 advertisements and the vehicles’ window stickers.

14 49. In a letter to President Obama and the EPA Administrator dated January
15 12, 2012, Consumer Watchdog noted “a wide gap between the EPA-certified MPG
16 and real-world numbers of the Hyundai Elantra in both drivers’ and professional
17 testers’ results.”⁹

18
19
20 ⁶ See <http://viewer.zmags.com/publication/0f3aab68#/0f3aab68/6> (last visited
Nov. 2, 2012).

21 ⁷ See <http://www.kia.com/#/optima-hybrid/allawards/recognition>;
22 <http://www.kia.com/#/rio/allawards/recognition>;
<http://www.kia.com/#/soul/allawards/recognition>; and
23 <http://www.kia.com/#/sportage/allawards/recognition> (all last visited Nov. 1, 2012).

24 ⁸ See <http://www.kia.com/#/sorento/allawards/recognition> (last visited Nov. 1,
2012).

25 ⁹ Consumer Watchdog,
http://www.consumerwatchdog.org/resources/ltrwhitehousempg011212_0.pdf (last
26 visited Nov. 2, 2012). Plaintiffs request that the Court take note that these are
27 attorneys on one of the cases for which Plaintiffs are not intending to submit as a
related case.

1 assigned to this case, and all persons within the third degree of relationship to any
2 such persons.

3 55. Beginning with model-year 2008 vehicles, federal law requires all cars,
4 light-duty trucks, and heavier vehicles up to 10,000 pounds to undergo fuel economy
5 testing methods that include factors such as high speeds, quicker accelerations, air
6 conditioning use, and driving in cold temperatures. Hyundai and Kia represented to
7 the Class that the Listed Hyundai Vehicles and the Listed Kia Vehicles satisfied the
8 EPA's testing requirements.

9 56. Plaintiffs are informed and believe that Hyundai sold at least
10 approximately 600,000 of the Listed Hyundai Vehicles, and Kia sold approximately
11 300,000 Listed Kia Vehicles. Plaintiffs are informed and believe that all of these
12 vehicles were marketed and sold with inaccurate fuel economy estimates, and that
13 other vehicles may be included. Accordingly, the Class consists of hundreds-of-
14 thousands of individuals nationwide, making individual joinder of all the Class
15 Members impracticable.

16 57. The Class can be readily identified using vehicle window stickers, sales
17 records, production records, and other information kept by Defendants or third
18 parties in the usual course of business and presently within their control.

19 58. Questions of law and fact are common to the Class and predominate
20 over questions affecting only individual members, including, *inter alia*:

- 21 a) Whether a model year of a vehicle received proper testing for its fuel
22 economy rating;
- 23 b) Whether a model year's stated EPA fuel economy rating was inaccurate;
- 24 c) Whether Defendants violated federal law with their testing methods or
25 presentation of EPA fuel economy ratings;

- 1 d) Whether a failure to accurately state EPA fuel economy ratings
2 constitutes an unlawful business practice or act;
- 3 e) Whether Defendants willfully concealed the error in fuel economy
4 ratings or recklessly disregarded their falsity;
- 5 f) Whether Defendants breached express warranties by misstating the EPA
6 fuel economy ratings;
- 7 g) Whether Defendants engaged in unfair, unlawful and/or fraudulent
8 business practices under California's Unfair Competition Law ("UCL"), Cal.
9 Bus. & Prof. Code §§ 17200, *et seq.*, by misstating the EPA fuel economy
10 ratings on their vehicles' window stickers or in their advertisements, or in
11 communications with the EPA;
- 12 h) Whether the same conduct violated California's Consumer Legal
13 Remedies Act ("CLRA"), Cal. Civ. Code §§ 1750, *et seq.*;
- 14 i) Whether Defendants' unlawful, unfair and/or deceptive practices
15 harmed Plaintiffs and the members of the Class;
- 16 j) Whether Defendants were unjustly enriched by their deceptive
17 practices; and
- 18 k) Whether Plaintiffs and the members of the Class are entitled to
19 equitable or injunctive relief.

20 59. Plaintiffs' claims are typical of the claims of the Class members and
21 arise from the same conduct by Hyundai and Kia. The relief Plaintiffs seek is typical
22 of the relief sought for the absent Class members.

23 60. Plaintiffs will fairly and adequately represent and protect the interests of
24 all absent Class members. Plaintiffs are represented by counsel competent and
25 experienced in both consumer protection and class action litigation.

1 economy rating discrepancies resulted from procedural errors during “coastdown”
2 testing at the companies’ joint testing operations in Korea, and, as a result, produced
3 inaccurate fuel economy estimates requiring at least a three percent downward
4 adjustment across the entire Class.

5 66. Defendants have violated the fraudulent prong of section 17200 because
6 the misrepresentations and omissions regarding the MPG of their vehicles as set
7 forth were likely to deceive a reasonable consumer, and the information would be
8 material to a reasonable consumer.

9 67. Defendants have violated the unfair prong of section 17200 because the
10 acts and practices set forth offend established public policy and because the harm
11 they cause to consumers greatly outweighs any benefits associated with those
12 practices. Defendants’ conduct has also impaired competition within the automotive
13 vehicles market and has prevented Plaintiffs from making fully informed decisions
14 about whether to purchase or lease their vehicles and/or the price to be paid to
15 purchase or lease them. Defendants’ conduct also offends established public policy
16 as delineated in the regulatory provisions described above and their underlying
17 purposes.

18 68. The Named Plaintiffs have suffered injury in fact, including losing
19 money or property, as a result of Defendants’ unfair, unlawful and/or deceptive
20 practices. As set forth in the allegations concerning each Plaintiff, in purchasing or
21 leasing their vehicles, the Plaintiffs relied on the misrepresentations and/or omissions
22 of Defendants regarding the MPG of the vehicles. Had the Named Plaintiffs known
23 the true MPG they would not have purchased or leased their vehicles and/or paid as
24 much for them. The Named Plaintiffs have already paid, and will be required to pay
25 in the future, fuel costs over what they would have paid if Defendants had accurately
26 disclosed their vehicles’ fuel economy.

1 exercising reasonable care should have been known to Defendants, to be untrue and
2 misleading to consumers and Plaintiffs.

3 74. Defendants have violated section 17500 because the misrepresentations
4 and omissions regarding the fuel economy of their vehicles as set forth were material
5 and likely to deceive a reasonable consumer.

6 75. The Named Plaintiffs have suffered injury in fact, including losing
7 money or property, as a result of Defendants' false advertising. As set forth in the
8 allegations concerning each plaintiff, in purchasing or leasing their vehicles, the
9 Plaintiffs relied on the misrepresentations and/or omissions of Defendants regarding
10 the MPG of their vehicles. Had the Named Plaintiffs known the true MPG they
11 would not have purchased or leased their vehicles and/or paid as much for them.
12 The Named Plaintiffs have already paid and will be required to pay in the future fuel
13 costs over what they would have paid if Defendants had accurately disclosed their
14 vehicles' fuel economy.

15 76. All of the wrongful conduct alleged herein occurred, and continues to
16 occur, in the conduct of Defendants' business. Defendants' wrongful conduct is part
17 of a pattern or generalized conduct that is still perpetuated and repeated, both in
18 California and nationwide.

19 77. Plaintiffs request this Court enter such orders or judgments as may be
20 necessary to enjoin Defendants from continuing their false advertising and to restore
21 to Plaintiffs and members of the Class any money Hyundai or Kia acquired by unfair
22 competition, and for such other relief set forth below.

23 **THIRD CAUSE OF ACTION**
24 **VIOLATIONS OF THE CONSUMER LEGAL REMEDIES ACT**
25 **(Cal. Civ. Code § 1750, *et seq.*)**

1 Named Plaintiffs have already paid and will be required to pay in the future fuel
2 costs over what they would have paid if Defendants had accurately disclosed their
3 vehicles' fuel economy.

4 86. Under Civil Code § 1780(a), Plaintiffs and members of the Class seek
5 injunctive and equitable relief for Defendants' violations of the CLRA. After
6 mailing appropriate notice and demand under Civil Code § 1782(a) & (d), Plaintiffs
7 will subsequently amend this Complaint to also include a request for damages.
8 Plaintiffs and members of the class request this Court enter such orders or judgments
9 as may be necessary to restore to any person in interest any money which may have
10 been acquired with such unfair business practices, and for such other relief, including
11 attorneys' fees and costs, as provided in Civil Code § 1780 and the Prayer for Relief.

12 87. Plaintiffs include an affidavit with this Complaint that shows venue in
13 this District is proper, to the extent such an affidavit is required by CAL. CIV. CODE
14 § 1780(d).

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

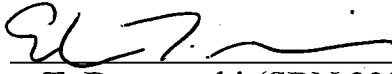
18 88. Plaintiffs reallege and incorporate by reference all paragraphs alleged
19 herein.

20 89. Defendants are and were at all times merchants with respect to motor
21 vehicles under CAL. COM. CODE § 2104.

22 90. In selling their vehicles, Defendants expressly warranted in
23 advertisements, including in the stickers affixed to the windows of their vehicles,
24 that their vehicles experienced a favorable fuel economy of specific MPGs,
25 depending on the vehicle.

1 DATED: November 2, 2012

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26 *Attorneys for Plaintiffs and the Class*

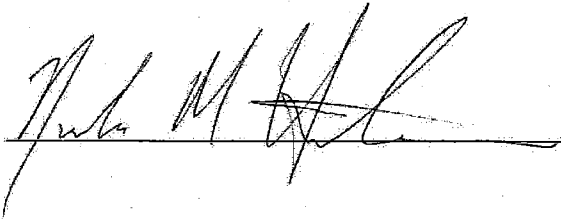
DECLARATION RE CLRA VENUE

I, Nicole Marie Hunter, do hereby declare and state as follows:

1. I am a party plaintiff in *Nicole Marie Hunter, E. Brandon Bowron, And Giuseppina Roberto, individually and on behalf of all others similarly situated v. Hyundai Motor America, and Kia Motors America, Inc.*. Pursuant to Cal. Civ. Code § 1780(d), I make this declaration in support of the Class Action Complaint and the claim therein for relief under Cal. Civ. Code § 1780(a). I have personal knowledge of the facts stated herein and, if necessary, could competently testify thereto.

2. This action for relief under Cal. Civ. Code § 1780(a) has been commenced in a county that is a proper place for trial of this action because Hyundai Motor America, and Kia Motor America does business throughout the State of California.

This declaration is signed under penalty of perjury under the laws of the State of California this 2nd day of November 2012.

A handwritten signature in black ink, appearing to read "Nicole M. Hunter", is written over a horizontal line. The signature is stylized and cursive.