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

MITCHELL COHEN, PAULINE
RAGSDALE, and HERBERT TAYLOR,
individually and on behalf of all others
similarly situated,

Plaintiffs,

v.

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

Defendants.

Case No.:

CLASS ACTION COMPLAINT

DEMAND FOR JURY TRIAL

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	JURISDICTION	5
III.	PARTIES	5
A.	Plaintiffs	5
B.	Defendants.....	10
IV.	SUBSTANTIVE ALLEGATIONS.....	14
A.	Hyundai and Kia become one of the most popular automakers in the United States by promoting the safety and reliability of their vehicles.....	14
B.	Auto thefts pose a serious safety risk.....	21
C.	Engine immobilizers are an inexpensive and proven means to dramatically reduce auto theft.....	26
D.	As a result of the Defect, Class Vehicles are stolen at an astronomical rate.....	33
E.	Defendants knowingly manufactured and sold millions of Class Vehicles that are easily stolen in less than ninety seconds.	41
F.	HMA and KA falsely claim to offer the best warranty program in the nation, yet fail to offer a remedy for the Defect.	55
G.	Fraudulent Omission/Concealment Allegations	57
V.	TOLLING OF STATUTES OF LIMITATIONS.....	60
A.	Discovery Rule.....	60
B.	Fraudulent Concealment	61
C.	Estoppel.....	62
VI.	CALIFORNIA LAW APPLIES TO NATIONWIDE CLAIMS	63
VII.	CLASS ALLEGATIONS.....	71
VIII.	CAUSES OF ACTION.....	75
	VIOLATION OF THE CALIFORNIA CONSUMER LEGAL REMEDIES ACT, Cal. Civ. Code § 1750, <i>ET SEQ.</i>	75
	VIOLATION OF THE CALIFORNIA UNFAIR COMPETITION LAW, CAL. BUS. & PROF. CODE § 17200.....	79

1	VIOlation OF THE CALIFORNIA FALSE ADVERTISING LAW, CAL. BUS.	
2	& PROF. CODE § 17500, <i>ET SEQ.</i>	81
3	BREACH OF IMPLIED WARRANTY, BASED ON CALIFORNIA LAW	83
4	VIOlation OF THE FLORIDA DECEPTIVE AND UNFAIR TRADE	
5	PRACTICES ACT FLA. STAT. § 501.201 <i>ET SEQ.</i>	86
6	BREACH OF IMPLIED WARRANTY, FLA. STAT. § 672.314.....	88
7	VIOlation OF THE MINNESOTA UNIFORM DECEPTIVE TRADE	
8	PRACTICES ACT, MINN. STAT. §§ 325D.43, <i>ET SEQ.</i>	91
9	VIOlation OF THE MINNESOTA CONSUMER FRAUD ACT, MINN. STAT. §	
10	325F.69, SUBD. 1 <i>ET SEQ.</i> AND MINN. STAT. §§ 8.31, <i>ET SEQ.</i>	93
11	BREACH OF IMPLIED WARRANTY, MINN. STAT. § 336.2-314	95
12	BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY, GA. CODE.	
13	ANN. §§ 11-2-314 AND 11-2A-212	98
14	IX. REQUEST FOR RELIEF	102
15	X. DEMAND FOR JURY TRIAL	103

1 Plaintiffs Mitchell Cohen, Pauline Ragsdale, and Herbert Taylor (collectively,
2 “Plaintiffs”), individually and on behalf of all those similarly situated, complain of
3 Defendants Kia America, Inc., formerly known as KIA Motors America, Inc. (“KA”),
4 KIA Corporation, formerly known as KIA Motors Corporation (“KC,” and with KA,
5 “Kia”), Hyundai Motor Company (“HMC”), and Hyundai Motor America (“HMA,” and
6 with HMC, “Hyundai”) (Kia and Hyundai are collectively referred to as “Defendants”),
7 based upon their personal knowledge as to facts specific to them and based upon the
8 investigation of counsel in all other respects, as follows:
9

10 I. INTRODUCTION

11 1. Over fifty years ago, the U.S. Department of Transportation (“DOT”)
12 recognized that “stolen cars constitute a major hazard to life and limb ... [and] cause
13 unreasonable risk of accident, personal injury, and death[.]” 33 Fed. Reg. 6,471 (Apr. 27,
14 1968). In recognition of the safety risk caused by auto thefts, Federal Motor Vehicle
15 Safety Standards (“FMVSS” or “Safety Standards”) were promulgated.
16

17 2. One of the most fundamental Safety Standards is No. 144, which requires
18 manufacturers to install in each of their vehicles “a starting system which, whenever the
19 key is removed from the starting system prevents: (a) The normal activation of the
20 vehicle’s engine or motor; and (b) Either steering, or forward self-mobility, of the
21 vehicle, or both.” 49 C.F.R. § 571.114 S5.1.1.
22

23 3. Today, and at all times relevant to this Complaint, the National Highway
24 Traffic Safety Administration (“NHTSA”) works with manufacturers to ensure the
25 installation of “anti-theft devices, like immobilizer systems, as standard equipment on
26
27
28

1 their vehicles.”¹

2 4. An engine immobilizer is an anti-theft device that can prevent vehicles from
3 starting unless a verified code is received by a transponder module that controls the
4 engine. *See* 81 Fed. Reg. 66,833 (Sept. 29, 2016). This anti-theft device thus prevents the
5 vehicle from being “hot wired” or started by any means other than an authorized key.
6 Engine immobilizers have been described as “simple and low-cost anti-theft device[s].”²
7 The cost to a manufacturer—such as Defendants—to install an immobilizer is
8 approximately \$50 per vehicle.
9

10 5. Engine immobilizers have been found to be highly effective at preventing
11 auto thefts. Indeed, Defendants have acknowledged in filings with the National Highway
12 Traffic Safety Administration (“NHTSA”), which predate the sale of the first Class
13 Vehicle, that the installation of immobilizers results in “a clear reduction in vehicle
14 thefts,” ranging from 50% to 80% between pre- and post-introduction of immobilizer
15 devices as standard equipment. 75 Fed. Reg. 1,447, 1448 (Jan. 11, 2010).
16

17 6. Yet, despite their acknowledgment of the effectiveness of immobilizers of
18 reducing auto thefts (and thus, minimizing the risk of personal injuries), and the relatively
19 negligible cost to install the component, Defendants have knowingly sold millions of
20 Class Vehicles³ that do not contain this industry standard safety component and have
21

22
23 ¹ <https://www.nhtsa.gov/road-safety/vehicle-theft-prevention> (last accessed Aug.
24 30, 2022).

25 ² van Ours, Jan C. and Vollaard, Ben, The Engine Immobilizer: A Non-Starter
26 for Car Thieves (January 14, 2013). CentER Discussion Paper Series No. 2013-004,
TILEC Discussion Paper No. 2013-001, Available at SSRN:
<https://ssrn.com/abstract=2202165>.

27 ³ The “Class Vehicles” mean all 2011-2022 Kia vehicles or 2015-2022 Hyundai
28 vehicles which do not contain an engine immobilizer. On information and belief, this

1 other design flaws that place millions of people at risk.

2 7. Design flaws in the Class Vehicles allow thieves to steal a Class Vehicle in
3 less than ninety seconds. The series of design flaws in the Class Vehicles includes: (i)
4 the windows do not contain alarms and can easily be knocked off their frames; (ii) the
5 steering columns do not contain adequately secure casings, allowing easy access to the
6 ignition; (iii) the ignition lock cylinders can be easily removed with minimal force, and
7 in so doing, leaves the ignition switch intact; (iv) the exposed ignition switch can be
8 started with any set of pliers, or the current generation of thieves' tool of choice, a USB
9 connector; and (v) the Class Vehicles do not contain engine immobilizers (collectively,
10 the "Defect").
11

12 8. The number of Class Vehicle thefts has been steadily growing across the
13 United States since 2013 (*see infra* ¶¶ 158-169), but in 2020, the number of Class Vehicle
14 thefts skyrocketed. After a group of teenagers in Milwaukee, Wisconsin called the "Kia
15 Boyz" discovered how the Defect made the theft of the Class Vehicles simple, the theft
16 rate for Kia vehicles in the city increased by almost 3,200% year-over-year in the first
17 six months of 2021, and thefts for Hyundai vehicles were up more than 1,700% over the
18 same period.⁴ While Defendants account for less than 10% of the U.S. auto market, 66%
19 of all vehicles stolen in the city during this period were manufactured and sold by
20 Defendants.⁵
21
22
23

24 includes all Hyundai and Kia models, except for the most expensive trim packages, and
25 following models: Kia Niro; Kia Stinger; Hyundai Azera; Hyundai Equus; Hyundai
26 G80; Hyundai Genesis; and Hyundai Ioniq.

27 ⁴ <https://www.kbb.com/car-news/milwaukee-police-report-hyundais-kias-stolen-in-record-numbers/> (last accessed Aug. 26, 2022).

28 ⁵ <https://www.wsj.com/articles/too-easy-to-steal-in-milwaukee-car-theft-kia-hyundai-city-council-11642720288> (last accessed Aug. 26, 2022).

1 9. Since then, thefts of Class Vehicles have skyrocketed nationwide. For
2 example, St. Paul, Minnesota reported a 1,300% increase in Kia thefts and nearly 600%
3 in Hyundai thefts over the same period.⁶ St. Petersburg, Florida Police reported that 41%
4 of vehicles stolen in approximately the first six months of 2022 were Hyundai and Kia
5 vehicles.⁷
6

7 10. Over the last few months, Defendants have acknowledged the existence of
8 the Defect, yet they have failed to issue a safety defect recall, provide warranty coverage,
9 or otherwise attempt to remedy the Defect in the Class Vehicles.
10

11 11. Had Plaintiffs and other Class Members known of the Defect at the time of
12 purchase or lease, they would not have bought or leased the Class Vehicles or would
13 have paid substantially less for them.

14 12. As a result of Defendants' unfair, deceptive, and/or fraudulent business
15 practices, owners and/or lessees of the Class Vehicles, including Plaintiffs, have suffered
16 an ascertainable loss of money and/or property and/or loss in value. The unfair and
17 deceptive trade practices committed by Defendants caused Plaintiffs and the members of
18 the Class damages, including, but not limited to, loss of value, loss of use of the vehicles,
19 and repair costs.
20

21 13. Accordingly, Plaintiffs bring this action to redress Defendants' misconduct.
22 Plaintiffs seek equitable relief in the form of an adequate remedy for the Defect and an
23 appropriate curative notice regarding the existence the Defect, recovery of damages, a
24

25 ⁶ [https://www.fox9.com/news/minneapolis-woman-had-kias-targeted-three-](https://www.fox9.com/news/minneapolis-woman-had-kias-targeted-three-times-in-six-months)
26 [times-in-six-months](https://www.fox9.com/news/minneapolis-woman-had-kias-targeted-three-times-in-six-months) (last accessed Aug. 26, 2022).

27 ⁷ [https://www.abcactionnews.com/news/region-pinellas/st-pete-police-warn-](https://www.abcactionnews.com/news/region-pinellas/st-pete-police-warn-about-troubling-car-theft-trend-targeting-kia-hyundai-cars)
28 [about-troubling-car-theft-trend-targeting-kia-hyundai-cars](https://www.abcactionnews.com/news/region-pinellas/st-pete-police-warn-about-troubling-car-theft-trend-targeting-kia-hyundai-cars) (last accessed Aug. 26, 2022).

1 repair under state consumer-protection statutes and implied warranties, and
2 reimbursement of all expenses associated with the repair or replacement of the Class
3 Vehicle and damage caused by the Defect.

4 **II. JURISDICTION**

5
6 14. This Court has subject matter jurisdiction under the Class Action Fairness
7 Act of 2005 (“CAFA”), 28 U.S.C. §§1332(d)(2) and (6) because: (i) there are 100 or
8 more class members, (ii) there is an aggregate amount in controversy exceeding
9 \$5,000,000.00 exclusive of interest and costs, and (iii) there is minimal diversity because
10 at least one plaintiff and one defendant are citizens of different states. This Court also
11 has supplemental jurisdiction over the state law claims under 28 U.S.C. § 1367.

12
13 15. Venue is proper in this judicial district under 28 U.S.C. § 1391 because
14 Defendants transact substantial business and because HMA and KA are headquartered
15 in this district. HMA and KA advertised in this district and Defendants received
16 substantial revenue and profits from sales and/or leases of the Class Vehicles in this
17 district. Defendants also have research and development offices in this district.
18 Therefore, a substantial part of the events and/or omissions giving rise to the claims
19 occurred, in part, within this district.

20
21 16. This Court has personal jurisdiction over Defendants by virtue of their
22 transactions and business conducted in this judicial district, and because HMA and KA
23 are headquartered in California. Defendants have transacted and done business, and
24 violated statutory and common law, in the State of California and in this judicial district.

25 **III. PARTIES**

26 **A. Plaintiffs**

27 17. Plaintiff Mitchell Cohen is a resident of Jupiter, Florida. Mr. Cohen
28

1 purchased a new 2012 Kia Sorento LX from Bev Smith Kia, located at 5655 US-1, Fort
2 Pierce, Florida, in or around September 2011. The 2012 Kia Sorento LX is installed with
3 a traditional “insert-and-turn” key ignition system and Kia does not offer an immobilizer
4 in this trim package (as a standard feature or as an add on).⁸
5

6 18. Bev Smith Kia is part of Kia’s network of authorized dealers across the
7 United States, and is promoted on KA’s website, which includes an updated list of the
8 dealership’s inventory.⁹

9 19. Mr. Cohen purchased his Class Vehicle because he believed that the vehicle
10 was safe, reliable, and of the highest quality. When shopping for his Class Vehicle, Mr.
11 Cohen researched and considered the reliability and quality of the make and
12 manufacturer. Prior to purchasing his Class Vehicle, Mr. Cohen heard, viewed, and/or
13 read Kia marketing materials and advertisements including brochures, commercials, and
14 internet advertisements, which were disseminated from California, that touted the
15 quality, reliability and safety of Kia vehicles.
16

17 20. At no point before Mr. Cohen purchased his vehicle did Kia disclose that his
18 vehicle suffered from the Defect, which renders it highly susceptible and predisposed to
19 theft by experienced and amateur thieves, and which makes it a prime target to be used
20 as instrumentalities through which thieves engage in reckless driving or other criminal
21 activity.
22

23 21. Mr. Cohen did not receive the benefit of his bargain. Mr. Cohen purchased a
24

25 ⁸ [https://www.auto-](https://www.auto-brochures.com/makes/Kia/Sorento/Kia_US%20Sorento_2012.pdf)
26 brochures.com/makes/Kia/Sorento/Kia_US%20Sorento_2012.pdf (last accessed Aug.
27 26, 2022).

28 ⁹ <https://www.kia.com/us/en/find-a-dealer/result?zipCode=34982> (last accessed
Aug. 24, 2022).

1 vehicle that is of a lesser standard, grade, and quality than represented, and he did not
2 receive a vehicle that met ordinary and reasonable consumer expectations regarding
3 quality design, and safe and reliable operation. The Defect has significantly diminished
4 the value of Mr. Cohen's Class Vehicle.
5

6 22. Had Defendants disclosed the Defect, Mr. Cohen would not have purchased
7 his Class Vehicle, or would have paid less to do so.

8 23. Mr. Cohen purchased his vehicle and it included the manufacturer's
9 warranty. At all times, Mr. Cohen maintained his vehicle in accordance with Kia's
10 guidance.
11

12 24. Mr. Cohen would purchase a Hyundai or Kia vehicle in the future if
13 Defendants' representations about the vehicle, including its quality, safety, and
14 durability, were accurate.

15 25. Plaintiff Pauline Ragsdale is a resident of Northwood, Iowa. Ms. Ragsdale
16 purchased a new 2020 Kia Sportage LX from Kia of Mankato, located at 160 St Andrews
17 Dr, Mankato, Minnesota, in June 2020. The 2020 Kia Sportage LX is installed with a
18 traditional "insert-and-turn" key ignition system and Kia does not offer an immobilizer
19 in this trim package (as a standard feature or as an add on).¹⁰
20

21 26. Kia of Mankato is part of Kia's network of authorized dealers across the
22 United States, and is promoted on KA's website, which includes an updated list of the
23 dealership's inventory.¹¹
24

25 27. Ms. Ragsdale purchased her Class Vehicle because she believed that the

26 ¹⁰ <https://www.kiamedia.com/us/en/models/sportage/2020/features> (last accessed
27 Aug. 24, 2022).

28 ¹¹ <https://www.kia.com/us/en/find-a-dealer/result?zipCode=56001> (last accessed
Aug. 24, 2022).

1 vehicle was safe, reliable, and of the highest quality. When shopping for her Class
2 Vehicle, Ms. Ragsdale researched and considered the reliability and quality of the make
3 and manufacturer. Prior to purchasing his Class Vehicle, Ms. Ragsdale heard, viewed,
4 and/or read Kia marketing materials and advertisements including brochures,
5 commercials, and internet advertisements, which were disseminated from California, that
6 touted the quality, reliability and safety of Kia vehicles.
7

8 28. At no point before Ms. Ragsdale purchased her vehicle did Kia disclose that
9 her vehicle suffered from the Defect, which renders it highly susceptible and predisposed
10 to theft by experienced and amateur thieves, and which makes it a prime target to be used
11 as instrumentalities through which thieves engage in reckless driving or other criminal
12 activity.
13

14 29. Ms. Ragsdale did not receive the benefit of her bargain. Ms. Ragsdale
15 purchased a vehicle that is of a lesser standard, grade, and quality than represented, and
16 she did not receive a vehicle that met ordinary and reasonable consumer expectations
17 regarding quality design, and safe and reliable operation. The Defect has significantly
18 diminished the value of Ms. Ragsdale's Class Vehicle.
19

20 30. Had Defendants disclosed the Defect, Ms. Ragsdale would not have
21 purchased her Class Vehicle, or would have paid less to do so.

22 31. Ms. Ragsdale purchased her vehicle new and it included the manufacturer's
23 warranty. Ms. Ragsdale still owns her vehicle, which is used for personal, family and/or
24 household uses. At all times, Ms. Ragsdale maintained her vehicle in accordance with
25 Kia's guidance.
26

27 32. Ms. Ragsdale would purchase a Hyundai or Kia vehicle in the future if
28 Defendants' representations about the vehicle, including its quality, safety, and

1 durability, were accurate.

2 33. Plaintiff Herbert Taylor is a resident of Decatur, Georgia. Mr. Taylor
3 purchased a new 2016 Hyundai Sonata from Rick Case Hyundai, located at 3180 Satellite
4 Blvd., Duluth, Georgia, on March 30, 2016. Mr. Taylor's 2016 Hyundai Sonata is
5 installed with a traditional "insert-and-turn" key ignition system and Hyundai did not
6 offer an immobilizer for his vehicle.
7

8 34. Rick Case Hyundai is part of Hyundai's network of authorized dealers across
9 the United States, and is promoted on HMA's website, which includes an updated list of
10 the dealership's inventory.¹²
11

12 35. Mr. Taylor purchased his Class Vehicle because he believed that the vehicle
13 was safe, reliable, and of the highest quality. When shopping for his Class Vehicle, Mr.
14 Taylor researched and considered the reliability and quality of the make and
15 manufacturer. Prior to purchasing his Class Vehicle, Mr. Taylor heard, viewed, and/or
16 read Hyundai marketing materials and advertisements including brochures, commercials,
17 and internet advertisements, which were disseminated from California, that touted the
18 quality, reliability and safety of Hyundai vehicles.
19

20 36. At no point before Mr. Taylor purchased his vehicle did Hyundai disclose
21 that his vehicle suffered from the Defect, which renders it highly susceptible and
22 predisposed to theft by experienced and amateur thieves, and which makes it a prime
23 target to be used as instrumentalities through which thieves engage in reckless driving or
24 other criminal activity.
25

26 37. Mr. Taylor did not receive the benefit of his bargain. Mr. Taylor purchased
27

28 ¹² <https://www.hyundaiusa.com/us/en/dealer-locator> (last accessed Sept. 1, 2022).

1 a vehicle that is of a lesser standard, grade, and quality than represented, and he did not
2 receive a vehicle that met ordinary and reasonable consumer expectations regarding
3 quality design, and safe and reliable operation. The Defect has significantly diminished
4 the value of Mr. Taylor's Class Vehicle.
5

6 38. Had Defendants disclosed the Defect, Mr. Taylor would not have purchased
7 his Class Vehicle, or would have paid less to do so.

8 39. Mr. Taylor purchased his vehicle and it included the manufacturer's
9 warranty. At all times, Mr. Taylor maintained his vehicle in accordance with Hyundai's
10 guidance.
11

12 40. Mr. Taylor would purchase a Hyundai or Kia vehicle in the future if
13 Defendants' representations about the vehicle, including its quality, safety, and
14 durability, were accurate.

15 **B. Defendants**

16 41. Defendant HMA is a California corporation with its principal place of
17 business in Fountain Valley, California. HMA also maintains a 4,300-acre testing facility
18 in Irwindale, California, and an engineering facility in Detroit, Michigan. HMA is a
19 subsidiary of HMC and is actively engaged in manufacturing, assembling, marketing,
20 and distributing Hyundai vehicles sold in California and the rest of the United States.
21

22 42. HMA's C-Suite, executives, and employees responsible for the manufacture,
23 development, distribution, marketing, sales, customer service, and warranty servicing of
24 Hyundai vehicles are located at the company's Fountain Valley headquarters. As detailed
25 *infra*, the decisions regarding the marketing and sale of the Class Vehicles, the
26 development and issuance of safety recalls, and decisions regarding the disclosure or
27 non-disclosure of the Defect were in whole or substantial part made by HMA at its
28

1 California headquarters.

2 43. In documents filed with NHTSA related to safety recalls for the Class
3 Vehicles, HMA is listed as the manufacturer of the recalled vehicles.¹³ Additionally, in
4 HMA's recall notices to owners, it instructs Class Vehicle owners to visit the "nearest
5 Hyundai dealer" to have the repair completed.¹⁴
6

7 44. Defendant HMC is a South Korean corporation with its headquarters located
8 in Seoul, South Korea. HMC is the parent corporation of HMA and owns a 33.88% stake
9 in KC.

10 45. HMC promotes on its own website "all Hyundai models" sold by HMA in
11 the United States.¹⁵
12

13 46. HMC states that it "help[s] [its] overseas subsidiaries, sales corporations, and
14 newly established enterprises in particular to establish the direction of their customer
15 service strategies."¹⁶ HMC further claims to have "established an ICT-based
16 convergence education system in order to bolster the competency of its employees in
17 customer contact channels such as vehicle sales and product CS, and has also conducted
18 knowledge-enhancing training on vehicles (electric vehicles, luxury vehicles) and
19 customer consultation (CRM, CS) skills improvement training in an effort to nurture
20
21

22 ¹³ *E.g.*, <https://static.nhtsa.gov/odi/rcl/2020/RCLRPT-20V543-3047.PDF> (last
23 accessed Aug. 26, 2022).

24 ¹⁴ <https://static.nhtsa.gov/odi/rcl/2020/RCONL-20V543-0565.pdf> (last accessed
25 Aug. 26, 2022).

26 ¹⁵ <https://www.hyundai.com/worldwide/en/vehicles> (last accessed Aug. 26,
27 2022).

28 ¹⁶ [https://www.hyundai.com/content/dam/hyundai/ww/en/images/company/sustainability/
about-sustainability/hmc-2022-sustainability-report-social-en.pdf](https://www.hyundai.com/content/dam/hyundai/ww/en/images/company/sustainability/about-sustainability/hmc-2022-sustainability-report-social-en.pdf). (last accessed Aug.
24, 2022).

1 experts in vehicle sales, customer interaction, and customer service.”

2 47. On information and belief, HMC and HMA control various details regarding
3 their dealers’ operations through various written agreements, such as: (i) granting each
4 dealer a license to use their respective trademarks and intellectual property;
5 (ii) furnishing each dealer with marketing materials to assist in the sale of their vehicles;
6 (iii) providing training to dealership personnel to assist in their sales activities; and
7 (iv) prohibiting their dealers from engaging in certain practices that otherwise detract
8 from their respective brands or undermine the sale of their respective vehicles, including
9 the Class Vehicles.
10

11 48. For example, HMC developed a “dealership facility program-known as the
12 ‘Global Dealership Space Identity,’” which was implemented by HMA across the United
13 States.¹⁷ With the assistance of a third party, HMA created “a Global Design Space
14 Identity (GDSI) Facility Standards Manual that outlined all of the new requirements for
15 interior and exterior elements that US dealerships would need.” HMA also “developed
16 the GDSI Facility Design Services Program—a multi-faceted ... program including
17 individual surveys of every dealership, site-specific recommendations, and the
18 installation of all new brand elements.” As part of the GDSI Facility Design Services
19 Program, HMA provides “every dealer with a complete design intent document” and
20 each dealership works with the third-party retained by HMA “from start to finish—
21 ending each project with an on-site GDSI Facility Compliance Review to make sure
22 every installation was successful[.]”
23
24
25

26
27 ¹⁷ [https://www.agi.net/our-work/a-subsi-dary-of-hyundai-motor-company-of-](https://www.agi.net/our-work/a-subsi-dary-of-hyundai-motor-company-of-korea-distributes-cars-and-sport-utility-vehicles-throughout-the-united-states)
28 [korea-distributes-cars-and-sport-utility-vehicles-throughout-the-united-states](https://www.agi.net/our-work/a-subsi-dary-of-hyundai-motor-company-of-korea-distributes-cars-and-sport-utility-vehicles-throughout-the-united-states) (last
accessed Aug. 24, 2022).

1 49. Defendant KA is a California corporation with its principal place of business
2 in Irvine, California. KA is a subsidiary of KC and is actively engaged in manufacturing,
3 assembling, marketing, and distributing Kia vehicles sold in the United States.

4 50. In documents filed with NHTSA related to safety recalls for the Class
5 Vehicles, HMA is listed as the manufacturer of the recalled vehicles.¹⁸ Additionally, in
6 KA's recall notices to owners, it instructs Class Vehicle owners to have the repair
7 completed at the "nearest Kia dealer," which can be located through the link to KA's
8 website listed on the notice.¹⁹

9 51. KA's C-Suite, executives, and employees responsible for the manufacture,
10 development, distribution, marketing, sales, customer service, and warranty servicing of
11 Kia vehicles are located at the company's Irvine headquarters. As detailed *infra*, the
12 decisions regarding the marketing and sale of the Class Vehicles, the development and
13 issuance of safety recalls, and decisions regarding the disclosure or non-disclosure of the
14 Defect were in whole or substantial part made by KA at its California headquarters.

15 52. Defendant KC is a South Korean corporation with its headquarters located
16 in Seoul, South Korea. KC is the parent corporation of KA.

17 53. On its own website, KC promotes Kia branded vehicles sold by KA in the
18 United States.²⁰

19 54. On information and belief, KA and KC control various details regarding their
20 dealers' operations through various written agreements, such as: (i) granting each dealer
21

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23
24
25
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27
28

¹⁸ *E.g.*, <https://static.nhtsa.gov/odi/rcl/2021/RCLRPT-21V331-5686.PDF> (last accessed Aug. 26, 2022).

¹⁹ <https://static.nhtsa.gov/odi/rcl/2021/RCONL-21V331-7827.pdf> (last accessed Aug. 26, 2022).

²⁰ *E.g.*, <https://worldwide.kia.com/na/sportage> (last accessed Aug. 24, 2022).

1 a license to use their respective trademarks and intellectual property; (ii) furnishing each
2 dealer with marketing materials to assist in the sale of their vehicles; (iii) providing
3 training to dealership personnel to assist in their sales activities; and (iv) prohibiting their
4 dealers from engaging in certain practices that otherwise detract from their respective
5 brands or undermine the sale of their respective vehicles, including the Class Vehicles.
6

7 **IV. SUBSTANTIVE ALLEGATIONS²¹**

8 **A. Hyundai and Kia become one of the most popular automakers in the United** 9 **States by promoting the safety and reliability of their vehicles.**

10 55. HMC was established in South Korea in 1967 and started selling vehicles in
11 the United States in 1986 through its subsidiary HMA. Since that time, HMC has become
12 one of the largest automakers in the United States and around the world.

13 56. KC was founded in 1944 manufacturing bicycles and motorcycles and is
14 Korea's oldest manufacturer of motor vehicles. KA was formed in 1992 when KC first
15 imported its vehicles into the United States.
16

17 57. In 1999, HMC announced that it had acquired a controlling interest in KC,
18 and that KC would obtain an ownership interest in approximately twenty-two (22) HMC
19 subsidiaries. In subsequent years, HMC divested a portion of its interest and currently
20 controls approximately 34% of KC.

21 58. Through its network of more than 800 dealerships nationwide, HMA sells
22 and services its vehicles, including the Hyundai Elantra (Hyundai's best-selling model),
23 Hyundai Santa Fe, Hyundai Tucson, and Hyundai Accent. Likewise, KA sells and
24 services a complete line of vehicles in the U.S. through its own network of over 700
25 dealers.
26

27
28 ²¹ Emphasis added throughout unless stated otherwise.

59. Collectively, Defendants are the world's fourth-largest automaker. Defendants reported global sales of 6.6 million vehicles in 2022, down from 7.19 million vehicles in 2019.²²

60. Within the United States alone, HMA sold an average of 625,264 vehicles per year since 2006, approximately 4.13% of the total U.S. market:²³

Year	Vehicles Sold	Market Share (%)
2006	455,520	2.75
2007	467,009	2.89
2008	401,742	3.03
2009	435,064	4.17
2010	538,228	4.64
2011	645,691	5.05
2012	703,007	4.85
2013	720,783	4.63
2014	725,718	4.39
2015	761,710	4.36
2016	768,057	4.38
2017	664,943	3.86
2018	667,634	3.85
2019	688,771	4.03
2020	622,269	4.26
2021	738,081	4.91

61. Over the same time period, KA sold an average of 500,351 vehicles per year, or approximately 3.3% of the U.S. market:²⁴

Year	Vehicles Sold	Market Share (%)
2006	294,302	1.78

²² <https://www.wardsauto.com/industry-news/numbers-tell-story-who-s-best-car-company-world> (last accessed August 24, 2022); <https://www.reuters.com/article/us-hyundai-motor-sales/hyundai-kia-salesdrop-to-seven-year-low-on-china-weakness-forecast-better-2020-idUSKBN1Z10AC> (last accessed Aug. 24, 2022).

²³ <https://carsalesbase.com/us-hyundai/> (last accessed Aug. 24, 2022).

²⁴ <https://carsalesbase.com/us-kia/> (last accessed Aug. 25, 2022).

2007	305,473	1.89
2008	273,397	2.06
2009	300,063	2.88
2010	366,268	3.16
2011	485,492	3.8
2012	557,599	3.85
2013	535,179	3.43
2014	580,234	3.51
2015	625,818	3.58
2016	647,598	3.69
2017	589,668	3.42
2018	589,673	3.4
2019	615,338	3.6
2020	586,105	4.01
2021	701,416	4.66

62. Additionally, a recent report by McKinsey & Company found that over twice as many second-owner used vehicles are sold in the United States each year compared to new vehicles.²⁵

63. Defendants have been able to transform themselves into such large players in the U.S. auto-market based on its assurances to consumers of care and quality. For example, HMC touts itself as being “committed to becoming a lifetime partner in automobiles and beyond[.]”²⁶

64. On HMC’s webpage devoted to promoting its vehicles sold around the world, including those sold by HMA, HMC touts the safety of its vehicles.²⁷ HMC states that it “is focusing on technology that can be applied to as many passenger cars as possible[.]”

²⁵ <https://www.mckinsey.com/industries/automotive-and-assembly/our-insights/used-cars-new-platforms-accelerating-sales-in-a-digitally-disrupted-market#> (last accessed Aug. 24, 2022).

²⁶ <https://www.hyundai.com/worldwide/en/company/news/news-room/news/hyundai-motor-reports-december-2019-global-sales-0000016366> (last accessed Aug. 24, 2022).

²⁷ *E.g.*, <https://www.hyundai.com/worldwide/en/suv/tucson-2021/safety> (last accessed Aug. 24, 2022).

1 “[w]hile having [a] constant effort on car safety, Hyundai drives the adoption of new
2 technologies.”²⁸ HMC further advertises that “[f]rom the moment you step into a
3 Hyundai Motor’s vehicle, safety surrounds you from all corners at every second, even in
4 places you never imagined.”²⁹

5
6 65. HMC further touts its continued improvement of quality and safety measures
7 and how it conducts extensive post-sale monitoring of its vehicles:³⁰

8 *[W]e continue upgrading overall quality and safety systems not only by*
9 *promoting preemptive quality and safety measures from the vehicle*
10 *development stage, but also by preventing any significant problems*
11 *afterward through early detection, early improvement and early after-sales*
12 *actions.* In particular, we will establish a sustainable safety management
13 system designed to maximize customer satisfaction and strengthen trust by
14 developing quality and safety training programs, operating quality and safety
reporting centers, analyzing safety information, and establishing safety test
sites.

15 66. In HMA’s public statements, it poses a question: “What if [a car company]
16 cracked the entire industry wide open, peered more deeply into it, spread out all its parts,
17 and questioned their every detail? ... At Hyundai, we ask ourselves the important
18 questions every day. And, every day, we seek the best answers. It’s what makes us grow
19 as a car company. It’s what makes us Hyundai.”³¹

20
21 67. In HMA’s 2019 Hyundai Tucson brochure, the company states that its

22
23 ²⁸ <https://www.hyundai.com/worldwide/en/company/innovation/safety/inside>
(last accessed Aug. 24, 2022).

24 ²⁹ <https://www.hyundai.com/worldwide/en/company/innovation/safety/research>
25 (last accessed Aug. 24, 2022).

26 ³⁰ [https://www.hyundai.com/content/dam/hyundai/ww/en/images/company/sustainability/](https://www.hyundai.com/content/dam/hyundai/ww/en/images/company/sustainability/about-sustainability/hmc-2022-sustainability-report-social-en.pdf)
27 [about-sustainability/hmc-2022-sustainability-report-social-en.pdf](https://www.hyundai.com/content/dam/hyundai/ww/en/images/company/sustainability/about-sustainability/hmc-2022-sustainability-report-social-en.pdf) (last accessed Aug.
28 24, 2022).

³¹ <https://www.hyundainews.com/en-us/about-us> (last accessed Aug. 24, 2022).

1 “commitment to Hyundai owners doesn’t end with the transfer of keys” and that the
2 vehicle includes “more standard safety features” and that it is “flush with ... advanced
3 safety technologies.”³² In particular, HMA claims that “[u]nlike many competitors,
4 Tucson doesn’t require you to move up to costlier trim levels to enjoy” certain safety
5 features.
6

7 68. The 2017 Tucson brochure states that the vehicle contains “[a]n arsenal of
8 advanced safety features” that are “class-leading.”³³

9 69. Likewise, KA advertises that it “believe[s] in the outstanding quality and
10 durability of every new Kia that rolls off the assembly line” and that “[f]rom design to
11 technology, materials to safety features, Kia continues to innovate[.]”³⁴
12

13 70. KA claims that “Kia engineers are passionate about producing vehicles that
14 are exceptionally well designed and reliable. Their dedication to quality and attention to
15 detail give Kia the confidence to back every model with an industry-leading warranty
16 program.”³⁵

17 71. KA’s promotional material similarly touts its dedication to safety.
18

19 72. In KA’s brochure for the 2020 Kia Sorento, KA states that “[a]t Kia, the
20 priority is always on improving all aspects of safety. Advanced sensor systems,
21 strategically placed airbags, and breakthroughs in materials and design that have led to
22 strong body construction are just a few of the ways we never stop working to increase
23

24 ³² <https://secure.viewer.zmags.com/publication/2f65b9a9#/2f65b9a9/16>
25 (last accessed Aug. 26, 2022).

26 ³³ http://viewer.zmags.com/publication/006d43a3?cs:o=%272017_Certified_Tucson_Brochure%27#/006d43a3/1 (last accessed Aug. 26, 2022).

27 ³⁴ <https://www.kia.com/us/en/why-kia> (last accessed Aug. 26, 2022).

28 ³⁵ <https://manualzz.com/doc/7136122/kia-2015-sorento-brochure---dealer-e> (last
accessed Aug. 26, 2022).

1 your protection.”³⁶ KA adds “IT HELPS DETECT, COORDINATE, AND REACT to
2 give you more peace of mind.”

3 73. In the 2011 Kia Sportage brochure, KA states that the vehicle offers
4 “advanced features” including “[a]dvances safety systems” that “are comprehensive and
5 advanced, all as standard equipment.”³⁷ In KA’s brochure for the 2016 Kia Sorento, KA
6 claims that the vehicle contains “[a] long list of technologically advanced features ...
7 [that] inspire confidence and enhance everyday convenience.”³⁸ The marketing brochure
8 dedicates an entire page to “Advanced safety systems—because life is full of curves[.]
9 Sorento features advanced safety systems designed to help give ... you peace of mind
10 every time you drive.”

11 74. In KA’s brochure for the 2015 Kia Sorento, the company similarly claimed
12 that the vehicle is “equipped with advanced safety features” and “systems that help give
13 you peace of mind every time you drive[.]”³⁹ KA also states in the 2014 Sorento brochure
14 that the vehicle “is also equipped with advanced active and passive safety features
15 designed to ensure your peace of mind[.]”⁴⁰

16 75. Today, over half the cars HMC sells in the United States are designed and

17 ³⁶ [https://www.auto-](https://www.auto-brochures.com/makes/Kia/Sportage/Kia_US%20Sportage_2020.pdf)
18 [brochures.com/makes/Kia/Sportage/Kia_US%20Sportage_2020.pdf](https://www.auto-brochures.com/makes/Kia/Sportage/Kia_US%20Sportage_2020.pdf) (last accessed
19 Aug. 24, 2022).

20 ³⁷ [https://www.auto-](https://www.auto-brochures.com/makes/Kia/Sportage/Kia_US%20Sportage_2011.pdf)
21 [brochures.com/makes/Kia/Sportage/Kia_US%20Sportage_2011.pdf](https://www.auto-brochures.com/makes/Kia/Sportage/Kia_US%20Sportage_2011.pdf) (last accessed
22 Aug. 24, 2022).

23 ³⁸ [https://www.auto-](https://www.auto-brochures.com/makes/Kia/Sorento/Kia_US%20Sorento_2016.pdf)
24 [brochures.com/makes/Kia/Sorento/Kia_US%20Sorento_2016.pdf](https://www.auto-brochures.com/makes/Kia/Sorento/Kia_US%20Sorento_2016.pdf) (last accessed Aug.
25 26, 2022).

26 ³⁹ <https://manualzz.com/doc/7136122/kia-2015-sorento-brochure---dealer-e> (last
27 accessed Aug. 26, 2022).

28 ⁴⁰ <https://cdn.dealereprocess.org/cdn/brochures/kia/2014-sorento.pdf> (last
accessed Aug. 26, 2022).

1 manufactured domestically at HMA's facilities, including at its "design, research, and
2 testing grounds in California" near its corporate headquarters.⁴¹ In total, HMC and HMA
3 employ approximately 5,000 people at these facilities, and an additional 20,000
4 employees at U.S. dealerships.

5
6 76. Hyundai and Kia branded vehicles share many of the same products and the
7 same group of engineers work on Hyundai and Kia vehicles at Hyundai-KA Technical
8 Center, Inc. ("HATCI").⁴²

9 77. Hyundai and Kia vehicles may also be rebranded or "rebadged" versions of
10 the other brand's vehicles. For example, the Hyundai Entourage "is identical to the [Kia]
11 Sedona, except for cosmetics and the packaging of a few features."⁴³ The engines are the
12 same in these vehicles, the climate controls are placed in the same locations, even the
13 number of cupholders (14) are identical.

14
15 78. Because Hyundai and Kia vehicles are often rebadged vehicles, they
16 frequently use identical and interchangeable parts. That is why when HMA announces a
17 recall of its vehicles, an identical Kia recall is typically announced shortly thereafter, or
18 vice versa. For example, in 2013, Hyundai and Kia recalled 1.7 million vehicles across
19 thirteen models which shared the same defective brake light switches.⁴⁴ The *Los Angeles*
20 *Times* noted that the "massive recall of 1.7 million vehicles ... was a sign of what can go
21

22
23 ⁴¹ <https://www.hyundainews.com/en-us/about-us> (last accessed Aug. 26, 2022).

24 ⁴² [https://www.forbes.com/sites/jimhenry/2013/05/31/balancing-act-hyundai-](https://www.forbes.com/sites/jimhenry/2013/05/31/balancing-act-hyundai-and-kia-share-products-under-the-skin-but-must-avoid-blurring-identities/?sh=210585421c7a)
25 [and-kia-share-products-under-the-skin-but-must-avoid-blurring-](https://www.forbes.com/sites/jimhenry/2013/05/31/balancing-act-hyundai-and-kia-share-products-under-the-skin-but-must-avoid-blurring-identities/?sh=210585421c7a)
26 [identities/?sh=210585421c7a](https://www.forbes.com/sites/jimhenry/2013/05/31/balancing-act-hyundai-and-kia-share-products-under-the-skin-but-must-avoid-blurring-identities/?sh=210585421c7a) (last accessed Aug. 26, 2022);
27 <https://www.hyundainews.com/en-us/releases/398> (last accessed July 14, 2021).

28 ⁴³ <https://www.nytimes.com/2006/11/12/automobiles/autoreviews/12AUTO.html>
(last accessed Aug. 26, 2022).

⁴⁴ [https://www.latimes.com/business/la-xpm-2013-apr-03-la-fi-hy-hyundai-kia-](https://www.latimes.com/business/la-xpm-2013-apr-03-la-fi-hy-hyundai-kia-motors-recall-20130403-story.html)
motors-recall-20130403-story.html (last accessed Aug. 26, 2022).

1 wrong when parts are shared by” Hyundai and Kia.

2 **B. Auto thefts pose a serious safety risk.**

3 79. It has long been recognized that auto thefts pose a serious safety risk to
4 vehicle owners and bystanders. In 1966, Congress enacted the National Traffic and
5 Motor Vehicle Safety Act (the “Safety Act”), 49 U.S.C.S. § 30101 *et seq.*, which was
6 enacted “to reduce traffic accidents and deaths and injuries resulting from traffic
7 accidents” and “to prescribe motor vehicle safety standards.” In 1968, the DOT
8 promulgated a new Safety Standard No. 114 titled “Theft Protection; Passenger Cars,”
9 pursuant to the Safety Act. *See* 33 Fed. Reg. 6,471 (Apr. 27, 1968).

11 80. The proposed Theft Protection rule, FMVSS No. 14 was implemented after
12 it was “demonstrated that *stolen cars constitute a major hazard to life and limb on the*
13 *highways.*” 33 Fed. Reg. 6,471. As part of its evaluation of the proposed rule, the DOT
14 found that “[t]he evidence shows that cars operated by unauthorized persons are far more
15 likely to cause unreasonable risk of accident, personal injury, and death than those which
16 are driven by authorized individuals.” *Id.* Among the evidence used in support of this
17 conclusion was a 1968 study conducted by the Department of Justice (“DOJ”).

19 81. The DOJ found that a substantially significant number of stolen vehicles
20 would result in personal injury accidents:
21

22 [T]here were an estimated 94,000 stolen cars involved in accidents in 1966,
23 and more than 18,000 of these accidents resulted in injury to one or more
24 people. On a proportionate basis, 18.2 percent of the stolen cars became
25 involved in accidents, and 19.6 percent of the stolen-car accidents resulted in
26 personal injury. The same study predicted that automobile thefts in 1967 total
27 about 650,000; about 100,000 of these stolen cars could be expected to
28 become involved in highway accidents. *Comparing these figures with*
statistics for vehicles which are not stolen, the approximate rate for stolen
cars would be some 200 times the normal accident rate for other vehicles.

1 33 Fed. Reg. 6,471 (Apr. 27, 1968).

2 82. The DOJ survey found that “[t]he number of car thieves who start cars with
3 so-called ‘master keys’ and *devices which bypass the lock is ... large enough to produce*
4 *a significant safety hazard.*” 33 Fed. Reg. 6,471. Accordingly, FMVSS No. 14 was
5 explicitly designed to “defeat” this method for stealing a vehicle and requires “[a] large
6 number of locking-system combinations and a steering or self-mobility lock.” *Id.*

7
8 83. The DOJ further explained that “the large majority of car thieves are
9 amateurs, almost half of whom are engaged in so-called ‘joy-riding’” and that “most” of
10 the thieves are juveniles. 33 Fed. Reg. 6,471.

11
12 84. Given the dramatic increase in the accident rate caused by stolen vehicles,
13 the DOT determined that “*a reduction in the incidence of auto theft would make a*
14 *substantial contribution to motor vehicle safety.* It would not only reduce the number of
15 injuries and deaths among those who steal cars, it would also protect the many innocent
16 members of the public who are killed and injured by stolen cars each year.” 33 Fed. Reg.
17 6,471 (Apr. 27, 1968). Further, the DOT “concluded that a standard that would reduce
18 the incidence of unauthorized use of cars meets the need for motor vehicle safety” and
19 rejected the contention that the Theft Protection rules are “not related to improving motor
20 vehicle safety.” *Id.*

21
22 85. The first iteration of FMVSS No. 114 Theft Protection; Passenger Cars stated
23 in relevant part:

24
25 S1. *Purpose and scope.* This standard specifies requirements for theft
26 protection to reduce the incidence of accidents resulting from unauthorized
27 use.

28 S2. *Application.* This standard applies to passenger cars.

S4. *Requirements.*

1 ***S4.1 Each passenger car shall have a key-locking system that, whenever***
 2 ***the key is removed, will prevent-***

3 ***(a) Normal activation of the car's engine or other main source of***
 4 ***motive power; and***

5 ***(b) Either steering or self-mobility of the car, or both.***

6 S4.2 The prime means for deactivating the car's engine or other main source
 7 of motive power shall not activate the deterrent required by S4.1(b).

8 S4.3 The number of different combinations of the key locking systems
 9 required by S4.1 of each manufacturer shall be at least 1,000, or a number
 10 equal to the number of passenger cars manufactured by such manufacturer,
 11 whichever is less.

12 S4.4 A warning to the driver shall be activated when the key required by S4.1
 13 has been left in the locking system and the driver's door is opened.

14 *Id.* at 6,472. The standard became effective on January 1, 1970. *See id.*⁴⁵

15 86. In the half century since the DOT recognized the safety risks posed by auto
 16 thefts, the agency has continued to monitor the safety risks posed by auto thefts and
 17 modernize its rules designed to prevent auto thefts.

18 87. In 1984, Congress enacted the Motor Vehicle Theft Law Enforcement Act
 19 (the "Theft Act"), 49 U.S.C. 33101 *et seq.*, which directs NHTSA to establish theft
 20 prevention standards for passenger vehicles. *See* 81 Fed. Reg. 66,833, 66,834 (Sept. 29,
 21 2016). Pursuant to the Theft Act, NHTSA implemented 49 C.F.R. Part 541, which
 22 requires manufacturers of designated high theft passenger car lines to inscribe or affix
 23 the Vehicle Identification Number (VIN) onto the engine, the transmission, and major
 24 body parts. Each vehicle in a high-theft line must have its major parts and major
 25 replacement parts-marked unless the vehicle line is granted an exemption from the parts
 26 marking requirements ("PMR"). A manufacturer may petition for a PMR exemption
 27 when it plans to install a standard equipment antitheft device on the entire line. *See* 49

28 ⁴⁵ FMVSS No. 114 is codified in 49 C.F.R. § 571.114.

1 C.F.R. §§ 543.1 *et seq.* The agency must determine that the antitheft device to be installed
2 on the line is likely to be as effective in reducing and deterring motor vehicle theft as
3 parts-marking.

4
5 88. In 1992, Congress enacted the Anti Car Theft Act (Pub. L. No. 102-519,
6 codified at 49 U.S.C. chapter 331), which expanded the PMR to include multipurpose
7 passenger vehicles and certain light duty trucks. On April 6, 2004, the Federal Motor
8 Vehicle Theft Prevention Standard was extended to include all passenger cars,
9 multipurpose passenger vehicles with a gross vehicle weight rating (GVWR) of 6,000
10 pounds or less, all light-duty trucks (LDTs) determined to be high-theft (with a gross
11 vehicle weight rating of 6,000 pounds or less), and all low-theft LDTs with major parts
12 that are interchangeable with a majority of the covered major parts of those passenger
13 motor vehicle lines subject to the theft prevention standard. 69 Fed. Reg. 17,960 (Apr. 6,
14 2004).

15
16 89. In 2006, NHTSA iterated that its “safety standard on theft protection
17 [FMVSS No. 114] specifies vehicle performance requirements intended to reduce the
18 incidence of crashes resulting from theft and accidental rollaway of motor vehicles.” *See*
19 71 Fed. Reg. 17,752 (Apr. 7, 2006). NHTSA goes on to make clear that “the standard
20 sought to ensure that the vehicle could not be easily operated without the key....” *Id.*

21
22 90. FMVSS No. 114 is currently codified as 49 C.F.R. 571.114, and provides:

23 **S1. Scope.** This standard specifies vehicle performance requirements intended
24 to reduce the incidence of crashes resulting from theft and accidental rollaway
25 of motor vehicles.

26 **S2. Purpose.** The purpose of this standard is to decrease the likelihood that a
27 vehicle is stolen, or accidentally set in motion.

28 **S3. Application.** This standard applies to all passenger cars, and to trucks and

1 multipurpose passenger vehicles with a GVWR of 4,536 kilograms (10,000
 2 pounds) or less. However, it does not apply to walk- in van-type vehicles.
 3 Additionally, paragraph S5.3 of this standard applies to all motor vehicles,
 4 except trailers and motorcycles, with a GVWR of 4,536 kilograms (10,000
 5 pounds) or less.

6 **S4. Definitions.**

7 Combination means a variation of the key that permits the starting system of
 8 a particular vehicle to be operated.

9 Key means a physical device or an electronic code which, when inserted into
 10 the starting system (by physical or electronic means), enables the vehicle
 11 operator to activate the engine or motor.

12 Starting system means the vehicle system used in conjunction with the key to
 13 activate the engine or motor.

14 **S5 Requirements.** Each vehicle subject to this standard must meet the
 15 requirements of S5.1, S5.2, and S5.3. Open-body type vehicles are not
 16 required to comply with S5.1.3.

17 **S5.1 Theft protection.**

18 S5.1.1 Each vehicle must have a starting system which, whenever the
 19 key is removed from the starting system prevents:

- 20 (a) The normal activation of the vehicle's engine or motor; and
- 21 (b) Either steering, or forward self-mobility, of the vehicle, or
 22 both.

23 91. NHTSA is also required to periodically obtain and publish accurate and
 24 reliable theft data. 49 U.S.C. 33104(b)(4) (Designation of high theft vehicle lines and
 25 parts). The National Crime Information Center ("NCIC") of the Federal Bureau of
 26 Investigation ("FBI") provides this data to NHTSA. The NCIC is a governmental system
 27 that receives vehicle theft data from approximately 23,000 criminal justice agencies and
 28 other law enforcement authorities throughout the United States. This national data
 includes the reported thefts of self-insured and uninsured vehicles, not all of which are
 reported to other data sources.

92. In connection with fulfilling its administrative mandate under both the Safety
 Act and the Theft Act, NHTSA regularly interacts with, seeks comment from, and shares

1 information with, automotive manufacturers and their authorized representatives,
2 including HMA and KA.

3 **C. Engine immobilizers are an inexpensive and proven means to dramatically**
4 **reduce auto theft.**

5 93. Over the last fifty years since FMVSS No. 114 was issued, manufacturers
6 have developed a bevy of safety features, many of which would have been inconceivable
7 to drivers in 1968, and others which are directly contemplated by the initial promulgation
8 of the Safety Standard. Falling into the latter category are engine immobilizers, which
9 have become standard across the globe.
10

11 94. An immobilizer is an anti-theft device that can prevent vehicles from starting
12 unless a verified code is received by a transponder module that controls the engine. *See*
13 81 Fed. Reg. 66,833 (Sept. 29, 2016). This theft-prevention device thus prevents the
14 vehicle from being “hot wired” or started by any means other than an authorized key.
15 Engine immobilizers have been described as “simple and low-cost anti-theft device[s].”⁴⁶
16

17 95. Since 1986, there have been three popular engine immobilizing antitheft
18 devices: resistor-pellet, transponder-based, and magnetic rotation device systems.

19 96. In 1986, General Motors (“GM”) introduced the vehicle antitheft system
20 (“VATS”) or Pass-Key I system on its Corvette models. It was the first system to be an
21 integrated part of the vehicle electronics and ushered in the engine immobilizer concept.
22 The system availability expanded through the various GM product lines since 1986, and
23 by 1994, over 66% of GM domestically produced vehicles were Pass-Key equipped. In
24 1992, GM introduced the Pass-Key II.
25

26 ⁴⁶ van Ours, Jan C. and Vollaard, Ben, The Engine Immobilizer: A Non-Starter
27 for Car Thieves (January 14, 2013). CentER Discussion Paper Series No. 2013-004,
28 TILEC Discussion Paper No. 2013-001, Available at SSRN:
<https://ssrn.com/abstract=2202165>.

1 97. The Pass-Key VATS worked as follows: When a properly cut ignition key is
2 inserted into the ignition lock keyway and rotated, the resistor pellet embedded in the
3 key shank touches the contacts located in the outer ignition lock keyway, transmitting a
4 signal to the Pass-Key decoder module located in the instrument panel in the passenger
5 compartment. The signal's electrical resistance is measured by the decoder module by
6 comparing its value to the fixed resistance value in the module. If the resistance value is
7 correct for that specific vehicle, the starter-enable relay is energized and a discrete signal
8 is sent to the vehicle's electronic control module to enable engine functions and allow
9 fuel injector pulses to begin. If an invalid key is rotated, the resistance value is read as
10 incorrect and the decoder module will shut down for two to four minutes, preventing
11 the engine from starting during this time interval.
12

13
14 98. Next came transponder-based electronic immobilizer systems, which were
15 first introduced by Ford in 1996 and named SecureLock.

16 99. With a transponder-based immobilizer, when the ignition key is turned to the
17 start position, the transponder located in the key head transmits a code to the powertrain's
18 electronic control module ("ECM"). Each transponder is programmed by the manufacturer
19 with a unique code. The engine functions are enabled only if the transponder code
20 matches the code previously programmed into the ECM. Ford explained that the "device
21 is activated when the driver/operator turns off the engine by using the properly coded
22 ignition key." 64 Fed. Reg. 7,949 (Feb. 17, 1999) (describing SecuriLock).
23

24 100. Shortly after Ford introduced a transponder-based immobilizer, other
25 manufacturers followed its lead. GM began installing its transponder-based system called
26 the Pass-Key III in 1997. DaimlerChrysler has been installing its Sentry Key Immobilizer
27 System ("SKIS") in its vehicles as standard equipment since 1999. Nissan has its own
28

1 transponder-based system since 2001, which has been installed as standard equipment in
2 its vehicles as well. *See* 66 Fed. Reg. 53,830 (Oct. 24, 2001) (Nissan's PMR petition); 74
3 Fed Reg 28,768 (June 17, 2009) (describing Nissan's immobilizer device).

4
5 101. The third type of immobilizer utilizes a magnetic rotation device. In 1996,
6 GM began phasing out its use of its Pass-Key systems, replacing them with its magnetic-
7 rotation system device called "PassLock I." The following year, it began installing its
8 PassLock II, a magnetic-rotation system device. The magnetic rotation system uses a
9 coded magnet embedded in the ignition lock cylinder (as opposed to the key shank as in
10 Pass-Key systems), and an electronic sensor mounted on the column assembly housing
11 surrounding the ignition lock. When the ignition lock core is rotated within the housing
12 using the correctly cut key, the magnet passes over the housing-mounted sensor,
13 generating a signal that is sent to the decoder module, which measures the voltage. If the
14 value of the sensor's voltage matches the value stored in the memory of the decoder, the
15 decoder sends an encoded signal to the power control module ("PCM") to start the flow
16 of fuel and enable engine functions. If an invalid key is used, an improper voltage value
17 is measured, which sends a signal to the PCM to prevent the flow of fuel for ten minutes.
18
19

20 102. Over the last three decades, these immobilizers have been proven to be
21 highly efficacious and to dramatically reduce the auto theft rates.

22 103. A study conducted in Europe after immobilizers were mandated found that
23 the overall rate of auto theftauto thefts fell by 46% between 1995 and 2008.⁴⁷ The same
24 study also found that the additional manufacturing costs related to installing an engine
25

26
27 ⁴⁷ van Ours, Jan C. and Vollaard, Ben, The Engine Immobilizer: A Non-Starter
28 for Car Thieves (January 31, 2013). CESifo Working Paper Series No. 4092, Available
at SSRN: <https://ssrn.com/abstract=2214895>.

1 immobilizer was as little as approximately \$50 per vehicle and the benefits in terms of
2 prevented thefts are many times higher than the costs of installing the device.

3 104. Given how effective and relatively inexpensive engine immobilizers are,
4 most automotive regulators around globe require the installation of the device in new
5 vehicles sold.
6

7 105. In November 1995, the European Union (“EU”) adopted Directive
8 74/61/EEC, which made installation of an electronic engine immobilizer mandatory in
9 all new passenger cars sold within the EU as of October 1998. Australia has required
10 immobilizers in vehicles sold since 2001 and Canada has required the component since
11 2007. In parts of Australia and Canada, the legislation also extended to the existing car
12 fleet.⁴⁸
13

14 106. Although not explicitly required in order to comply with FMVSS No. 114,
15 NHTSA has repeatedly demonstrated its support for the installation of immobilizers and
16 has stated that the device complies with FMVSS No. 114. In 2006, NHTSA noted that
17 FMVSS No. 114 was promulgated due to the agency’s “concern about car thieves who
18 could bypass the ignition lock.” 71 Fed. Reg. 17,752, 17,753. NHTSA went on to explain
19 how a manufacturer’s engine immobilizer satisfied FMVSS No. 114:
20

21 We note that in promulgating FMVSS No. 114, the agency expressed concern
22 about car thieves who could bypass the ignition lock. In response to this
23 concern, the agency decided to require a device, which would prevent either
24 self-mobility or steering even if the ignition lock were bypassed (see 33 FR
4471, April 27, 1968).

25 The engine control module immobilizer described in your letter satisfies the
26 requirements of S4.2(b) because it locks out the engine control module if an
27 attempt is made to start the vehicle without the correct key or to bypass the
electronic ignition system. When the engine control module is locked, the

28 ⁴⁸ *Id.*

1 vehicle is not capable of forward self-mobility because it is incapable of
2 moving forward under its own power.

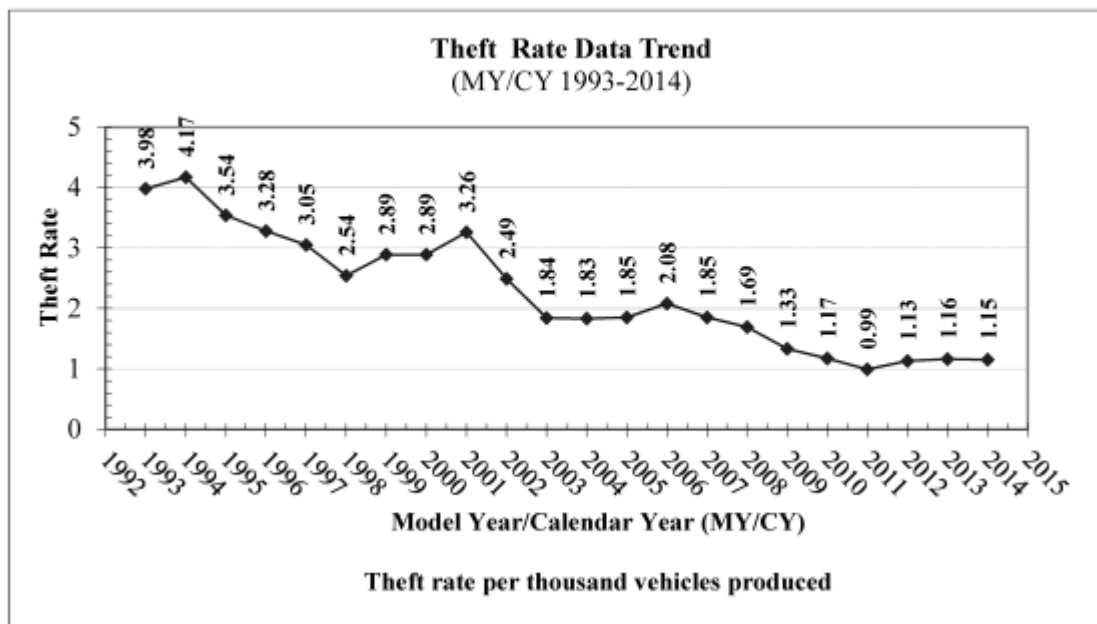
3 *Id.*

4 107. Although NHTSA has determined that engine immobilizers satisfy FMVSS
5 No. 114 and are entitled to PMR exemptions due to their efficacy, its regulations do not
6 explicitly call for their installations. That is because “[NHTSA] cannot mandate specific
7 technologies that motor vehicle manufacturers are to use to deter theft.” *See* 71 Fed. Reg.
8 17,752, 17,753. NHTSA noted that 49 U.S.C. 30102(9) of the Safety Act allows it to
9 promulgate performance safety standards for motor vehicles, but it does not allow it to
10 “specify the design of vehicles.” *Id.* NHTSA also noted that in addition to the installation
11 of immobilizers, manufacturers have sought to comply with FMVSS No. 114 by
12 installing hardened collars that shield the upper and lower casing of the steering column,
13 which “deter theft by increasing significantly the time required to disable the locking
14 mechanism for the ignition, steering wheel and automatic transmission gear selector.”
15

16 *Id.*

17 108. Since the introduction of engine immobilizers, the rate of auto thefts has
18 fallen dramatically. Below is a table published by NHTSA in 2017, detailing the theft
19 rate in the United States from 1993 through 2014:
20
21
22
23
24
25
26
27
28

Figure 1: Theft Rate Data Trend (MY/CY 1993-2014)



82 Fed. Reg. 28,246, 28247 (June 21, 2017).

109. In a 2013 NHTSA report regarding the drop in the vehicle theft rate from 1993 through 2011, NHTSA noted that it “*believes that the theft rate reduction is a result of several factors, including vehicle parts marking; the increased use of standard antitheft devices and other advances in electronic technology (i.e., immobilizers) and theft prevention methods*; increased and improved prosecution efforts by law enforcement organizations; and, increased public awareness which may have contributed to the overall reduction in vehicle thefts.” 78 Fed. Reg. 41,016, 41,017 (July 9, 2013).

110. The following table identifies each make and model that has received a PMR exemption for installing an immobilizer and/or other antitheft measure consistent with FMVSS, as of August 23, 2022:

Manufacturer	Subject lines
BMW	MINI, MINI Countryman (MPV), X1 (MPV), X1, X2 (MPV), X3 (MPV), X4 (MPV), X5 (MPV), Z4, 2 Series, ¹ 3 Series, 4 Series, 5 Series, 6 Series, 7 Series, 8 Series.
CHRYSLER	200, 300, Dodge Charger, Dodge Challenger, Dodge Dart, Dodge Journey, Fiat 500, Fiat 124 Spider, Jeep Cherokee, Jeep Compass, Jeep Grand Cherokee (MPV), Jeep Gladiator, ¹ Jeep Patriot, Jeep Wrangler/ Wrangler JK, ² Jeep Wrangler JL (new), Town and Country MPV.
FORD MOTOR CO	C-Max, EcoSport, Edge, Escape, Explorer, Fiesta, Focus, Fusion, Lincoln Corsair, ¹ Lincoln MKC, Lincoln MKX, Lincoln Nautilus, Mustang.
GENERAL MOTORS	Buick LaCrosse/Regal, Buick Encore, ¹ Buick Verano, Cadillac ATS, Cadillac CTS, Cadillac SRX, Cadillac XTS, Cadillac XT4, Chevrolet Bolt, Chevrolet Camaro, Chevrolet Corvette, Chevrolet Cruze, Chevrolet Equinox, Chevrolet Impala/Monte Carlo, Chevrolet Malibu, Chevrolet Sonic, Chevrolet Spark, Chevrolet Volt, GMC Terrain.
HONDA	Accord, Acura TLX, ¹ Acura MDX, Civic, CR-V, Passport, Pilot.
HYUNDAI	Azera, Equus, Genesis G70, ¹ Genesis G80, ³ IONIQ.
JAGUAR	F-Type, XE, XF, XJ, Land Rover Discovery Sport, Land Rover E-Pace, ¹ Land Rover F-Pace, Land Rover Range Rover Evoque, Land Rover Velar.
KIA	Niro, Stinger.
MASERATI	Ghibli, Levante (SUV), Quattroporte.
MAZDA	2, 3, 5, 6, CX-3, CX-5, CX-9, MX-5 Miata.
MERCEDES-BENZ	smart Line Chassis, smart USA fortwo, SL-Line Chassis (SL-Class), (the models within this line are): SL400/ SL450, SL550, SL 63/AMG, SL 65/AMG, SLK-Line Chassis (SLK-Class/SLC-Class), (the models within this line are): SLK 250, SLK 300, SLK 350, SLK 55 AMG, SLC 300 AMG, SLC 43, S-Line Chassis (S/CL/ S-Coupe Class/S-Class Cabriolet/Mercedes Maybach), (the models within this line are): S400 Hybrid, S550, S600, S63 AMG, S65 AMG, Mercedes-Maybach S560, Mercedes-Maybach S650, CL550, CL600, CL63 AMG, CL65 AMG, NGCC Chassis Line (CLA/GLA/B-Class/A-Class), (the models within this line are): A220, B250e, CLA250, CLA45 AMG, GLA250, GLA45 AMG, C-Line Chassis (C-Class/CLK/GLK-Class/ GLC-Class), (the models within this line are): C63 AMG, C240, C250, C300, C350, CLK 350, CLK 550, CLK 63AMG, GLK250, GLK350, E-Line Chassis (E-Class/CLS Class), (the models within this line are): E55, E63 AMG, E320 BLUETEC, E350 BLUETEC, E320/E320DT CDi, E350/E500/E550, E400 HYBRID, CLS400, CLS500/550, CLS55 AMG, CLS63 AMG.
MINI	Eclipse Cross, iMEV, Lancer, Outlander, Outlander Sport, Mirage.
NISSAN	Altima, Juke, Leaf, Maxima, Murano, NV200 Taxi, Pathfinder, Quest, Rogue, Kicks, Sentra, Infiniti Q70, Infiniti Q50/60, Infiniti QX50, Infiniti QX60, Versa. ¹
PORSCHE	911, Boxster/Cayman, Macan, Panamera, Taycan. ¹
SUBARU	Ascent, Forester, Impreza, Legacy, Outback, WRX, XV Crosstrek/Crosstrek. ⁴
TESLA	Model 3, Model S, Model X, Model Y. ¹
TOYOTA	Avalon, Camry, Corolla, C-HR, ¹ Highlander, Lexus ES, Lexus GS, Lexus LS, Lexus NX, Lexus RX, Prius, RAV4, Sienna.
VOLKSWAGEN	Atlas, Beetle, Eos, Jetta, Passat, Tiguan, Golf/Golf Sport wagen/eGolf/Alltrack, Audi A3, Audi A4, Audi A4Allroad MPV, Audi A6, Audi A8, Audi Q3, Audi Q5, Audi TT.
VOLVO	S60.

¹ Granted an exemption from the parts-marking requirements beginning with MY 2020.

² Jeep Wrangler (2009–2019) nameplate changed to Jeep Wrangler JK, JK discontinued after MY 2018.

³ Hyundai discontinued use of its parts-marking exemption for the Genesis vehicle line beginning with the 2010 model year, line was reintroduced as the Genesis G80.

⁴ Subaru XV Crosstrek nameplate changed to Crosstrek beginning with MY 2016.

87 Fed. Reg. 51,616 (Aug. 23, 2022).

111. As the table above reveals, nearly all of the best-selling cars in America (except for Hyundai and Kia vehicles) have received PMR exemptions, including Toyota Rav4, Honda CR-V, Toyota Camry, Nissan Rogue, Toyota Highlander, and the Honda Civic.⁴⁹ On information and belief, each of these vehicles received a PMR exemption based on the installation of an engine immobilizer.

112. Moreover, many of these vehicles are comparably priced to Hyundai and Kia

⁴⁹ <https://www.caranddriver.com/news/g36005989/best-selling-cars-2021/> (last accessed Aug. 26, 2022).

1 vehicles and directly compete for Plaintiffs' and the Class's purchases. For instance, the
2 MSRP for a 2021 Hyundai Elantra ranges from \$19,650 to \$28,100, and the MSRP for a
3 2021 Honda Civic, which includes an engine immobilizer, ranges from \$21,050 to
4 \$28,100.⁵⁰

5
6 **D. As a result of the Defect, Class Vehicles are stolen at an astronomical rate.**

7 113. As the DOT and DOJ found in 1968, amateur thieves stealing cars to go joy-
8 riding make up a significant portion of all auto thefts in America. Moreover, these thieves
9 are able to steal cars using simple means, such as hotwiring and removing the ignition
10 lock. That is why simple measures such as the installation of an immobilizer is so
11 effective at preventing the majority of auto thefts.

12 114. In the Fall of 2020, a group of teenagers from Milwaukee discovered the
13 Defect and began wreaking havoc across their city—and soon the entire United States.
14 In particular, these teenagers discovered that there are no alarms attached to the windows
15 in the Class Vehicles and the windows can easily be knocked off their frame. Once they
16 stealthily entered the vehicles, the thieves found that the steering column did not contain
17 adequate casing and could easily be pulled off. Next, the thieves discovered that the
18 ignition lock cylinder is easily removed with a screwdriver and minimal force, thereby
19 exposing the ignition switch, which remains intact. And in a truly modern take on car
20 theft, these thieves found that the ignition switch fits perfectly into the end of a USB
21 cable, which has become ubiquitous in vehicles today, and can start with a simple twist.
22 While the USB cable end is frequently used, any set of pliers works just as well. Once
23 the ignition switch is turned and the vehicle starts, the steering lock is disengaged.
24
25
26

27
28 ⁵⁰ <https://www.edmunds.com/hyundai/elantra/2021/> (last accessed Aug. 26, 2022).

1 115. The simple steps detailed above can be completed by a complete novice thief
2 in less than ninety seconds.⁵¹

3 116. Contrary to Defendants' statements concerning how they employ the latest
4 technology and safety features in their vehicles (*see supra* ¶¶ 64-74), the automotive
5 news website *The Drive* noted that the Defect allows thieves to "simply force the ignition
6 cylinder as if they were using a screwdriver to perform the same trick on a car from the
7 1980s."⁵²

8
9 117. In a February 3, 2021 *Milwaukee Journal-Sentinel* article, one repair shop
10 owner noted that "[w]e are seeing a rash of Kias, Hyundais, and Hondas, but mostly Kias.
11 Some late-model Kias from 2016 to 2020 are easy to steal, and young people have figured
12 that out[.]"⁵³ The business owner commented that "thieves know they can break the back
13 window without setting off an alarm, unlock the door, quickly peel back the steering
14 column, and either use a screwdriver or a USB port to crank the car and go." Another
15 body shop owner in Waukesha, Wisconsin noted that he is seeing multiple Kia and
16 Hyundai vehicles brought into his shop for repairs every week.⁵⁴ This mechanic too
17 commented that "[t]he thieves ... are quite consistent" in the manner in which they steal
18 and damage the vehicle. Further, due to the quantity and frequency in which Class
19 Vehicles are stolen, the parts necessary to repair the vehicles are "are all on backorder so
20 it's might take a few weeks" to complete a repair job that otherwise would take a couple
21
22

23
24 ⁵¹ See <https://www.tmj4.com/news/local-news/mpd-hyundai-and-kia-vehicles-too-easy-to-steal-leading-to-spike-in-car-thefts> (last accessed Aug. 26, 2022).

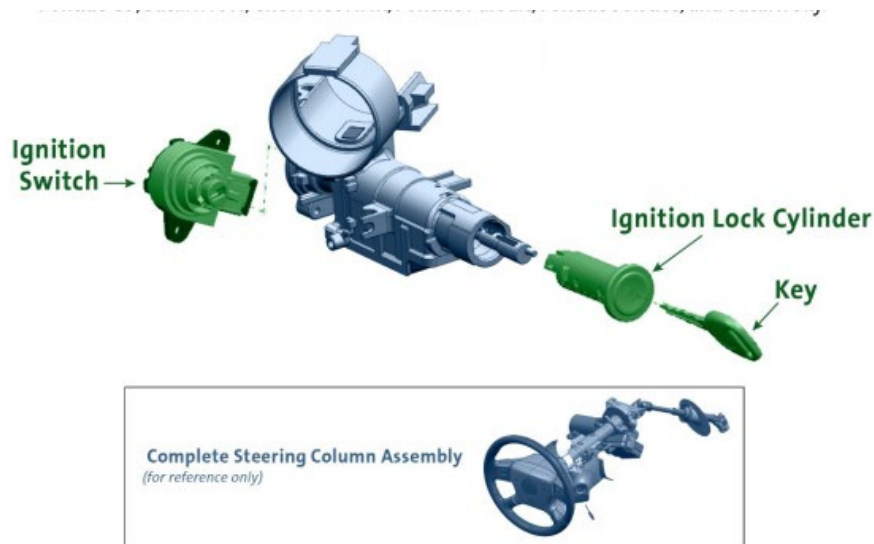
25 ⁵² <https://www.thedrive.com/news/how-thieves-are-stealing-hyundais-and-kias-with-just-a-usb-cable> (last accessed Aug. 26, 2022)

26 ⁵³ <https://www.jsonline.com/story/news/solutions/2021/02/03/motor-vehicle-thefts-up-152-milwaukee-so-far-2021/4266701001/> (last accessed Aug. 26, 2022)

27 ⁵⁴ <https://www.wisn.com/article/critics-question-design-of-kia-hyundai-vehicles-in-massive-theft-spike/36828234> (last accessed Aug. 26, 2022).
28

of days.

118. Below is a diagram of a steering column, including the ignition cylinder and ignition switch:



119. As the pictures below demonstrate, the steering column in the Class Vehicles are easily torn apart and allow thieves to take advantage of the Defect:



1 *Picture of an ignition switch exposed after the steering column is*
2 *exposed and ignition cylinder was forcefully removed.*



16 *Picture of ignition switch tip after ignition cylinder is removed.*



1 *Picture of USB cable attached to ignition starter and used as makeshift key.*

2
3 120. The thieves are easily able to identify the Class Vehicles because each
4 Hyundai and Kia vehicle sold with a traditional “insert-and-turn” key ignition systems,
5 as opposed to “push-to-start” ignition, contains the Defect. Notably, as explained below,
6 the vast majority of Hyundai and Kia vehicles are sold with a traditional “insert-and-
7 turn” key ignition system, making Class Vehicles very easy to identify. Criminals know
8 that Defendants install immobilizers in each “push-to-start” as a “Comfort, Convenience
9 & Technology” feature.⁵⁵
10

11 121. This group from Milwaukee called themselves the “Kia Boyz” and began to
12 post videos of their dangerous joy-rides on social media platforms, including TikTok.

13 122. When these thieves stole these cars, they often caused thousands of dollars
14 in damage to the vehicle, before abandoning them. If a Class Vehicle owner is lucky
15 enough to recover their vehicle, the first thing that must be done is repair the window
16 and steering column, which can exceed \$3,000.⁵⁶ But that is not the only expense a Class
17 Vehicle owner incurs after their vehicle is stolen. Because the vehicles are typically
18 stolen by amateurs going on reckless joy-rides, damage expenses frequently exceed
19 \$10,000.
20

21 123. Yet even after paying \$10,000 to repair their vehicles, the vehicles are no
22 more protected from the Defect than they were prior to being stolen. Indeed, repair shops
23 note that they frequently have the same vehicles brought into their shops due to the
24

25 ⁵⁵ See, e.g., <https://www.kiamedia.com/us/en/models/sportage/2020/features> (last
26 accessed Aug. 26, 2022).

27 ⁵⁶ See <https://www.jsonline.com/story/news/solutions/2021/02/03/motor-vehicle-thefts-up-152-milwaukee-so-far-2021/4266701001/> (last accessed Aug. 26,
28 2022).

1 Defect within months of repair jobs.

2 124. And because Class Vehicles are being stolen at such an alarming rate, HMA
3 and KA authorized dealers and independent repair shops have had difficulty acquiring
4 the parts needed to repair them, as there is a national backorder of up to eight weeks in
5 some cases.⁵⁷

6
7 125. One Class Vehicle owner reported that her vehicle was stolen three times in
8 2022 alone: “We would joke that lightning would not strike three times, but I just feel
9 super unlucky ... It actually spent like more than 30 days in repairs because 56, the shop
10 that I went to, had so many stolen KIAs that they couldn't get parts in time to fix mine.”⁵⁸

11 126. As word spread of the Defect, reports of Class Vehicle thefts skyrocketed.

12
13 127. In just the first six months of 2021, Hyundai thefts were up more than 1,700%
14 year-over-year in Milwaukee, while Kia thefts increased by almost 3,200%.⁵⁹ Moreover,
15 while Hyundai and Kia vehicles make up a relatively small percentage of vehicles sold
16 and found in Milwaukee in the first six months of 2021, 66% of all vehicles stolen in the
17 city were manufactured and sold by Defendants.⁶⁰

18
19 128. In July 2022, St. Louis reported 669 stolen Hyundai and vehicles for the first
20 six as of June 30, 2022, compared to 137 vehicles over same period in 2021, an increase
21 of 388%. In the month of July alone, the city reported 78 Hyundai and 68 Kia vehicles
22 as stolen.

23
24 ⁵⁷ <https://www.jsonline.com/story/news/solutions/2021/02/03/motor-vehicle-thefts-up-152-milwaukee-so-far-2021/4266701001/> (last accessed Aug. 26, 2022).

25 ⁵⁸ <https://www.fox35orlando.com/news/kia-hyundai-car-thefts-florida-police-seeing-increase-in-vehicle-thefts-of-older-models> (last accessed Aug. 26, 2022).

26 ⁵⁹ <https://www.kbb.com/car-news/milwaukee-police-report-hyundais-kias-stolen-in-record-numbers/> (last accessed Aug. 26, 2022).

27 ⁶⁰ <https://www.wsj.com/articles/too-easy-to-steal-in-milwaukee-car-theft-kia-hyundai-city-council-11642720288> (last accessed Aug. 26, 2022).

1 129. St. Paul, Minnesota reported that as of June 30, 2022, there were 256 thefts
2 involving Kia vehicles, as compared to 18 thefts in the first six months of 2021, a
3 staggering 1,300% increase.⁶¹ And Hyundai thefts increased from 31 reports to 212 over
4 the same period, an increase of nearly 600%.

5
6 130. St. Petersburg, Florida Police reported that 41% of vehicles stolen in
7 approximately the first six months of 2022 were Hyundai and Kia vehicles.⁶² A detective
8 in the police department explained the dramatic percentage of Class Vehicles stolen:
9 “What the thieves are doing is they’re defeating the steering column, and they’re able to
10 override the ignition mechanism, allowing them to steal the vehicle much more easily
11 and without a key or a key fob[.]”⁶³ The detective added that the widespread knowledge
12 of the Defect has “trickled its way down south, and it seems that it’s like wildfire. It’s
13 burning through all the states now[.]”
14

15 131. In Columbus, Ohio, a total of 4,013 vehicles had been reported stolen to
16 Columbus police, of which over 38% were either Kia or Hyundai vehicles.⁶⁴ In
17 comparison, in 2021, before knowledge of the Defect became widespread in Columbus,
18 Hyundai and Kia vehicles accounted for approximately 10% of stolen vehicle in the city.
19

20 132. In Cook County, Illinois, 642 Kia and Hyundai vehicles were reported stolen
21 from July 1, 2022, to August 10, 2022, as compared to 74 Kia and Hyundai vehicles
22

23 ⁶¹ [https://www.fox9.com/news/minneapolis-woman-had-kias-targeted-three-](https://www.fox9.com/news/minneapolis-woman-had-kias-targeted-three-times-in-six-months)
24 [times-in-six-months](https://www.fox9.com/news/minneapolis-woman-had-kias-targeted-three-times-in-six-months) (last accessed Aug. 26, 2022).

25 ⁶² [https://www.abcactionnews.com/news/region-pinellas/st-pete-police-warn-](https://www.abcactionnews.com/news/region-pinellas/st-pete-police-warn-about-troubling-car-theft-trend-targeting-kia-hyundai-cars)
26 [about-troubling-car-theft-trend-targeting-kia-hyundai-cars](https://www.abcactionnews.com/news/region-pinellas/st-pete-police-warn-about-troubling-car-theft-trend-targeting-kia-hyundai-cars) (last accessed Aug. 26,
27 2022).

27 ⁶³ *Id.*

28 ⁶⁴ [https://www.dispatch.com/story/news/2022/07/11/kia-and-hyundai-cars-being-](https://www.dispatch.com/story/news/2022/07/11/kia-and-hyundai-cars-being-stolen-higher-rates-columbus/7813529001/)
[stolen-higher-rates-columbus/7813529001/](https://www.dispatch.com/story/news/2022/07/11/kia-and-hyundai-cars-being-stolen-higher-rates-columbus/7813529001/) (last accessed Aug. 26, 2022).

1 stolen over the same period in 2021, an increase of 767%.⁶⁵

2 133. Seattle reported a year-over-year increase of 720% in Kia thefts for July
3 2022.⁶⁶ Omaha, Nebraska reported a year-over-year increase of 80% in Class Vehicle
4 thefts in 2022.⁶⁷ In Denver, approximately 33% of all stolen vehicles are Hyundai or Kia
5 branded.⁶⁸

6
7 134. The safety risk created by the Defect could not be more serious. In fact, there
8 have already been reports of fatalities involving Class Vehicles taken for joy rides,
9 including the death of a 70-year-old bystander.⁶⁹ In another incident, a 16-year-old boy
10 was killed after the Class Vehicle he stole was involved in a head-on crash following a
11 police chase.⁷⁰ Of his two 12-year-old passengers, one was in critical condition when
12 taken to a hospital; the other suffered two broken legs.

13
14 135. A police commander in Columbus, Ohio noted that, in addition to bystanders,
15 police officers “are being put at risk to chase these cars down and stop this from
16
17
18

19 ⁶⁵ <https://www.cbsnews.com/chicago/news/thefts-of-kias-and-hyundais-are-skyrocketing-up-767-this-summer-in-cook-county/> (last accessed Aug. 26, 2022).

20 ⁶⁶ <https://spdblotter.seattle.gov/2022/08/15/warning-to-kia-drivers-recent-spike-in-thefts-may-be-tied-to-tiktok-videos/> (last accessed Aug. 26, 2022).

21 ⁶⁷ https://omaha.com/news/local/crime-and-courts/omaha-police-link-increase-of-kia-hyundai-thefts-to-social-media-trend/article_1390835a-0eb3-11ed-94f0-47493c6cff0e.html#:~:text=Omaha%20police%20have%20seen%20an%20increase%20in%20the,young%20thieves%20driving%20stolen%20vehicles%2C%20police%20said%20Thursday. (last accessed Aug. 26, 2022).

22 ⁶⁸ <https://www.imfromdenver.com/why-are-denver-thieves-going-after-hyundais-and-kias/> (last accessed Aug. 26, 2022).

23 ⁶⁹ <https://www.fox9.com/news/minneapolis-woman-had-kias-targeted-three-times-in-six-months> (last accessed Aug. 26, 2022).

24 ⁷⁰ <https://www.wisn.com/article/teen-car-theft-suspect-killed-in-head-on-crash-5-others-injured/36741640> (last accessed Aug. 26, 2022).

happening[.]”⁷¹

E. Defendants knowingly manufactured and sold millions of Class Vehicles that are easily stolen in less than ninety seconds.

136. After considerable public outcry and scrutiny, in 2022, Defendants acknowledged that their vehicles contain the Defect, and therefore, are easily stolen. But as detailed below, Defendants have known of the Defect long before they sold the first Class Vehicle.

137. On information and belief, each Defendant was aware of the Defect and the safety risk it posed to Class Vehicle owners (as well as bystanders), through the following sources, including, but not limited to: (1) each Defendant’s pre-sale testing and part sales; (2) each Defendant’s own records of customer complaints; (3) dealership repair records; (4) warranty and post-warranty claims; (5) HMA’s U.S. Technical Committee responsible for safety recalls; and (6) each Defendant’s post sale monitoring of Class Vehicles for safety defects.

138. HMC states that it conducts “preemptive quality and safety measures from the vehicle development stage” and is able to “prevent[] any significant problems afterward through early detection, early improvement and early after-sales actions.”⁷² HMC further states that it “constantly monitors customer complaints and voluntarily recalls all the relevant vehicles to protect customers as soon as manufacturing defects assessed as highly likely to cause accidents are identified.”

⁷¹ <https://www.dispatch.com/story/news/2022/07/11/kia-and-hyundai-cars-being-stolen-higher-rates-columbus/7813529001/> (last accessed Aug. 26, 2022).

⁷² <https://www.hyundai.com/content/dam/hyundai/ww/en/images/company/sustainability/about-sustainability/hmc-2022-sustainability-report-social-en.pdf> (last accessed August 24, 2022).

1 139. HMC, HMA, KA, and KC are experienced in the design and manufacture of
 2 consumer vehicles. As experienced manufacturers, Defendants conduct pre-sale tests to
 3 verify the parts are free from defects and align with their specifications.

4 140. KC conducts expansive presale testing on its vehicles to make sure they
 5 “endure over a long time without fault.”⁷³ KC states that it conducts “performance and
 6 durability tests” on “all Kia vehicles sold in the U.S” at the California Proving Ground.⁷⁴
 7

8 141. HMC and HMA similarly conduct extensive safety testing on their vehicles.
 9 Like Kia, HMA touts that its cars are tested in order to ensure that the cars are
 10 roadworthy.⁷⁵
 11

12 142. HMA claims that its staff “hand check nuts, bolts, cables, wiring and power
 13 components before any Hyundai leaves the plant. Then every vehicle is road tested to
 14 eliminate squeaks and rattles that can’t be detected on the factory floor.”⁷⁶ Further, HMA
 15 states that it has “250 robots, equipped with optical sensors far more sensitive than the
 16 human eye, [that] inspect[] every vehicle for quality welds and proper fit. This ensures
 17 tight seams and seals, as well as perfect alignment.”
 18

19 143. HMC touts its robust Product Quality Management systems, “based on its
 20 “quality philosophy of ‘producing defect-free vehicles that will never break down’
 21

22 ⁷³ <https://www.kia.com/fj/experience/innovation-story/performance.Kappa.html>
 (last accessed Aug. 29, 2022).

23 ⁷⁴ KC 2017 Annual Report, p.58, *available at*
 24 <https://worldwide.kia.com/int/company/ir/archive/annual-report> (last accessed Aug. 26,
 2022).

25 ⁷⁵ [https://www.auto-](https://www.auto-brochures.com/makes/Hyundai/Entourage/Hyundai_US%20Entourage_2008.pdf)
 26 [brochures.com/makes/Hyundai/Entourage/Hyundai_US%20Entourage_2008.pdf](https://www.auto-brochures.com/makes/Hyundai/Entourage/Hyundai_US%20Entourage_2008.pdf) (last
 accessed Aug. 26, 2022).

27 ⁷⁶ [https://www.auto-](https://www.auto-brochures.com/makes/Hyundai/Entourage/Hyundai_US%20Entourage_2008.pdf)
 28 [brochures.com/makes/Hyundai/Entourage/Hyundai_US%20Entourage_2008.pdf](https://www.auto-brochures.com/makes/Hyundai/Entourage/Hyundai_US%20Entourage_2008.pdf) (last
 accessed Aug. 26, 2022).

backed by cutting-edge safety technologies.”⁷⁷

Establishing Quality Management System Hyundai seeks to create “customer safety” values by securing leading quality standards in the global market and strengthening quality management through technical preventive quality activities, among other initiatives. We have established a company-wide integrated quality management system to satisfy customers’ diverse quality and safety requirements,

Quality Management Standards and Techniques Hyundai has introduced and applied quality management techniques to strengthen its market competitiveness on the basis of “defect-free quality”. Our quality management techniques, aimed at providing customers with vehicles of the very highest quality in all fields, such as R&D, production, sales, and services, are supported by the best experts in each field (Man); optimal equipment (Machine); the best parts (Material); the best method (Method); thorough verification (Measurement); and commitment to defect free quality (Moral). We also make continuous efforts to upgrade quality management standards and criteria based on the data collected and analyzed in quality risk management processes, such as quality checks, case studies, and improvements.

Preemptive Management of Quality Risks From the early design stage of new vehicle development, Hyundai preemptively inspects and manages parts suppliers as well as its own production process quality. Based on product drawings, we conduct a comprehensive review of parts in terms of functions, structures, reliability, and durability, while carefully analyzing our own processes and those of suppliers before issuing the final approval, thereby eliminating quality risks throughout production processes in advance. In addition to our own verification of test vehicles, Hyundai relies on the test drive opinions of customers and professional quality organizations to identify major issues and carry out improvement activities in parallel. *Moreover, Hyundai holds quality inspection meetings on regular basis, and in particular, on the verge of new car models’ mass production, reports the*

⁷⁷

<https://www.hyundai.com/content/dam/hyundai/ww/en/images/company/sustainability/about-sustainability/hmc-2022-sustainability-report-social-en.pdf> (last accessed Aug. 26, 2022).

1 *quality risk assessment results and taken measures to the highest level of*
 2 *management.*

3 **Quality Risk Assessment – Identification and Improvement** Hyundai has
 4 established a control tower devoted to the management of vehicle quality risks
 5 in the production process. *Whenever a quality risk is detected from*
 6 *information acquired through statistical process control, periodic*
 7 *inspections, and shipment pass rates, the control tower takes the lead in*
 8 *conducting joint investigations and taking the necessary countermeasures.*
 9 Also, in order to prevent quality risks from occurring in the vehicle production
 process, we take thorough preventive measures, such as process management
 by suppliers, assessment of quality prevention activities, validation of quality
 inspection equipment, and reliability testing of parts.

10 **Quality Mindset Campaign** Hyundai is carrying out the “Quality Mindset
 11 Campaign” with the purpose of spreading a quality culture throughout its
 12 entire car development, production *and sales processes*, while its employees
 13 internalize the quality first mindset. *The campaign serves as an opportunity*
 14 *for the company to listen directly to voice of customers (VOCs)* on quality
 15 issues through various initiatives including “Customers’ Quality Diagnosis
 16 and Employees’ Input”, “Meetings between Customers and Employees”, and
 17 “On-site Meetings between Customers and Production Quality Officers.”
 18 Based on the VOC, Hyundai is conducting the New Vehicle Quality
 Assurance Program, among others, as a way to deliver products of perfect
 quality to its customers. We will continue to promote various quality
 improvement activities by promoting close communication with customers
 and their active participation.

19 **Strengthening Quality Verification Capabilities** Hyundai provides annual
 20 training on the roles and major tasks involved in securing its pre-
 21 manufacturing quality, manufacturing quality, and *market quality as a way to*
 22 *strengthen the verification capability of its overall quality value chain.* To
 23 maximize the effectiveness of verification through enhanced verification
 24 capacity, each course includes not only basic theoretical education but also
 25 practical and experience-oriented education if necessary. In addition, we offer
 26 expert courses on quality verification in collaboration with external
 27 educational institutions to verify new technologies following the transition to
 28 electrification and to strengthen the verification of quality issues from the
 customer's point of view.

Quality Assurance and Management Hyundai strives to enhance its quality

1 assurance and management for the safety and protection of customers *after*
 2 *product sales* as well as quality management from vehicle development to
 3 production, thereby ensuring safety of customers and happiness of their
 4 families. In addition, we take quality improvement measures aimed at
 5 boosting customer satisfaction by identifying customers' specific complaints,
 while continuously reinforcing maintainability by evaluating the consistency
 of maintenance services and improving diagnosis methods, among others.

6
 7 144. As part of a 2014 Consent Decree entered into by HMA and HATCI with
 8 NHTSA, HMA "commit[ed] and agree[ed] to ... [make] corporate organizational and
 9 process improvements" including the creation of a U.S. Technical Committee to review
 10 and make decisions regarding potential safety recalls. The head of the U.S. Technical
 11 Committee was also granted "direct access to the board of directors and the Chief
 12 Executive Officer ('CEO') of [HMA]." ⁷⁸

13
 14 145. Defendants were also made aware of the Defect and had knowledge of its
 15 potential dangers based on its specific knowledge concerning the theft rate for their
 16 vehicles, as well as their specific knowledge concerning engine immobilizers.

17
 18 146. As an initial matter, HMC and KC sell the very same Class Vehicles
 19 overseas, with one major difference: vehicles sold in Europe (since 1998), Australia
 20 (since 2001) and Canada (since 2007) have engine immobilizers.

21
 22 147. For example, in the 2020 Kia Sportage Owners Manual for Canada, Kia notes
 23 that the "vehicle is equipped with an electronic engine immobilizer system to reduce the
 risk of unauthorized vehicle use." ⁷⁹

24 148. Second, Defendants have touted the benefits of immobilizers when seeking

25
 26 ⁷⁸ <https://www.nhtsa.gov/sites/nhtsa.gov/files/2021-11/TQ14-002-Hyundai-Consent-Order-8-7-2014-tag.pdf> (last accessed Aug. 26, 2022)

27 ⁷⁹ See, e.g., <https://www.destinationkia.com/blogs/1016/wp-content/uploads/2019/07/2020-Kia-Sportage-Owners-Manual.pdf> (last accessed Aug.
 28 29, 2022).

1 PMR exemptions for their high-end vehicles.

2 149. On March 2, 2007, HATCI, acting on behalf of HMA, petitioned NHTSA
3 for a PMR exemption for the Hyundai Azera vehicle line beginning with model year
4 (MY) 2008. *See* 72 Fed. Reg. 39,661 (July 19, 2007). In that petition, Hyundai stated that
5 it “will install its passive antitheft device as standard equipment on the vehicle line.
6 Features of the antitheft device will include a passive immobilizer consisting of an EMS
7 (engine control unit), SMARTRA (immobilizer unit), an antenna coil and transponder
8 ignition keys.” This form of immobilizer was transponder based, which was first
9 introduced in 1996, and already standard in Defendants’ competitors’ vehicles. *See supra*
10 ¶¶ 99-100. The petition specifically notes that Hyundai “believes that the GM Pass-Key
11 and Ford Securilock devices contain components that are functionally and operationally
12 similar to its device,” which have been shown in theft data from the National Crime
13 Information Center to produce “a clear reduction in vehicle thefts after the introduction
14 of the GM and Ford devices.” *Id.*

15 150. On October 22, 2007, HATCI, on behalf of Hyundai, submitted a petition for
16 PMR exemption for its luxury Hyundai Genesis vehicle line beginning with MY 2009.
17 73 Fed. Reg. 4,304 (Jan. 24, 2008). That same day, HATCI submitted a PMR exemption
18 petition on behalf of KMC for its luxury Kia Amanti vehicle line beginning with MY
19 2009. 75 Fed. Reg. 1,447 (Jan. 11, 2010).

20 151. Like the Azera petition, HATCI stated that Defendants would install a
21 passive immobilizer consisting of an EMS (engine control unit), SMARTRA 3
22 (immobilizer unit), an antenna coil and transponder ignition keys standard in the vehicle
23 lines. *Id.* In both petitions, HATCI again touted the success of immobilizers in GM and
24 Ford vehicles in reducing auto thefts. *Id.*

1 152. In a petition filed by Hyundai in 2009 for its VI vehicle line, beginning with
2 MY 2011, Hyundai stated it will “install its passive Smart-key Immobilizer device and
3 alarm system (audible and visual) on the VI vehicle line as standard equipment.” 75 Fed.
4 Reg. 6,253 (Feb. 8. 2010). In support of its petition, Hyundai relied on an “April 2006
5 report by JP Research, Inc., which concluded that antitheft devices were consistently
6 much more effective in reducing thefts when compared to parts marking.”
7

8 153. In particular, the cited JP Research report found that vehicle lines containing
9 antitheft devices “were 70% more effective than parts marking in deterring theft.”
10 Hyundai’s petition also relied on theft data from other manufacturer’s vehicle lines
11 (Lincoln Town Car, Chrysler Town and Country, Mazda MX–5 Miata and Mazda 3) that
12 have been exempted from the theft prevention standard. Hyundai noted that “[t]heft rates
13 for the Lincoln Town Car, Chrysler Town and Country, Mazda MX–5 Miata and Mazda
14 3 all are below the median theft rate of 3.5826.” Further, Hyundai touted the success of
15 its immobilizers in its Azera model, stating:
16

17
18 Hyundai also compared the theft rates for its Azera model which has been
19 installed with an antitheft device as standard equipment since (MY 2006) and
20 was granted an exemption from the theft prevention standard in MY 2008 to
21 the overall theft rate reported by NHTSA for model years (MYs’) 2006 and
22 2007. The theft rate for the MY 2006 Hyundai Azera was 0.7758 which was
23 comparatively lower than the overall theft rate of 2.08 for MY 2006. The theft
24 rate for the MY 2007 Azera was 1.8003, also comparatively lower than the
overall theft rate of 1.86 for MY 2007. ***Conclusively, Hyundai stated that it
believes the data indicate that installation of antitheft devices are effective
in reducing thefts.***

25 154. On September 8, 2016, and January 22, 2017, HATCI, on behalf of HMA
26 and KA, respectively, submitted PMR exemption petitions for two hybrid electric vehicle
27 lines, the MY 2017 Hyundai Ioniq and the MY 2018 Kia Niro. *See* 82 Fed. Reg. 22,051,
28

1 22,048 (May 11, 2017) 82 Fed. Reg. 22,048 (May 11, 2017). As part of these petitions,
2 HATCI again touted the JP Research Report’s conclusion that antitheft devices “were
3 70% more effective than parts marking in deterring theft.”

4 155. Defendants thus were keenly aware of the disparate risk created by their
5 decision not to install immobilizers in the Class Vehicles.
6

7 156. In addition to the research cited in Defendants’ PMR petitions, publicly
8 available information concerning vehicle thefts in the United States over the last decade
9 notified Defendants as to the extent of the issue created by the Defect.

10 157. Every year since 2007, the National Insurance Crime Bureau (“NICB”)
11 publishes its “Hot Wheels” report that identifies the most stolen vehicles in the United
12 States.⁸⁰ The report examines vehicle theft data submitted by law enforcement to the
13 NCIC and determines the vehicle make, model and model year most reported stolen each
14 year. In fact, the NCIC data relied on by the NICB was utilized by Defendants when
15 seeking PMR exemptions. *See* 72 Fed. Reg. 39,661.
16

17 158. Hyundai and Kia Class Vehicles first made the cut in a Hot Wheels report in
18 2013, when the 2013 Hyundai Elantra was listed as the sixth most stolen new car in
19 2013.⁸¹ The 2013 Elantra did not, however, make the list of top-10 best selling vehicles
20 that year.⁸² Accordingly, the 2013 Elantra was stolen at a disproportionate rate.
21

22 159. The NICB noted in the 2013 report that a reduction in vehicle thefts requires,
23 *inter alia*, “Immobilizing Device: Generally speaking, if your vehicle can’t be started, it
24

25 ⁸⁰ *See* [https://www.nicb.org/news/blog/hot-wheels-americas-10-most-stolen-](https://www.nicb.org/news/blog/hot-wheels-americas-10-most-stolen-vehicles)
26 [vehicles](https://www.nicb.org/news/blog/hot-wheels-americas-10-most-stolen-vehicles) (last accessed Aug. 26, 2022).

27 ⁸¹ <https://www.nicb.org/sites/files/2017-10/2013-Hot-Wheels-Report.pdf> (last
28 accessed Aug. 29, 2022).

⁸² [https://www.edmunds.com/car-reviews/top-10/top-10-best-selling-vehicles-](https://www.edmunds.com/car-reviews/top-10/top-10-best-selling-vehicles-for-2013.html)
for-2013.html (last accessed Aug. 29, 2022).

1 can't be stolen. 'Kill' switches, fuel cut-offs and smart keys are among the devices that
2 are extremely effective."

3 160. As detailed above (*see supra* ¶¶ 60-61), beginning around 2010, Hyundai
4 and Kia started to increase the number of vehicles sold in the U.S.—built upon their
5 marketing campaigns concerning the safety and reliability of their vehicles.
6

7 161. Coinciding with the growth in sales of Hyundai and Kia vehicles and the
8 prevalence of Class Vehicles on U.S. streets, more and more of Defendants' vehicles
9 began to appear in the Hot Wheels reports.

10 162. The 2015 Hot Wheels report named the 2015 Hyundai Sonata as the seventh
11 most stolen new vehicle that year, the 2013 Hyundai Sonata was identified as the tenth
12 most stolen vehicle in Maryland, and the 2015 Hyundai Elantra made the list as the third
13 most stolen vehicle in Vermont.⁸³
14

15 163. The 2016 Hot Wheels report named the 2016 Hyundai Hyundai Sonata the
16 sixth most stolen new car in the United States, followed by the 2016 Hyundai Elantra in
17 eighth place.⁸⁴ Additionally, the 2011 Sonata was the eighth most stolen vehicle in
18 Delaware, the 2016 Hyundai Sonata was the eighth most stolen vehicle in Florida, the
19 2013 Hyundai Sonata was the seventh most stolen vehicle in Maryland, and the 2014
20 Hyundai Sonata was the ninth most stolen vehicle in Rhode Island.
21

22 164. The 2017 Hot Wheels report identified the 2017 Hyundai Elantra as the
23 fourth most stolen new car in the United States and the 2017 Hyundai Sonata as the tenth
24
25

26 ⁸³ <https://www.nicb.org/sites/files/2017-11/2015-Hot-Wheels-Report.pdf> (last
27 accessed Aug. 29, 2022)

28 ⁸⁴ <https://www.nicb.org/sites/files/2017-11/2016-Hot-Wheels-Report.pdf> (last
accessed Aug. 29, 2022).

1 most stolen new car.⁸⁵ Defendants fared no better in the state report: the 2011 Sonata was
2 the ninth most stolen vehicle in Connecticut; the 2013 Sonata and 2016 Elantra were
3 fourth and sixth, respectively, on Delaware's most stolen cars list; the 2016 Sonata
4 checked in at No. 6 on Washington D.C.'s most stolen cars list; the 2016 Sonata and
5 2017 Elantra were eighth and tenth, respectively, on Florida's most stolen cars list; the
6 2013 Elantra was the eighth most stolen car in Maine; the 2013 Sonata was the seventh
7 most stolen car in Maryland; the 2017 Hyundai Sonata was the eighth most stolen car in
8 New York; the 2013 Hyundai Sonata was the ninth most stolen car in North Carolina;
9 and the 2013 Hyundai Sonata was the eighth most stolen car in Virginia.
10

11 165. Defendants were also frequently named in the 2018 Hot Wheels report,
12 including: the 2018 Hyundai Elantra as the sixth most stolen new vehicle in the country;
13 the 2011 Hyundai Sonata and 2015 Hyundai Elantra were seventh and ninth,
14 respectively, on Washington D.C.'s most stolen cars list; the 2013 Hyundai Sonata and
15 2017 Hyundai Elantra were eighth and tenth on Florida's list; the 2013 Hyundai Sonata
16 and the 2017 Hyundai Accent were sixth and ninth, respectively, on Maine's list; the
17 2013 Hyundai Sonata and 2018 Hyundai Elantra were ninth and tenth, respectively, on
18 Maryland's list; the 2018 Hyundai Elantra was the tenth most stolen car in Nevada; the
19 2017 Hyundai Sonata was the third most stolen car in New Mexico; the 2011 Hyundai
20 Sonata was the eighth most stolen car in North Carolina; the 2017 Hyundai Sonata was
21 the seventh most stolen car in Rhode Island; the 2013 Hyundai Sonata was the tenth most
22 stolen car in Virginia; and the 2015 Kia was the sixth most stolen car in New Mexico.⁸⁶
23
24
25

26 ⁸⁵ <https://www.nicb.org/sites/files/2019-06/HotWheelsReleaseFINAL18WEB.pdf> (last accessed Aug. 29, 2022).

27 ⁸⁶ <https://www.nicb.org/sites/files/2020-01/2018%20Hot%20Wheels%20Report.pdf> (last accessed Aug. 29, 2022).
28

1 166. In the 2019 Hot Wheels report, Defendants earned the following distinctions:
 2 the 2011 Hyundai Sonata was named the eighth most stolen vehicle in Connecticut; the
 3 2013 Hyundai Sonata was named fifth most stolen vehicle in Delaware; the 2015
 4 Hyundai Sonata was named tenth most stolen vehicle in the District of Columbia; the
 5 2013 Hyundai Sonata was named eighth most stolen vehicle in Florida, followed by the
 6 2017 Hyundai Elantra in ninth place in the state; the 2017 Hyundai Elantra was named
 7 eighth most stolen vehicle in Maryland, followed by the 2013 Hyundai Sonata in ninth
 8 place in the state; the 2014 Hyundai Elantra was named the eighth most stolen vehicle in
 9 New Hampshire; the 2015 Hyundai Sonata was named third most stolen vehicle in New
 10 Mexico, followed by 2015 Kia Optima in fifth, and the 2013 Hyundai Elantra in eighth;
 11 the 2011 Hyundai Sonata was identified as the tenth most stolen vehicle in North
 12 Carolina; and the 20018 Hyundai Elantra was the sixth most stolen vehicle in
 13 Wyoming.⁸⁷

16 167. The 2020 Hot Wheels report begins to reveal the explosion in public
 17 knowledge of the Defect.⁸⁸ In particular, the report identifies the following Class
 18 Vehicles: the 2017/2016 Hyundai Sonata and the 2015 Kia Optima as the eighth and
 19 tenth, respectively, as the most stolen vehicles in Colorado; the 2015 Hyundai Sonata
 20 was the ninth most stolen vehicle in Connecticut; the 2012 Hyundai Sonata was the tenth
 21 most stolen vehicle in Delaware; the 2011 Hyundai Sonata was the sixth most stolen
 22 vehicle in Washington D.C., while the 2018 Hyundai Elantra was the eighth most stolen
 23 vehicle in the District; the 2011 Hyundai Sonata was the ninth most stolen vehicle in
 24

26 ⁸⁷ https://www.nicb.org/sites/files/2020-10/2019_State_Top10Report_01wTT.pdf (last accessed Aug. 29, 2022).

27 ⁸⁸ <https://www.nicb.org/news/news-releases/nicb-releases-annual-hot-wheels-report-americas-top-ten-most-stolen-vehicles> (last accessed Aug. 29, 2022).

1 Florida; the 2013 Hyundai Sonata and 2017 Hyundai Elantra were seventh and ninth,
2 respectively, for Maryland; the 2019 Hyundai Elantra was the tenth most stolen car in
3 Massachusetts; the 2019 Kia Forte was the ninth most stolen car in New Hampshire; the
4 2013 Hyundai Elantra, 2015 Hyundai Sonata, and 2015 Kia Optima were the third, fifth,
5 and seventh, respectively, most stolen cars in New Mexico; the 2019 Hyundai Elantra
6 was the ninth most stolen car in Pennsylvania; the 2013 Hyundai Accent was third, the
7 2019 Kia Rio was fourth, the 2019 Kia Soul was fifth, the 2017 Hyundai Tucson was
8 seventh, and the 2017 Hyundai Elantra was the eighth most stolen cars in Puerto Rico;
9 the 2019 Hyundai Elantra was the seventh most stolen vehicle in Rhode Island; the 2013
10 Hyundai Elantra and 2013 Hyundai Sonata were the eighth and tenth, respectively, most
11 stolen vehicles in Virginia; and the 2011 Hyundai Sonata was the seventh most stolen
12 vehicle in Wisconsin.

15 168. As expected, Defendants made a dominant showing on the 2021 Hot Wheels
16 report: the 2017 Hyundai Sonata was fifth in Colorado, followed by the 2015 Kia Optima
17 in sixth and the 2017 Kia Sportage in ninth; the 2015 Kia Optima was the tenth most
18 stolen vehicle in California; the 2020 Hyundai Elantra was tenth on Connecticut's list;
19 the 2013 Hyundai Sonata was sixth for Delaware, followed by the 2013 Hyundai Elantra;
20 the 2018 Hyundai Elantra and 2011 Hyundai Sonata were seventh and eighth,
21 respectively, for the District of Columbia; the 2017 Hyundai Elantra and 2015 Hyundai
22 Sonata were eighth and tenth, respectively, for Maryland; the 2015 Hyundai Sonata, 2018
23 Hyundai Elantra, and 2015 Kia Optima were named fourth, sixth, and seventh,
24 respectively, for New Mexico; the 2013 Hyundai Sonata was ninth for North Carolina;
25 the 2020 Hyundai Elantra and 2011 Hyundai Sonata were eighth and tenth, respectively,
26 in Pennsylvania; the 2017 Hyundai Tucson was third in Puerto Rico, followed by the
27
28

2018 Kia Soul in fourth, the 2019 Hyundai Accent in sixth, the 2019 Kia Rio in seventh, 2020 Kia Sedona in eighth, and the 2019 Kia Forte in tenth; the 2013/2011 Hyundai Sonata was tenth for Rhode Island; the 2013 Hyundai Elantra was tenth in West Virginia; and the 2021/2016 Kia Forte was tenth in Vermont.⁸⁹

169. Finally, the 2021 Hot Wheels report for Wisconsin provides a dark picture for Class Vehicle owners and does not bode well for the rest of the nation in 2022. In Wisconsin, Hyundai and Kia vehicles took the first seven spots for the most stolen vehicles in the state, far exceeding its competitors:

Wisconsin	1	Hyundai Elantra	2017	1,006
Wisconsin	2	Hyundai Sonata	2015	898
Wisconsin	3	Kia Motors Corporation Optima	2019	627
Wisconsin	4	Kia Motors Corporation Forte	2019	569
Wisconsin	5	Kia Motors Corporation Sportage	2020	512
Wisconsin	6	Hyundai Tucson	2018	374
Wisconsin	7	Kia Motors Corporation Soul	2020	367
Wisconsin	8	Honda Civic	2000	347
Wisconsin	9	Chevrolet Pick-Up (Full Size)	2007	266
Wisconsin	10	Honda Accord	1997	263

170. On information and belief, Defendants monitored the Hot Wheel reports, as well as the underlying NCIC data, and thus were actively or constructively aware of this rise in the thefts of the Class Vehicles.

171. On information and belief, KA's and HMA's customer relations divisions regularly receive and respond directly to customer calls concerning, *inter alia*, product defects. Through these sources, Defendants were made aware of the Defect and had knowledge of its potential danger.

172. On information and belief, HMA and KA's customer relations departments,

⁸⁹ <https://www.nicb.org/news/news-releases/chevrolet-and-ford-full-size-pick-ups-most-stolen-vehicles-second-year-row> (last accessed Aug. 29, 2022); https://www.nicb.org/sites/files/2022-07/Hot%20Wheels_Top%2010%20By%20State.pdf (last accessed Aug. 29, 2022).

1 which interact with authorized service technicians in order to identify potentially
2 widespread vehicle problems and assist in the diagnosis of vehicle issues, have received
3 numerous reports of the Defect, including the design flaws related to the windows,
4 steering column casing, ignition cylinder and switch, and lack of engine immobilizer in
5 Class Vehicles. Customer relations also collects and analyzes field data including, but
6 not limited to, repair requests made at dealerships and service centers, technical reports
7 prepared by engineers that have reviewed vehicles for which warranty coverage is
8 requested, parts sales reports, and warranty claims data.
9

10 173. Defendants' warranty departments similarly review and analyze warranty
11 data submitted by their dealerships and authorized technicians in order to identify defect
12 trends in their vehicles. Defendants dictate that when a repair is made under warranty (or
13 warranty coverage is requested), service centers must provide Defendants with detailed
14 documentation of the problem and the fix that describes the complaint, cause, and
15 correction, and also save the broken part in case Defendants later determine to audit the
16 dealership or otherwise verify the warranty repair. For their part, service centers are
17 meticulous about providing this detailed information about in-warranty repairs to
18 Defendants because Defendants will not pay the service centers for the repair if the
19 complaint, cause, and correction are not sufficiently described.
20
21

22 174. The rise in thefts would also be shown in Defendants' customer
23 complaints—both directly and as relayed through their dealers—and replacement part
24 orders for repairs.
25

26 175. Upon information and belief, each Defendant knew or should have known
27 about the Defect because of the high number of replacement parts likely ordered from
28 Defendants. All HMA and KA service centers are required to order replacement parts,

1 including windows, steering columns, ignition cylinders and switches, and engine
2 immobilizers directly from HMA, HMC, KA, or KC. Other independent vehicle repair
3 shops that service Class Vehicles also order replacement parts directly from Defendants.
4 HMA, HMC, KA, and KC routinely monitor part sales reports and are responsible for
5 shipping parts requested by dealerships and technicians. Thus, HMA, HMC, KA, and
6 KC have detailed, accurate, and real-time data regarding the number and frequency of
7 replacement part orders. The increase in orders of auto-parts necessary to fix damage
8 caused by vehicle thefts of the Class Vehicles was known to HMA, HMC, KA, and KC,
9 and should have alerted them to the scope and severity of the Defect.
10

11 176. On information and belief, the customer relations and warranty divisions of
12 HMA, HMC, KA, and KC interact with one another and discuss potential issues in
13 Hyundai and Kia vehicles which share components and designs.
14

15 177. On information and belief, the engineering offices, safety offices, and safety
16 investigators of HMA, HMC, KA, and KC interact with one another and discuss potential
17 issues in Hyundai and Kia vehicles which share components and designs.
18

19 **F. HMA and KA falsely claim to offer the best warranty program in the nation,
20 yet fail to offer a remedy for the Defect.**

21 178. HMA and KA advertise their warranty program as “industry-lead[ing]”⁹⁰ and
22 “America’s Best Warranty.”⁹¹
23

24 179. KA’s warranty begins with the representation that “[t]he latest engineering
25

26 ⁹⁰ <https://owners.kia.com/us/en/service-page/warranty.html> (last accessed Aug.
27 29, 2022).

28 ⁹¹ <https://www.hyundaiusa.com/us/en/assurance/america-best-warranty> (last
accessed Aug. 29, 2022).

1 techniques have been incorporated into the design and production of your Kia Vehicle.”⁹²
2 HMA states that in addition to “giving [owners] added peace of mind, [its] warranty
3 supports [HMA’s] commitment to provide vehicles of high quality, dependability and
4 reliability.”⁹³
5

6 180. But in reality, HMA’s and KA’s warranty programs bring little comfort to
7 Class Vehicle owners, and, as explained above, Defendants were keenly aware that their
8 vehicles do not incorporate the “latest engineering techniques” and design. Despite
9 HMA’s and KA’s promises, they have consistently evaded their warranty obligations by
10 failing to inform consumers that their vehicles are defective and by refusing to cover
11 damages caused by the Defect.
12

13 181. In many instances, consumers have incurred and will continue to incur
14 expenses for the repair and replacement of various vehicle parts as a result of damages
15 caused by the Defect.

16 182. Furthermore, a number of Class Members who presented their Class
17 Vehicles to HMA and KA dealerships because of issues related to the Defect were denied
18 warranty repairs and, instead, were informed that nothing was wrong with their vehicles.
19

20 183. On information and belief, HMA and KA also disclaimed any coverage for
21 damages to Class Vehicles after they were easily stolen due to the defect due to purported
22 exclusions in their written warranties for incidents of collision and theft.

23 184. After news of the Defect became common knowledge and an epidemic of
24

25 92

26 [https://www.kia.com/us/content/dam/kia/us/en/images/warranty/manual/general-](https://www.kia.com/us/content/dam/kia/us/en/images/warranty/manual/general-warranty-and-consumer-info/2020_warranty.pdf)
27 [warranty-and-consumer-info/2020_warranty.pdf](https://www.kia.com/us/content/dam/kia/us/en/images/warranty/manual/general-warranty-and-consumer-info/2020_warranty.pdf) (last accessed Aug. 29, 2022).

28 ⁹³ <https://www.hyundaiusa.com/us/en/assurance/america-best-warranty> (last
accessed Aug. 29, 2022).

1 vehicle thefts began to take hold over the country, Defendants announced that going
2 forward, they would install immobilizers in all of their vehicles. This change would affect
3 certain 2022 model vehicles and all Hyundai and Kia vehicles from 2023 onward.

4
5 185. What this announcement does not do is provide any relief to the millions of
6 Class Vehicle owners whose vehicles remain just as susceptible to theft as before
7 Defendants made this acknowledgment. Class Vehicle owners are, therefore, left with
8 few good options. Even more concerning, due to widespread knowledge of the Defect,
9 major insurance companies, including Progressive, have decided that they no longer will
10 cover damages related to theft of Class Vehicles.⁹⁴

11
12 186. Hyundai and Kia recently announced that they have developed a security kit
13 that purportedly targets the method of entry thieves are using to access these vehicles and
14 disables the starter if the alarm is triggered.⁹⁵ But Defendants will not install this device
15 free of charge, as they are required to do under their warranties and applicable laws and
16 regulations. Instead, Defendants will be charging Class Members for this device, which
17 will not even be available until October at the earliest.

18 **G. Fraudulent Omission/Concealment Allegations**

19
20 187. Absent discovery, Plaintiffs are unaware of, and unable through reasonable
21 investigation to obtain, the true names and identities of those individuals employed by
22 Defendants responsible for making false and misleading statements regarding the Class
23 Vehicles. Defendants necessarily are in possession of all of this information. Plaintiffs'

24
25 _____
26 ⁹⁴ [https://boingboing.net/2022/08/16/progressive-insurance-halts-underwriting-](https://boingboing.net/2022/08/16/progressive-insurance-halts-underwriting-some-kia-hyundai-cars-in-denver-co-and-other-states.html)
27 [some-kia-hyundai-cars-in-denver-co-and-other-states.html](https://boingboing.net/2022/08/16/progressive-insurance-halts-underwriting-some-kia-hyundai-cars-in-denver-co-and-other-states.html) (last accessed Aug. 29,
28 2022).

⁹⁵ Hyundai has a new way to prevent its cars from getting stolen | Fox News (last
accessed Aug. 29, 2022).

1 claims arise out of Defendants' fraudulent omission/concealment of the Defect, despite
2 their representations about the quality, reliability, and safety of the Class Vehicles.

3 188. Plaintiffs allege that at all relevant times, including specifically at the time
4 they and Class Members purchased their Class Vehicles, Defendants knew, or were
5 reckless in not knowing, of the Defect; Defendants had a duty to disclose the Defect
6 based upon their exclusive knowledge; and Defendants never disclosed the Defect to
7 Plaintiffs or the public at any time or place in any manner prior to the Recalls.

8 189. Plaintiffs make the following specific concealment/omission-based
9 allegations with as much specificity as possible absent access to the information
10 necessarily available only to Defendants:
11

12 190. **Who:** each Defendant (HMA, HMC, KA, and KC) actively concealed and
13 omitted the Defect from Plaintiffs and Class Members while simultaneously touting the
14 quality, safety, and dependability of the Class Vehicles, as alleged herein. Plaintiffs are
15 unaware of, and therefore unable to identify, the true names and identities of those
16 specific individuals responsible for such decisions.
17

18 191. **What:** that the Class Vehicles contain the Defect, as alleged herein.
19 Defendants concealed and omitted the Defect while making representations about the
20 safety, dependability, and other attributes of the Class Vehicles, as alleged herein.
21

22 192. **When:** Defendants concealed and omitted material information regarding the
23 Defect at all times while making representations about the quality, safety, and
24 dependability of the Class Vehicles on an ongoing basis, and continuing to this day.
25 Defendants still have not disclosed the truth about the full scope of the Defect in the
26 Class Vehicles. And when consumers brought their vehicles to HMA and KA dealerships
27 or called Defendants' respective customer service and warranty departments
28

1 complaining of the Defect, Defendants denied an adequate repair for the Defect and
2 warranty coverage.

3 193. **Where:** Defendants concealed and omitted material information regarding
4 the true nature of the Defect in every communication they had with Plaintiffs and Class
5 Members and made representations about the quality, reliability, and safety of the Class
6 Vehicles. Plaintiffs are aware of no document, communication, or other place or thing,
7 in which Defendant disclosed the truth about the full scope of the Defect in the Class
8 Vehicles prior to the Recalls. Such information is not adequately disclosed in any sales
9 documents, displays, advertisements, warranties, owner's manuals, or on Defendants'
10 websites. There are channels through which Defendants could have disclosed the Defect,
11 including, but not limited to: (1) point of sale communications; (2) the owner's manual;
12 and/or (3) direct communication to Class Members through means such as state vehicle
13 registry lists and e-mail notifications.

14 194. **How:** Defendants concealed and omitted the Defect from Plaintiffs and Class
15 Members and made representations about the quality, safety, and dependability of the
16 Class Vehicles. Each Defendant actively concealed and omitted the truth about the
17 existence, scope, and nature of the Defect from Plaintiffs and Class Members at all times,
18 even though they each knew about the Defect and knew that information about the Defect
19 would be important to a reasonable consumer, and Defendants promised in their
20 marketing materials that Class Vehicles have qualities that they do not have.

21 195. **Why:** Defendants actively concealed and omitted material information about
22 the Defect in the Class Vehicles for the purpose of inducing Plaintiffs and Class Members
23 to purchase and/or lease Class Vehicles, rather than purchasing or leasing competitors'
24 vehicles, and made representations about the quality, safety, and durability of the Class
25 vehicles, and made representations about the quality, safety, and durability of the Class
26 vehicles, and made representations about the quality, safety, and durability of the Class
27 vehicles, and made representations about the quality, safety, and durability of the Class
28 vehicles, and made representations about the quality, safety, and durability of the Class

1 Vehicles. Had Defendants disclosed the truth, for example, in their advertisements or
2 other materials or communications, Plaintiffs and Class Members (all reasonable
3 consumers) would have been aware of it, and would not have bought or leased the Class
4 Vehicles or would not have paid as much for them.

5 6 **V. TOLLING OF STATUTES OF LIMITATIONS**

7 196. Any applicable statute(s) of limitations have been tolled by HMA's, HMC's,
8 KA's, and KC's knowing and active concealment and denial of the facts alleged herein.
9 Plaintiffs and the members of the Class could not have reasonably discovered the true
10 nature of the Defect because Defendants concealed it. Plaintiffs' claims were thus tolled
11 pursuant to the discovery rule, for fraudulent concealment, and for estoppel.
12

13 **A. Discovery Rule**

14 197. The causes of action alleged herein did not accrue until Plaintiffs and Class
15 Members discovered that their Class Vehicles contained the Defect.

16 198. As alleged above, Class Members had no way of knowing about the Defect
17 in their Class Vehicles. HMA, HMC, KA, and KC concealed their knowledge of the
18 Defect while KA and HMA continued to market and sell the Class Vehicles as safe,
19 secure, high-quality, and reliable vehicles. To this day, Defendants failed to disclose the
20 full extent of the Defect and the risks faced by Class Vehicle drivers.
21

22 199. Within any applicable statutes of limitation, Class Members could not have
23 discovered through the exercise of reasonable diligence that HMA, HMC, KA, and KC
24 were concealing the conduct complained of herein and misrepresenting the true qualities
25 of the Class Vehicles.
26

27 200. Class Members did not know facts that would have caused a reasonable
28 person to suspect that there was a Defect affecting their vehicle and an ordinary person

1 would be unable to appreciate that the vehicle was defective. Even if a Class Vehicle
2 owner or lessee learns that their vehicle or another's Class Vehicle was stolen, as an
3 ordinary consumer, without sophisticated knowledge of mechanical systems and
4 antitheft devices, would not and could not suspect that the Class Vehicle that was stolen
5 was, in fact, attributable to a pervasive Defect because HMA, HMC, KA, and KC
6 withheld this information and pointed to their express warranties, which purport to
7 disclaim liability for these damages.
8

9 201. For ordinary consumers, the existence and partial extent of the Defect only
10 came to light after media outlets began to cover a story of local teenagers in Milwaukee
11 that have caused the theft rate to skyrocket.
12

13 202. For these reasons, all applicable statutes of limitation have been tolled by
14 operation of the discovery rule with respect to the claims in this litigation.

15 **B. Fraudulent Concealment**

16 203. As the manufacturers, distributors, sellers, and/or warrantors of the Class
17 Vehicles, HMA, HMC, KA, and KC were under a continuous duty to disclose to Class
18 Members the existence of the Defect found in the Class Vehicles.
19

20 204. Defendants were and remain under a continuing duty to disclose to Plaintiffs
21 and the Members of the Class the true character, quality, and nature of the Class Vehicles,
22 that the Defect found in the Class Vehicles will allow juveniles to steal the vehicle in less
23 than two minutes, that they will require costly repairs, pose safety concerns, cause
24 damage to their personal property, and diminish the resale value of the Class Vehicles.
25

26 205. HMA, HMC, KA, and KC recklessly disregarded the true nature, quality,
27 and character of the Class Vehicles, by failing to disclose the existence of the Defect.
28

206. Due to each Defendant's concealment throughout the time period relevant to

1 this action, all applicable statutes of limitation have been tolled.

2 207. Instead of publicly disclosing the Defect in the Class Vehicles, Defendants
3 kept owners and lessees in the dark about the Defect present in their vehicles. To this
4 day, Defendants have knowingly or recklessly failed to disclose the full extent of the
5 Defect and have failed to offer adequate remedies for the Defect.
6

7 208. Class Members were not at fault for failing to discover the existence of the
8 Defect present in their Class Vehicles.

9 209. Until the Defect was exposed to the public known through a series of media
10 coverage as the epidemic exploded in 2021, Plaintiffs had no actual or presumptive
11 knowledge of facts sufficient to put them on inquiry notice of such a connection. In
12 particular, Class Members did not possess the aggregate data concerning vehicle thefts,
13 which was beginning to cluster in specific areas around the United States, or the technical
14 data related to the design of the Class Vehicles, which has ultimately led to this crisis.
15

16 210. This ignorance of the existence of the Defect present in the Class Vehicles is
17 common across each Plaintiff and Class Member.
18

19 **C. Estoppel**

20 211. HMA, HMC, KA, and KC were, and are, under a continuous duty to disclose
21 to Plaintiffs and Class Members the true character, quality, and nature of the Class
22 Vehicles. HMA, HMC, KA, and KC failed to disclose the existence of the Defect and
23 actively concealed the true character, quality, and nature of the Class Vehicles while
24 knowingly making representations about the quality and reliability of the Vehicles.
25 Plaintiffs and Class Members reasonably relied upon each Defendant's knowing and
26 affirmative representations and/or active concealment of these facts. Based on the
27 foregoing, each Defendant is estopped from relying on any statutes of limitation in
28

1 defense of this action.

2 VI. CALIFORNIA LAW APPLIES TO NATIONWIDE CLAIMS

3 212. California law applies to Plaintiffs' nationwide claims because Plaintiffs'
4 injuries emanate from HMA's and KA's actions in California. Each pertinent decision
5 related to the decision to conceal the Defect from Class Members, including the
6 marketing, commercial distribution, and Defect investigation for the Class Vehicles in
7 the United States, was made from HMA's and KA's California headquarters by their
8 respective executives and employees located in California.
9

10 213. On information and belief, HMC and KC conducted an investigation into the
11 Defect and potential remedies in California and their subsidiaries' California
12 headquarters.
13

14 214. Defendant HMA is headquartered in Fountain Valley, California and is the
15 sole entity in the United States responsible for distributing, selling, leasing, and
16 warranting Hyundai Class Vehicles.
17

18 215. On HMA's website, the company promotes a quote by Brandon Ramirez,
19 Sr., Group Manager of Product Public Relations (who is based in Fountain Valley),⁹⁶
20 which states that "[e]very aspect of a car model, from the initial concept all the way until
21 it launches and even planning the next generation, happens right here in the U.S."⁹⁷
22

23 216. HMA maintains its C-Suite, and its engineering, marketing, customer
24 relations, and warranty departments at its Fountain Valley offices.

25 ⁹⁶ <https://www.linkedin.com/in/brandon-ramirez-b891265> (last accessed Aug.
26 29, 2022).

27 ⁹⁷ https://www.hyundaiusa.com/us/en/why-hyundai/made-in-america?adobe_mc=MCMID%3D30603612254771590111736190199937139533%7CMCORGID%3DC3BCE0154FA24300A4C98A1%2540AdobeOrg%7CTS%3D1626118865 (last accessed Aug. 29, 2022).
28

1 217. José Muñoz serves as the Global Chief Operating Officer of HMC and the
2 President and CEO of HMA.⁹⁸ “Based in Hyundai’s U.S. headquarters in Fountain
3 Valley, California,” Mr. Muñoz oversees the entire American market.

4 218. Brian K. Latouf served as the Global Chief Safety Officer of HMA from
5 December 2019 through July 2022, when he was appointed to the same role for HMC.⁹⁹
6 Based in California, Mr. Latouf is responsible for all safety regulation matters, including
7 the strategic legal direction and oversight of all safety investigations and recalls in the
8 U.S., Canada and Mexico.

9 219. Wayne Gates serves as Director of Product Analysis Group at HMA.¹⁰⁰
10 Based in Fountain Valley, California, Mr. Gates oversees, among other things, safety,
11 compliance, and regulatory issues involving Hyundai vehicles, and liaisons with NHTSA
12 regarding Hyundai recalls.¹⁰¹

13 220. Omar Rivera serves as HMA’s Executive Director of Quality and Service
14 Engineering.¹⁰² Based in Fountain Valley, California, Mr. Rivera and his team are
15 responsible for model line engineering and engineering analysis, among other
16
17
18
19
20

21 ⁹⁸ <https://www.hyundainews.com/en-us/bios/jose-munoz> (last accessed Aug. 29,
22 2022).

23 ⁹⁹ <https://www.hyundainews.com/en-us/bios/brian-latouf> (last accessed Aug. 29,
24 2022); <https://www.linkedin.com/in/brian-latouf-b6a8b7b4/> (last accessed Aug. 29,
25 2022); [https://www.prnewswire.com/news-releases/hyundai-motor-appoints-brian-
latouf-to-lead-new-global-safety-office-301589377.html](https://www.prnewswire.com/news-releases/hyundai-motor-appoints-brian-latouf-to-lead-new-global-safety-office-301589377.html) (last accessed Aug. 29, 2022).

26 ¹⁰⁰ <https://www.linkedin.com/in/wayne-gates-b8a85b7/> (last accessed Aug. 29,
27 2022).

28 ¹⁰¹ *Id.*; <https://static.nhtsa.gov/odi/rc1/2020/RCAK-20V543-1854.pdf> (last
accessed Aug. 29, 2022).

¹⁰² <https://www.hyundainews.com/en-us/bios/omar-rivera> (last accessed Aug. 29,
2022).

responsibilities.¹⁰³

221. Paul Imhoff serves as Director of Customer Experience at HMA.¹⁰⁴ Based in California, Mr. Imhoff is responsible for the “customer experience for Hyundai in the U.S.”¹⁰⁵ and “[o]versees all aspects of the customer experience, from retail processes and after sales improvements to call centers and customer feedback surveys .” Prior to his current role, Mr. Imhoff served as HMA’s Director of Marketing Communications, where he was responsible for brand strategy, national and regional advertising, experiential marketing, auto shows, branded content, social media and multicultural marketing.

222. Danial Kim serves as the Senior Group Manager of North America Safety Office at HMA at the company’s offices in California, and previously served as a Senior Manager of Engineering & Design Analysis.¹⁰⁶ Mr. Kim serves as Hyundai’s “[l]iaison responsible for corporate compliance with NHTSA enforcement of potential safety-related product defects.” Mr. Kim also “facilitate[es] product safety recall/campaign decisions in accordance with federal regulation and guidelines, manage[s] [] TREAD compliance program including EWR reporting, collaboration with ODI in joint product safety investigations, recall filing and completion reporting, coordinating with overseas R&D, manufacturing, and service in identifying and closing potential safety defects.”

¹⁰³ *Id.*; <https://www.linkedin.com/in/omar-rivera-a917363/> (last accessed Aug. 29, 2022).

¹⁰⁴ <https://www.hyundai-news.com/en-us/bios/paul-imhoff> (last accessed Aug. 29, 2022).

¹⁰⁵ *Id.*; <https://www.linkedin.com/in/pimhoff/> (last accessed Aug. 29, 2022).

¹⁰⁶ <https://www.linkedin.com/in/daniel-kim-60013228/> (last accessed Aug. 29, 2022).

223. Cole Stutz serves as the Director of Safety Field Investigations at HMA.¹⁰⁷ Based in Fountain Valley, California, Mr. Stutz liaisons with NHTSA regarding safety recalls, among other things.¹⁰⁸

224. Scott Stewart serves as the Senior Group Manager of Safety Field Investigations at HMA and is based at the company's offices in California.¹⁰⁹

225. Barry Ratzlaff serves as the Chief Customer Officer of HMA.¹¹⁰ In this role, he is responsible for Hyundai's customer experience strategy, retail process, sales and service training, product quality and service engineering. Mr. Ratzlaff is a 30-year automotive veteran with roles in manufacturing, quality and product development. Mr. Ratzlaff is based in Fountain Valley, California.

226. Angela Zepeda serves as the Chief Marketing Officer for HMA.¹¹¹ Based in Fountain Valley, California, Ms. Zepeda "is responsible for all of Hyundai's marketing and advertising activities in the U.S., including the strategic direction, brand development, national and regional advertising, experiential marketing, digital and social media, brand partnerships, and lead generation, among other responsibilities."¹¹²

¹⁰⁷ <https://www.linkedin.com/in/cole-stutz-2b7796103/> (last accessed Aug. 29, 2022).

¹⁰⁸ *Id.*; <https://static.nhtsa.gov/odi/rcl/2021/RCAK-21V303-6447.pdf> (last accessed Aug. 29, 2022).

¹⁰⁹ <https://www.linkedin.com/in/scott-stewart-10048094/> (last accessed Aug. 29, 2022).

¹¹⁰ <https://www.hyundainews.com/en-us/bios/barry-ratzlaff> (last accessed Aug. 29, 2022); <https://www.linkedin.com/in/barry-ratzlaff-54b40811/> (last accessed Aug. 29, 2022).

¹¹¹ <https://www.hyundainews.com/en-us/bios/angela-zepeda> (last accessed Aug. 29, 2022).

¹¹² *Id.*; <https://www.linkedin.com/in/angela-zepeda-8bb8293/> (last accessed Aug. 29, 2022).

1 227. Randy Parker serves as Chief Executive Officer for HMA.¹¹³ Prior to his
 2 promotion in July 2022, Mr. Parker served as Senior Vice President of National Sales at
 3 HMA. Mr. Parker is was based in Fountain Valley, California, where he was “responsible
 4 for all aspects of sales and distribution of Hyundai vehicles in the U.S., including sales
 5 strategies, fleet and certified pre-owned operations, dealer relations, market
 6 representation, and other related activities with the mission to grow Hyundai sales and
 7 market share.”¹¹⁴ Mr. Parker “also overs[aw] Hyundai’s seven regions that work directly
 8 with Hyundai retailers on sales and service.”

10 228. Fred DePerez serves as the Vice President of Product Line Management and
 11 Sales Planning for HMA.¹¹⁵ Based in Fountain Valley, California, Mr. DePerez oversees
 12 Product Line Management, Sales Planning, and Retail Operations.¹¹⁶

14 229. Robert Grafton serves as an Executive Director of Dealer Development &
 15 Strategy for HMA.¹¹⁷ Based in Fountain Valley, California, Mr. Grafton is “responsible
 16 for managing and implementing the Hyundai dealer network strategy by optimizing retail
 17 representation and improving dealer relations.”¹¹⁸

19 230. David VandeLinde is the Vice President of After-Sales for HMA and based

20 ¹¹³ [https://www.prnewswire.com/news-releases/randy-parker-named-chief-](https://www.prnewswire.com/news-releases/randy-parker-named-chief-executive-officer-of-hyundai-motor-america-301595523.html)
 21 [executive-officer-of-hyundai-motor-america-301595523.html](https://www.prnewswire.com/news-releases/randy-parker-named-chief-executive-officer-of-hyundai-motor-america-301595523.html) (last accessed Aug. 29,
 22 2022).

23 ¹¹⁴ *Id.*; <https://www.linkedin.com/in/randy-parker-24806232/> (last accessed Aug.
 24 29, 2022);
[https://web.archive.org/web/20210202225203/https://www.hyundainews.com/en-](https://web.archive.org/web/20210202225203/https://www.hyundainews.com/en-us/bios/randy-parker)
 25 [us/bios/randy-parker](https://web.archive.org/web/20210202225203/https://www.hyundainews.com/en-us/bios/randy-parker) (Aug. 29, 2022).

26 ¹¹⁵ <https://www.hyundainews.com/en-us/bios/fred-deperez> (last accessed Aug.
 27 29, 2022).

28 ¹¹⁶ *Id.*; <https://www.linkedin.com/in/freddeperez/> (last accessed Aug. 29, 2022).

¹¹⁷ <https://www.hyundainews.com/en-us/bios/robert-grafton> (last accessed Aug.
 29, 2022).

¹¹⁸ *Id.*; <https://www.linkedin.com/in/robertgrafton/> (last accessed Aug. 29, 2022).

1 in Fountain Valley, California.¹¹⁹ In this role, Mr. VandeLinde is responsible for leading
 2 dealer service programs and operations, parts and accessory sales, and owner marketing.
 3 Prior to his current role, Mr. VandeLinde served as the director of Dealer Service Process
 4 where he oversaw Hyundai's retail service process, parts planning, parts and service field
 5 ops, and parts and service training. Mr. VandeLinde led a team of over fifty team
 6 members who were responsible for in Service Analytics and Technician Retention. Mr.
 7 VandeLinde was also central to HMA "establishing and operationalizing a platform for
 8 gathering and publishing dealer best practices, developing and publishing the first ever
 9 Hyundai Service Process Manual (the Car Care Process Guide), and revolutionizing
 10 Hyundai's approach to field training to be more experiential."
 11
 12

13 231. Kate Fabian serves as the director of Marketing Communications for
 14 HMA.¹²⁰ Based in Fountain Valley, California, Ms. Fabian "is responsible for brand
 15 strategy and planning, multicultural marketing, media strategy, national and regional
 16 dealer advertising, experiential marketing, branded content and social media."¹²¹
 17

18 232. Ricky Lao serves as HMA's Director of Product Planning.¹²² Based in
 19 Fountain Valley, California, Mr. Lao and his team are "responsible for leading the
 20 product planning process from concept phase through product launch, and subsequent
 21 lifecycle management, for all current and future cars and SUVs representing the Hyundai
 22

23 ¹¹⁹ <https://www.hyundai-news.com/en-us/bios/david-vandelinde> (last accessed
 24 Aug. 29, 2022); <https://www.linkedin.com/in/dave-vandelinde-6b2b2078/> (last
 25 accessed Aug. 29, 2022).

26 ¹²⁰ <https://www.hyundai-news.com/en-us/bios/kate-fabian--> (last accessed Aug.
 27 29, 2022).

28 ¹²¹ *Id.*; <https://www.linkedin.com/in/kate-fabian-b1150412/> (last accessed Aug.
 29 29, 2022).

¹²² <https://www.hyundai-news.com/en-us/bios/ricky-lao> (last accessed Aug. 29,
 2022); <https://www.linkedin.com/in/ricky-lao-189303/> (last accessed Aug. 29, 2022).

1 North American market.”

2 233. Additionally, HMA’s “Customer Care Center,” which handles customer
3 complaints and warranty inquiries for Hyundai Class Vehicle owners and lessees, is
4 located in Fountain Valley.¹²³

5
6 234. On information and belief, HMA’s website, including the “Consumer
7 Assistance Center” webpage,¹²⁴ is managed by Hyundai’s marketing and customer
8 service departments located in Fountain Valley.

9
10 235. In addition to HMA’s engineering and safety investigation teams responsible
11 for post-sale investigations located at its Fountain Valley headquarters, HMA conducts
12 pre-sale durability testing in California, including at its “California Proving Ground” and
13 the “Hyundai Design and Technical Center” located in Irvine.¹²⁵ The Hyundai Design
14 and Technical Center is HMA’s “90,000-square-foot state-of-the-art facility” and “is
15 home to Hyundai automobile designers, engineers, model-makers and technicians[.]”

16
17 236. Defendant KA is headquartered in Irvine, California and is the sole entity in
18 the United States responsible for distributing, selling, leasing, and warranting Kia
19 vehicles, including the Kia Class Vehicles.

20
21 237. KA’s C-Suite, and employees responsible for KA’s distribution of Class
22 Vehicles, decision to conceal the Defect, Kia’s public statements to the U.S. market
23 concerning Class Vehicles, as well as the Recalls, are also based in California.

24 238. SeungKyu (Sean) Yoon is the President and CEO of KA and is responsible

25 ¹²³https://www.hyundaiusa.com/content/dam/hyundai/us/com/pdf/assurance/2021_Owners_Handbook_Warranty.pdf (Aug. 29, 2022).

26 ¹²⁴<https://owners.hyundaiusa.com/us/en/contact-us.html> (last accessed Aug. 29,
27 2022).

28 ¹²⁵ See <https://www.hyundainews.com/en-us/releases/1250>;
<https://www.hyundainews.com/en-us/releases/1251> (last accessed Aug. 29, 2022).

1 for its strategy and operations in the U.S., including its manufacturing.¹²⁶ Mr. Yoon is
 2 based at KA's headquarters in Irvine, California.

3 239. Russell Wager serves as KA's Vice President of Marketing and oversees all
 4 of the company's marketing communications including the marketing operations,
 5 customer journey, and public relations areas.¹²⁷ Mr. Wager is based at KA's headquarters
 6 in Irvine, California.

8 240. J.S. (Jurassic) Park serves as KA's Chief Safety Officer and Vice President
 9 of Regulatory Compliance.¹²⁸ Based at KA's headquarters in Irvine, California, Mr. Park
 10 participates in all safety-recall decision-making for the U.S. market and acts as the
 11 company's liaison with NHTSA regarding Kia recalls, among other things.

13 241. KA's Regulatory Compliance managers and employees are also located at
 14 its headquarters in Irvine, California.¹²⁹ The Regulatory Compliance office works with
 15 KC and its affiliates (including HATCI) to, *inter alia*, monitor safety regulatory issues
 16 and advise on statements made to consumers, including on Monroney labels.

18 ¹²⁶ [https://www.kiamedia.com/us/en/media/pressreleases/13858/seungkyu-sean-](https://www.kiamedia.com/us/en/media/pressreleases/13858/seungkyu-sean-yoon-1)
 19 [yoon-1](https://www.kiamedia.com/us/en/media/pressreleases/13858/seungkyu-sean-yoon-1) (last accessed Aug. 29, 2022); [https://www.linkedin.com/in/seungkyu-sean-](https://www.linkedin.com/in/seungkyu-sean-yoon-3251b1a9/)
 20 [yoon-3251b1a9/](https://www.linkedin.com/in/seungkyu-sean-yoon-3251b1a9/) (last accessed Aug. 29, 2022);
 21 [https://www.automotiveworld.com/news-releases/kia-america-debuts-in-us-new-name-](https://www.automotiveworld.com/news-releases/kia-america-debuts-in-us-new-name-replaces-kia-motors-america-as-part-of-kia-corporation-global-brand-strategy/)
 22 [replaces-kia-motors-america-as-part-of-kia-corporation-global-brand-strategy/](https://www.automotiveworld.com/news-releases/kia-america-debuts-in-us-new-name-replaces-kia-motors-america-as-part-of-kia-corporation-global-brand-strategy/) (last
 23 accessed Aug. 29, 2022).

24 ¹²⁷ <https://www.kiamedia.com/us/en/media/pressreleases/17221/russell-wager>
 25 (last accessed Aug. 29, 2022); <https://www.linkedin.com/in/russell-wager/> (last
 26 accessed Aug. 29, 2022).

27 ¹²⁸ <https://static.oemdtc.com/Recall/21V447/RCAK-21V447-9829.pdf> (last
 28 accessed Aug. 29, 2022); <https://static.nhtsa.gov/odi/rc1/2020/RCAK-20V518-6959.pdf>
 (last accessed Aug. 29, 2022).

¹²⁹ See [https://www.linkedin.com/jobs/view/regulatory-compliance-manager-at-](https://www.linkedin.com/jobs/view/regulatory-compliance-manager-at-kia-motors-america-2432082551/?refId=db5aad21-355f-41fe-b515-f22f69d9a0e5&trackingId=61TH90nuMf9kICG1U9DG2A%3D%3D)
[kia-motors-america-2432082551/?refId=db5aad21-355f-41fe-b515-](https://www.linkedin.com/jobs/view/regulatory-compliance-manager-at-kia-motors-america-2432082551/?refId=db5aad21-355f-41fe-b515-f22f69d9a0e5&trackingId=61TH90nuMf9kICG1U9DG2A%3D%3D)
[f22f69d9a0e5&trackingId=61TH90nuMf9kICG1U9DG2A%3D%3D](https://www.linkedin.com/jobs/view/regulatory-compliance-manager-at-kia-motors-america-2432082551/?refId=db5aad21-355f-41fe-b515-f22f69d9a0e5&trackingId=61TH90nuMf9kICG1U9DG2A%3D%3D) (last accessed
 Aug. 29, 2022).

1 242. Additionally, KA’s “Customer Assistance Center” and Consumer Affairs
2 Department, which handles customer complaints and warranty inquiries for Kia Class
3 Vehicle owners and lessees, is located in Irvine, California.¹³⁰

4 243. On information and belief, KA’s website, including the “Consumer
5 Assistance Center” webpage,¹³¹ is managed by KA’s marketing and customer service
6 departments located in Irvine, California.

7 244. In addition to KA’s engineering and safety investigation teams responsible
8 for post-sale investigations located at its Irvine headquarters, KA conducts pre-sale
9 durability testing in California, including at its “California Proving Ground” and the
10 Hyundai-Kia Design and Technical Center located in Irvine.¹³² The “\$30 million state-
11 of-the-art” Design and Technical Center “houses more than 100 auto designers,
12 engineers, model makers and technicians.”

13 245. Finally, while HMC and KC participated in the investigations of the Defect
14 in Hyundai and Kia vehicles, the ultimate decisions concerning whether to recall the
15 Class Vehicles were made by HMA and KA executives at their respective California
16 headquarters.
17
18
19

20 **VII. CLASS ALLEGATIONS**

21 246. Plaintiffs bring this action pursuant to Rules 23(a), 23(b)(2), and 23(b)(3) of
22 the Federal Rules of Civil Procedure on behalf of themselves and all others similarly
23 situated.
24

25 ¹³⁰[https://www.kia.com/us/content/dam/kia/us/en/images/warranty/manual/gener](https://www.kia.com/us/content/dam/kia/us/en/images/warranty/manual/general-warranty-and-consumer-info/2020_warranty.pdf)
26 [al-warranty-and-consumer-info/2020_warranty.pdf](https://www.kia.com/us/content/dam/kia/us/en/images/warranty/manual/general-warranty-and-consumer-info/2020_warranty.pdf) (last accessed Aug. 29, 2022).

27 ¹³¹ <https://ksupport.kiausa.com/ConsumerAffairs> (last accessed Aug. 29, 2022).

28 ¹³² <https://www.hyundai-news.com/en-us/releases/1270> (last accessed Aug. 29, 2022).

1 247. Plaintiffs seek to represent a class (“Nationwide Class”) under the laws of
2 the State of California defined as:

3 All persons or entities that purchased or leased a Class Vehicle in the
4 United States.

5 248. In addition, and in the alternative to the Nationwide Class, Plaintiffs seek to
6 represent the following State Classes:

7
8 **Florida Class:** (represented by Plaintiff Cohen)

9 All persons or entities that purchased or leased a Class Vehicle in the
10 State of Florida.

11 **Minnesota Class:** (represented by Plaintiff Ragsdale)

12 All persons or entities that purchased or leased a Class Vehicle in the
13 State of Minnesota.

14 **Georgia Class:** (represented by Plaintiff Taylor)

15 All persons or entities that purchased or leased a Class Vehicle in the
16 State of Georgia.

17 249. The Nationwide Class and the State Classes are collectively referred to
18 herein as the Classes.

19 250. Excluded from the Classes are Defendants, their affiliates, employees,
20 officers and directors, persons or entities that purchased the Class Vehicles for resale,
21 and the Judge(s) assigned to this case. Plaintiffs reserve the right to modify, change, or
22 expand the Classes definitions based on discovery and further investigation.

23 251. Numerosity: Upon information and belief, the Classes are so numerous that
24 joinder of all members is impracticable. While the exact number and identities of
25 individual members of the Classes are unknown at this time, such information being in
26 the sole possession of Defendants and obtainable by Plaintiffs only through the discovery
27 process, Plaintiffs believe, and on that basis allege, that at least five million Class
28

1 Vehicles have been sold and leased in the United States.

2 252. Existence and Predominance of Common Questions of Fact and Law:

3 Common questions of law and fact exist as to all members of the Classes. These questions
4 predominate over the questions affecting individual Class Members. These common
5 legal and factual questions include, but are not limited to:
6

- 7 a Whether Defendants engaged in the conduct alleged herein;
- 8 b Whether Plaintiffs' claims emanate from HMA's and KA's conduct in
9 California;
- 10 c Whether Defendants designed, advertised, marketed, distributed, leased,
11 sold, or otherwise placed the Class Vehicles into the stream of commerce in
12 the United States;
- 13 d Whether the Class Vehicles were sold with a safety defect;
- 14 e Whether Defendants knew of the Defect but failed to disclose the problem
15 and its consequences to their customers;
- 16 f Whether a reasonable consumer would consider the Defect or its
17 consequences to be material;
- 18 g When Defendants discovered the Defect in the Class Vehicles, and what, if
19 anything, they did in response;
- 20 h Whether Defendants should be required to disclose the existence of the
21 Defect;
- 22 i Whether Defendants' conduct violates the California Legal Remedies Act,
23 California Unfair Competition Law, and the other statutes asserted herein;
- 24 j Whether Plaintiffs and Class Members overpaid for their Class Vehicles; and
- 25 k Whether Plaintiffs and Class Members experienced out-of-pocket losses as
26 a result of the Defect, and if so, how much.

27 253. Typicality: Plaintiffs' claims are typical of the claims of the Classes because
28 Plaintiffs purchased Class Vehicles with the same Defect as did each member of the

1 Classes. Furthermore, Plaintiffs and all Members of the Classes sustained monetary and
2 economic injuries including, but not limited to, ascertainable losses arising out of
3 Defendants' wrongful conduct. Plaintiffs are advancing the same claims and legal
4 theories on behalf of themselves and all absent Class Members.
5

6 254. Adequacy: Plaintiffs are adequate representatives because their interests do
7 not conflict with the interests of the Classes that they seek to represent, they have retained
8 counsel competent and highly experienced in complex class action litigation, and they
9 intend to prosecute this action vigorously. The interests of the Classes will be fairly and
10 adequately protected by Plaintiffs and their counsel.
11

12 255. Superiority: A class action is superior to all other available means of fair and
13 efficient adjudication of the claims of Plaintiffs and Members of the Classes. The injury
14 suffered by each individual Class Member is relatively small in comparison to the burden
15 and expense of individual prosecution of the complex and extensive litigation
16 necessitated by Defendants' conduct. It would be virtually impossible for Members of
17 the Classes individually to redress effectively the wrongs done to them. Even if the
18 Members of the Classes could afford such individual litigation, the court system could
19 not. Individualized litigation presents a potential for inconsistent or contradictory
20 judgments. Individualized litigation increases the delay and expense to all parties, and to
21 the court system, presented by the complex legal and factual issues of the case. By
22 contrast, the class action device presents far fewer management difficulties, and provides
23 the benefits of single adjudication, an economy of scale, and comprehensive supervision
24 by a single court. Upon information and belief, members of the Class can be readily
25 identified and notified based on, *inter alia*, Defendants' vehicle identification numbers,
26 warranty claims, registration records, and database of complaints.
27
28

256. Defendants have acted, and refused to act, on grounds generally applicable to the Classes, thereby making appropriate final equitable relief with respect to the Classes as a whole.

VIII. CAUSES OF ACTION

FIRST CAUSE OF ACTION

**VIOLATION OF THE CALIFORNIA CONSUMER LEGAL REMEDIES ACT,
Cal. Civ. Code § 1750, *ET SEQ.* (“CLRA”)
(Individually and on behalf of the Nationwide Class)
(As to all Defendants)**

257. Plaintiffs incorporate by reference each preceding and succeeding paragraph as though fully set forth at length herein.

258. Plaintiffs bring this claim on behalf of themselves and the Nationwide Class.

259. HMA, HMC, KA, and KC are each a “person” as that term is defined in California Civil Code § 1761(c).

260. Plaintiffs and the Class Members are “consumer[s]” as that term is defined in California Civil Code §1761(d).

261. HMA, HMC, KA, and KC engaged in unfair and deceptive acts in violation of the CLRA, Cal. Civ. Code § 1750, *et seq.*, by the practices described above, and by knowingly and intentionally concealing from Plaintiffs and Class Members that the Class Vehicles suffer from a defect(s) (and the costs, risks, and diminished value of the vehicles as a result of this problem). These acts and practices violate, at a minimum, the following sections of the CLRA:

- a. (a)(2) Misrepresenting the source, sponsorship, approval or certification of goods or services;
- b. (a)(5) Representing that goods or services have sponsorships, characteristics, uses, benefits or quantities which they do not have, or

1 that a person has a sponsorship, approval, status, affiliation or
2 connection which he or she does not have;

- 3 c. (a)(7) Representing that goods or services are of a
4 particular standard, quality, or grade, or that goods are of
5 a particular style or model, if they are of another;
6 d. (a)(9) Advertising goods and services with the intent not
7 to sell them as advertised; and
8 e. (a)(16): Representing that goods have been supplied in
9 accordance with a previous representation when they have
10 not.

11 262. Defendants' unfair or deceptive acts or practices occurred repeatedly in
12 Defendants' trade or business, were capable of deceiving a substantial portion of the
13 purchasing public and imposed a serious safety risk on the public.

14 263. HMA, HMC, KA, and KC knew that the Class Vehicles were defectively
15 designed and were not suitable for their intended use.

16 264. HMA, HMC, KA, and KC were each under a duty to Plaintiffs and the Class
17 Members to disclose the defective nature of the Class Vehicles because:

- 18 a. Defendants were in a superior position to know the true
19 state of facts about the safety Defect and associated costs
20 in the Class Vehicles;
21 b. Plaintiffs and the Class Members could not reasonably
22 have been expected to learn or discover that the Class
23 Vehicles had a dangerous Defect until it was disclosed by
24 Defendants, or revealed through in public media reports;
25 because Plaintiffs do not have access to aggregate data
26 concerning car thefts and replacement components
27 available to Defendants;
28 c. Defendants knew that Plaintiffs and the Class Members
could not reasonably have been expected to learn or
discover the safety Defect and the associated repair costs
that it causes until it was disclosed by Defendants, or
revealed through in the public media; and

- 1 d. Defendants actively concealed the safety Defect and the
2 associated repair costs by knowingly failing to recall Class
3 Vehicles and denying warranty claims arising from the
4 Defect.

5 265. Further, pursuant to FMVSS No. 114, Defendants were required to outfit
6 their vehicles with safety measures to curb specific cases of auto theft through technology
7 designed to prevent thieves from starting the vehicle without authorized keys. HMA,
8 HMC, KA, and KC have been aware of the benefits of immobilizer technology for more
9 than a decade. Indeed, since no later than 2007, in various Petitions for exemption from
10 the PMR—albeit, only for a discrete subset of their luxury model lines—Defendants
11 extolled the benefits of immobilizer technology as a way to substantially reduce or
12 eliminate easy cases of auto theft.

13 266. However, despite the utility and ubiquity of engine immobilizers—as
14 evidenced by the litany of automotive manufacturers that have equipped immobilizers as
15 a standard feature and obtained an exemption from the PMR because of it (*see supra* ¶
16 110)—Defendants failed to incorporate this technology as a standard feature into
17 virtually every other vehicle line except for its high-end models, including the vehicles
18 owned by Plaintiffs and the Class Members, and even in the face of appreciable increases
19 in the rate of thefts for the Class Vehicles.
20

21 267. Defendants were actually or constructively aware of the Defect present in the
22 Class Vehicle that was making them such an easy target for thieves; knowledge of which
23 they learned from a variety of sources, including, on information and belief: (i) NCIC
24 crime data; (ii) their interaction with, and study of, what other manufacturers were doing
25 to reduce auto theft; (iii) their interaction with NHTSA and law enforcement; (iv) reports
26 from various media outlets; (v) their interaction, through one or more affiliates (e.g., their
27
28

1 respective financing arms), with the insurance companies of the victims of these auto
2 thefts; and (vi) the increase in component parts that they, through one or more affiliates,
3 were supplying to authorized dealers and autobody shops around the country that were
4 tasked with fixing stolen vehicles once they were recovered.
5

6 268. Despite the wealth of data demonstrating this growing safety risk, however,
7 Defendants did nothing to ameliorate this problem. They never informed the current
8 owners, including Plaintiffs and the Class, of the safety risk their vehicles posed; they
9 continued to sell and lease the Class Vehicles without ever informing prospective
10 customers of the heightened safety risk posed by purchasing a standard keyed ignition
11 vehicle without an immobilizer; and until their 2022 model year vehicles, they never
12 modified the design of these vehicles to account for this Defect, such as by making
13 immobilizer technology standard across all vehicle lines.
14

15 269. Quite the opposite, actually: HMA and KA—through a variety of marketing
16 campaigns disseminated in various media (on their website, in vehicle brochures, on
17 television, and through various press releases, to name a few)—consistently touted the
18 safety, reliability, and durability of their vehicles that Kia and Hyundai owners would
19 come to enjoy in the years following their purchase or lease.
20

21 270. In failing to disclose the Defect and the associated safety risks and repair
22 costs that result from it, HMA, HMC, KA, and KC have knowingly and intentionally
23 concealed material facts and breached their duty to disclose.
24

25 271. The facts concealed or not disclosed by HMA, HMC, KA, and KC to
26 Plaintiffs and the Class Members are material in that a reasonable consumer would have
27 considered them to be important in deciding whether to purchase Class Vehicles or pay
28 a lesser price. Had Plaintiffs and the Class known about the defective nature of the Class

1 Vehicles, they would not have purchased or leased the Class Vehicles or would have paid
2 less for them.

3 272. On or about August 26, 2022, Plaintiffs, through undersigned counsel,
4 provided Defendants with notices of their violations of the CLRA.
5

6 273. Plaintiffs and Class Members' injuries were proximately caused by
7 Defendants' fraudulent and deceptive business practices.

8 274. Plaintiffs and the Class Members seek all remedies available under the
9 CLRA, including equitable relief, damages, punitive damages, and attorneys' fees.
10

11 **SECOND CAUSE OF ACTION**

12 **VIOLATION OF THE CALIFORNIA UNFAIR COMPETITION LAW, CAL. 13 BUS. & PROF. CODE § 17200 ("UCL")**

14 (Individually and on behalf of the Nationwide Class)

15 (As to all Defendants)

16 275. Plaintiffs incorporate by reference each preceding and succeeding paragraph
17 as though fully set forth at length herein.

18 276. Plaintiffs bring this claim on behalf of themselves and the Nationwide Class.

19 277. The UCL prohibits acts of "unfair competition," including any "unlawful,
20 unfair or fraudulent business act or practice" and "unfair, deceptive, untrue or misleading
21 advertising." Cal. Bus. & Prof. Code § 17200.

22 278. HMA, HMC, KA, and KC have engaged in unfair competition and unfair,
23 unlawful or fraudulent business practices by the conduct, statements, and omissions
24 described above, and by knowingly and intentionally concealing from Plaintiffs and the
25 Class Members that the Class Vehicles suffer from a defect (and the costs, safety risks,
26 and diminished value of the vehicles as a result of these problems). Defendants should
27 have disclosed this information because they were in a superior position to know the true
28

1 facts related to the defect, and Plaintiffs and Class Members could not reasonably be
2 expected to learn or discover the true facts related to the defect.

3 279. The Defect constitutes a safety issue that triggered each Defendant's duty to
4 disclose the safety issue to consumers. As explained above, for over fifty years, NHTSA
5 has recognized that auto thefts pose "a major hazard to life and limb ... [and] cause
6 unreasonable risk of accident, personal injury, and death[.]" 33 Fed. Reg. 6,471 (Apr. 27,
7 1968).
8

9 280. These acts and practices have deceived Plaintiffs and are likely to deceive
10 the public. In failing to disclose the defect and suppressing other material facts from
11 Plaintiffs and the Class Members, Defendants breached their duties to disclose these
12 facts, violated the UCL, and caused injuries to Plaintiffs and the Class Members. The
13 omissions and acts of concealment by Defendants pertained to information that was
14 material to Plaintiffs and the Class Members, as it would have been to all reasonable
15 consumers.
16

17 281. A business practice is unlawful under the UCL if it is forbidden by any law.
18 Defendants' acts, conduct, and practices were unlawful, in that they constituted, among
19 others, violations of the CLRA, FAL, Song-Beverly Act, and/or implied warranties.
20

21 282. The injuries suffered by Plaintiffs and the Class Members are not greatly
22 outweighed by any potential countervailing benefit to consumers or to competition, nor
23 are they injuries that Plaintiffs and the Class Members should have reasonably avoided.
24

25 283. HMA, HMC, KA, and KC knew or should have known that their conduct
26 violated the UCL.

27 284. Plaintiffs seek to enjoin further unlawful, unfair and/or fraudulent acts or
28 practices by Defendants, to obtain restitutionary disgorgement of all monies and

1 revenues generated as a result of such practices, and all other relief allowed under
2 California Business & Professions Code § 17200.

3 **THIRD CAUSE OF ACTION**

4 **VIOLATION OF THE CALIFORNIA FALSE ADVERTISING LAW, CAL.** 5 **BUS. & PROF. CODE § 17500, *ET SEQ.* (“FAL”)** 6 (Individually and on behalf of the Nationwide Class) 7 (As to all Defendants)

8 285. Plaintiffs and the Classes incorporate by reference each preceding and
9 succeeding paragraph as though fully set forth at length herein.

10 286. Plaintiffs bring this claim on behalf of themselves and the Nationwide Class
11 against HMA, HMC, KA, and KC.

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

21 288. HMA, HMC, KA, and KC caused to be made or disseminated through
22 California and the United States, through advertising, marketing and other publications,
23 statements that were untrue or misleading, and which were known, or which by the
24 exercise of reasonable care should have been known to Defendants to be untrue and
25 misleading to consumers, including Plaintiffs and the other Class Members.
26

27 289. HMA, HMC, KA, and KC have violated section 17500 because the
28

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

4
5 290. Plaintiffs and the other Class Members have suffered an injury in fact,
6 including the loss of money or property, as a result of HMA's, HMC's, KA's, and KC's
7 unfair, unlawful, and/or deceptive practices. In purchasing or leasing their Class
8 Vehicles, Plaintiffs and the other Class Members relied on the misrepresentations and/or
9 omissions of HMA, HMC, KA, and KC with respect to the safety and reliability of the
10 Class Vehicles. HMA's, HMC's, KA's, and KC's representations were untrue because
11 the Class Vehicles are distributed with a safety Defect. Had Plaintiffs and the other Class
12 Members known this, they would not have purchased or leased their Class Vehicles
13 and/or paid as much for them. Accordingly, Plaintiffs and the other Class Members
14 overpaid for their Class Vehicles and did not receive the benefit of their bargain.
15

16 291. All of the wrongful conduct alleged herein occurred, and continues to occur,
17 in the conduct of HMA's, HMC's, KA's, and KC's businesses. HMA's and KA's
18 wrongful conduct is part of a pattern or generalized course of conduct that is still
19 perpetuated and repeated, both in the state of California and nationwide.
20

21 292. Plaintiffs, individually and on behalf of the other Class Members, request
22 that this Court enter such orders or judgments as may be necessary to enjoin HMA, HMC,
23 KA, and KC from continuing their unfair, unlawful, and/or deceptive practices and to
24 restore to Plaintiffs and the other Class Members any money HMA, HMC, KA, and KC
25 acquired by unfair competition, including restitution and/or restitutionary disgorgement,
26 and for such other relief set forth below.
27
28

FOURTH CAUSE OF ACTION

BREACH OF IMPLIED WARRANTY, BASED ON CALIFORNIA LAW

(Individually and on behalf of the Nationwide Class)

(As to all Defendants)

293. Plaintiffs incorporate by reference each preceding and succeeding paragraph as though fully set forth at length herein.

294. Plaintiffs bring this claim on behalf of themselves and the Nationwide Class against HMA, HMC, KA, and KC

295. At all relevant times hereto, HMA, HMC, KA, and KC were the manufacturer, distributor, warrantor, and/or seller of the Class Vehicles. HMA, HMC, KA, and KC knew or should have known of the specific use for which the Class Vehicles were purchased.

296. HMA, HMC, KA, and KC provided Plaintiffs and the Class Members with an implied warranty that the Class Vehicles, and any parts thereof, are merchantable and fit for the ordinary purposes for which they were sold. The Class Vehicles, however, are not fit for their ordinary purpose because, *inter alia*, the Class Vehicles pose a substantial safety hazard because the Defect renders them highly susceptible and predisposed to theft by experienced and amateur thieves, which makes them prime targets to be used as instrumentalities through which thieves engage in reckless driving or other criminal activity.

297. The Class Vehicles are not fit for the purpose of providing safe and reliable transportation because of the Defect.

298. HMA, HMC, KA, and KC impliedly warranted that the Class Vehicles were of merchantable quality and fit for such use. This implied warranty included, *inter alia*, the following: (i) a warranty that the Class Vehicles manufactured, supplied, distributed,

1 and/or sold by HMA, HMC, KA, and KC were safe and reliable for providing
2 transportation; and (ii) a warranty that the Class Vehicles would be fit for their intended
3 use—providing safe and reliable transportation.

4
5 299. Defendants market and advertise the sale of the Class Vehicles in various
6 media outlets across the United States, including to the Plaintiffs and the Class.

7 300. Contrary to the applicable implied warranties, the Class Vehicles at the time
8 of sale and thereafter were not fit for their ordinary and intended purpose. Instead, the
9 Class Vehicles are defective, including, but not limited to, the Defect which renders them
10 highly susceptible and predisposed to theft and makes them prime targets to be used as
11 instrumentalities through which thieves engage in reckless driving or other criminal
12 activity.

13
14 301. Plaintiffs and the other Class Members have had sufficient direct dealings
15 with either HMA, HMC, KA, and KC or their agents (*e.g.*, dealerships, Consumer Affairs
16 departments, and technical support) to establish privity of contract between HMA and
17 HMC or KA and KC on one hand, and Plaintiffs and each of the other Class Members
18 on the other hand. Nonetheless, privity is not required here because Plaintiffs and each
19 of the other Class Members are intended third-party beneficiaries of contracts between
20 HMA and HMC or KA and KC and their dealers, and specifically, of Defendants'
21 implied warranties. The dealers were not intended to be the ultimate consumers of the
22 Class Vehicles and have no rights under the warranty agreements provided with the Class
23 Vehicles; the warranty agreements were designed for and intended to benefit the
24 consumers only. The sole and express purpose that each authorized Kia and Hyundai
25 dealer has when it acquires the vehicles from KA and HMA is to immediately re-sell
26 them to the end-users like Plaintiffs and the Class Members.
27
28

1 302. Additionally, privity is excused here because Plaintiffs and each of the other
2 Class Members relied on statements made by HMA, HMC, KA, and KC themselves in
3 choosing to purchase or lease a Class Vehicle.
4

5 303. HMA, HMC, KA, and KC advertise their authorized dealer network on their
6 respective websites and task them with administering the promotional material and
7 warranty information for new Class Vehicles to prospective consumers throughout the
8 nation. Through Defendants' websites, consumers obtain information about vehicles;
9 design specific vehicles to meet their needs; obtain information about the value of trade-
10 in vehicles; request additional marketing materials; and request quotes for vehicles.
11 Defendants then send these consumers to "authorized dealers" to consummate sales and
12 leases.
13

14 304. HMA, HMC, KA, and KC control various details regarding their dealers'
15 operations through various written agreements, such as: (i) granting each dealer a license
16 to use their respective trademarks and intellectual property; (ii) furnishing each dealer
17 with marketing materials to assist in the sale of their vehicles; (iii) providing training to
18 dealership personnel to assist in their sales activities; and (iv) prohibiting their dealers
19 from engaging in certain practices that otherwise detract from their respective brands or
20 undermine the sale of their respective vehicles, including the Class Vehicles.
21

22 305. Additionally, the Magnuson–Moss Warranty Act ("MMWA") specifies that
23 when a manufacturer offers a written warranty, it may limit the duration of an implied
24 warranty to the duration of an express warranty, but it cannot disclaim implied warranties
25 all together. *See* 15 U.S.C. § 2308(a) ("No supplier may disclaim or modify ... any
26 implied warranty to a consumer with respect to such consumer product if (1) such
27 supplier makes any written warranty to the consumer with respect to such consumer
28

1 Product...”). A manufacturer should not be permitted to avoid this prohibition by
2 claiming an ostensible lack of privity when the manufacturer itself chose its distribution
3 model.

4
5 306. HMA’s, HMC’s, KA’s, and KC’s actions, as complained of herein, breached
6 the implied warranty that the Class Vehicles were of merchantable quality and fit for
7 such use.

8
9 307. Plaintiffs and the other Class Members are entitled to damages and other
10 legal and equitable relief, including, an adequate remedy for the Defect, or at their
11 election, the purchase price of their Class Vehicles, or the overpayment or diminution in
12 value of their Class Vehicles.

13
14 308. Plaintiffs and the other Class Members are entitled to costs and attorneys’
15 fees.

16 **FIFTH CAUSE OF ACTION**

17 **VIOLATION OF THE FLORIDA DECEPTIVE AND UNFAIR TRADE 18 PRACTICES ACT FLA. STAT. § 501.201 *ET SEQ.* (“FDUTPA”)**

19 (Individually and on behalf of the Florida Class)

20 (As to all Defendants)

21
22 309. Plaintiff Cohen incorporates by reference each preceding and succeeding
23 paragraph as though fully set forth at length herein.

24
25 310. Plaintiff Cohen brings this claim on behalf of himself and the Florida Class
26 against HMA, HMC, KA, and KC.

27
28 311. Plaintiff Cohen and Florida Class Members are “consumers” within the
meaning of Fla. Stat. § 501.203(7).

312. HMA, HMC, KA, and KC engage in “trade or commerce” within the
meaning of Fla. Stat. § 501.203(8).

1 313. The FDUTPA prohibits “[u]nfair methods of competition, unconscionable
2 acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or
3 commerce.” Fla. Stat. § 501.204(1).

4 314. HMA’s, HMC’s, KA’s, and KC’s acts and practices, described herein, are
5 unfair and deceptive in violation of the FDUTPA. HMA, HMC, KA, and KC engaged in
6 unfair and deceptive trade practices by promoting the quality and functionality of the
7 Class Vehicles while willfully failing to disclose and actively concealing the Defect.
8 HMA, HMC, KA, and KC owed a duty to disclose all material facts concerning the Class
9 Vehicles and the Defect because it possessed exclusive or superior knowledge,
10 intentionally concealed material information from consumers, and/or made
11 misrepresentations that were rendered misleading because they were contradicted by
12 facts that were withheld.

13 315. HMA, HMC, KA, and KC committed such unfair and deceptive acts and
14 practices with the intent that consumers, such as Plaintiff Cohen and Florida Class
15 Members, would rely on Defendants’ misrepresentations and omissions when deciding
16 whether to purchase a Class Vehicle.

17 316. Plaintiff Cohen and Florida Class Members suffered ascertainable loss as a
18 direct and proximate result of HMA’s, HMC’s, KA’s, and KC’s unfair and deceptive
19 acts and practices. Had Plaintiff Cohen and Florida Class Members known that the Class
20 Vehicles are defective, they would not have purchased or leased them, or would have
21 paid significantly less for a Class Vehicle. Among other injuries, Plaintiff Cohen and
22 Florida Class Members overpaid for their Class Vehicles, and their Class Vehicles
23 suffered a diminution in value.

24 317. Plaintiff Cohen and Florida Class Members are entitled to recover their
25
26
27
28

1 actual damages, under Fla. Stat. § 501.211(2) and reasonable attorneys' fees under Fla.
2 Stat. § 501.2105(1).

3 318. Plaintiff Cohen also seeks an order enjoining HMA's, HMC's, KA's, and
4 KC's unfair and deceptive acts and practices pursuant to Fla. Stat. § 501.211, and any
5 other just and proper relief available under the FDUTPA.
6

7 **SIXTH CAUSE OF ACTION**

8 **BREACH OF IMPLIED WARRANTY, FLA. STAT. § 672.314**

9 (Individually and on behalf of the Florida Class)

10 (As to all Defendants)

11 319. Plaintiff Cohen incorporates by reference each preceding and succeeding
12 paragraph as though fully set forth at length herein.

13 320. Plaintiff Cohen brings this claim on behalf of himself and the Florida Class
14 against HMA, HMC, KA, and KC.

15 321. At all relevant times hereto, HMA, HMC, KA, and KC were the
16 manufacturer, distributor, warrantor, and/or seller of the Class Vehicles. HMA, HMC,
17 KA, and KC knew or should have known of the specific use for which the Class Vehicles
18 were purchased.
19

20 322. HMA, HMC, KA, and KC provided Plaintiff Cohen and the Florida Class
21 Members with an implied warranty that the Class Vehicles, and any parts thereof, are
22 merchantable and fit for the ordinary purposes for which they were sold. The Class
23 Vehicles, however, are not fit for their ordinary purpose because, *inter alia*, the Class
24 Vehicles pose a substantial safety hazard because the Defect renders them highly
25 susceptible and predisposed to theft by experienced and amateur thieves, which makes
26 them prime targets to be used as instrumentalities through which thieves engage in
27 reckless driving or other criminal activity.
28

1 323. The Class Vehicles are not fit for the purpose of providing safe and reliable
2 transportation because of the Defect.

3 324. HMA, HMC, KA, and KC impliedly warranted that the Class Vehicles were
4 of merchantable quality and fit for such use. This implied warranty included, *inter alia*,
5 the following: (i) a warranty that the Class Vehicles manufactured, supplied, distributed,
6 and/or sold by HMA, HMC, KA, and KC were safe and reliable for providing
7 transportation; and (ii) a warranty that the Class Vehicles would be fit for their intended
8 use—providing safe and reliable transportation.
9

10 325. Defendants market and advertise the sale of the Class Vehicles in various
11 media outlets across the State of Florida, including to the Plaintiffs and the Class.
12

13 326. Contrary to the applicable implied warranties, the Class Vehicles at the time
14 of sale and thereafter were not fit for their ordinary and intended purpose. Instead, the
15 Class Vehicles are defective, including, but not limited to, the Defect which renders them
16 highly susceptible and predisposed to theft and makes them prime targets to be used as
17 instrumentalities through which thieves engage in reckless driving or other criminal
18 activity.
19

20 327. Plaintiff Cohen and the other Florida Class Members have had sufficient
21 direct dealings with either HMA, HMC, KA, and KC or their agents (e.g., dealerships,
22 Consumer Affairs departments, and technical support) to establish privity of contract
23 between HMA and HMC or KA and KC on one hand, and Plaintiff Cohen and each of
24 the other Class Members on the other hand. Nonetheless, privity is not required here
25 because Plaintiff Cohen and each of the other Class Members are intended third-party
26 beneficiaries of contracts between HMA and HMC or KA and KC and their dealers, and
27 specifically, of Defendants' implied warranties. The dealers were not intended to be the
28

1 ultimate consumers of the Class Vehicles and have no rights under the warranty
2 agreements provided with the Class Vehicles; the warranty agreements were designed
3 for and intended to benefit the consumers only. The sole and express purpose that each
4 authorized Kia and Hyundai dealer has when it acquires the vehicles from KA and HMA
5 is to immediately re-sell them to the end-users like Plaintiffs and the Class Members.
6

7 328. Additionally, privity is excused here because Plaintiff Cohen and each of the
8 other Florida Class Members relied on statements made by HMA, HMC, KA, and KC
9 themselves in choosing to purchase or lease a Class Vehicle.

10 329. HMA, HMC, KA, and KC advertise their authorized dealer network on their
11 respective websites and task them with administering the promotional material and
12 warranty information for new Class Vehicles to prospective consumers throughout the
13 nation. Through Defendants' websites, consumers obtain information about vehicles;
14 design specific vehicles to meet his or her needs; obtain information about the value of
15 trade-in vehicles; request additional marketing materials; and request quotes for vehicles.
16 Defendants then send these consumers to "authorized dealers" to consummate sales and
17 leases.
18

19 330. HMA, HMC, KA, and KC control various details regarding their dealers'
20 operations through various written agreements, such as: (i) granting each dealer a license
21 to use their respective trademarks and intellectual property; (ii) furnishing each dealer
22 with marketing materials to assist in the sale of their vehicles; (iii) providing training to
23 dealership personnel to assist in their sales activities; and (iv) prohibiting their dealers
24 from engaging in certain practices that otherwise detract from their respective brands or
25 undermine the sale of their respective vehicles, including the Class Vehicles.
26

27 331. Additionally, the MMWA specifies that when a manufacturer offers a written
28

1 warranty, it may limit the duration of an implied warranty to the duration of an express
 2 warranty, but it cannot disclaim implied warranties all together. *See* 15 U.S.C. § 2308(a)
 3 (“No supplier may disclaim or modify . . . any implied warranty to a consumer with
 4 respect to such consumer product if (1) such supplier makes any written warranty to the
 5 consumer with respect to such consumer Product....”). A manufacturer should not be
 6 permitted to avoid this prohibition by claiming an ostensible lack of privity when the
 7 manufacturer itself chose its distribution model.
 8

9 332. HMA’s, HMC’s, KA’s, and KC’s actions, as complained of herein, breached
 10 the implied warranty that the Class Vehicles were of merchantable quality and fit for
 11 such use in violation of FLA. STAT. ANN. § 672.314.
 12

13 333. As a direct and proximate result of HMA’s, HMC’s, KA’s, and KC’s breach
 14 of implied warranties of merchantability, Plaintiff Cohen and the other Florida Class
 15 Members are entitled to damages in an amount to be determined at trial.
 16

17 SEVENTH CAUSE OF ACTION

18 VIOLATION OF THE MINNESOTA UNIFORM DECEPTIVE TRADE 19 PRACTICES ACT (“MUDTPA”), MINN. STAT. §§ 325D.43, ET SEQ

(Individually and on behalf of the Minnesota Class)

(As to all Defendants)

20 334. Plaintiff Ragsdale incorporates by reference each preceding and succeeding
 21 paragraph as though fully set forth at length herein.
 22

23 335. Plaintiff Ragsdale brings this claim on behalf of herself and the Minnesota
 24 Class against HMA, HMC, KA, and KC.

25 336. By engaging in deceptive trade practices in the course of its business and
 26 vocation, directly or indirectly affecting the people of Minnesota, HMA, HMC, KA, and
 27 KC violated Minn. Stat. § 325D.44, including the following provisions:
 28

- a. Representing that its goods and services had characteristics, uses, and benefits that they did not have, in violation of Minn. Stat. § 325D.44(1)(5);
- b. Representing that goods and services are of a particular standard or quality when they are of another, in violation of Minn. Stat. § 325D.44(1)(7);
- c. Advertising goods and services with intent not to sell them as advertised, in violation of Minn. Stat. § 325D.44(1)(9); and
- d. Engaging in other conduct which similarly creates a likelihood of confusion or misunderstanding, in violation of Minn. Stat. § 325D.44(1)(13).

337. HMA's, HMC's, KA's, and KC's deceptive practices included:

- a. Misrepresenting the safety, reliability, and quality of the Class Vehicles;
- b. Failing to comply with common law and statutory duties pertaining to duties to disclose material facts and safety defects found in the Class Vehicles; and
- c. Failing to comply with FMVSS No. 114.

338. HMA's, HMC's, KA's, and KC's representations and omissions were material because they were likely to deceive reasonable consumers about the safety, reliability, and quality of the Class Vehicles.

339. HMA, HMC, KA, and KC intended to mislead Plaintiff and Minnesota Class Members and induce them to rely on their misrepresentations and omissions.

340. Plaintiff Ragsdale and Minnesota Class Members suffered ascertainable loss

1 as a direct and proximate result of HMA's, HMC's, KA's, and KC's unfair and deceptive
 2 acts and practices. Had Plaintiff Ragsdale and Minnesota Class Members known that the
 3 Class Vehicles are defective, they would not have purchased or leased them, or would
 4 have paid significantly less for a Class Vehicle. Among other injuries, Plaintiff Ragsdale
 5 and Minnesota Class Members overpaid for their Class Vehicles, and their Class
 6 Vehicles suffered a diminution in value.
 7

8 341. Plaintiff Ragsdale and Minnesota Class Members are entitled to recover their
 9 actual damages and reasonable attorneys' fees.

10 342. Plaintiff Ragsdale also seeks an order enjoining HMA's, HMC's, KA's, and
 11 KC's unfair and deceptive acts and practices and any other just and proper relief available
 12 under the MUDTPA.
 13

14 EIGHTH CAUSE OF ACTION

15 VIOLATION OF THE MINNESOTA CONSUMER FRAUD ACT 16 ("MCFA"), MINN. STAT. § 325F.69, SUBD. 1 *ET SEQ.* AND MINN. STAT. §§ 8.31, *ET SEQ.*

17 (Individually and on behalf of the Minnesota Class)
 18 (As to all Defendants)

19 343. Plaintiff Ragsdale incorporates by reference each preceding and succeeding
 20 paragraph as though fully set forth at length herein.

21 344. Plaintiff Ragsdale brings this claim on behalf of herself and the Minnesota
 22 Class against HMA, HMC, KA, and KC.
 23

24 345. HMA, HMC, KA, and KC, Plaintiff, and members of the Minnesota Class
 25 are each a "person" as defined by Minn. Stat. § 325F.68(3).

26 346. The Class Vehicles are "merchandise" as defined by Minn. Stat.
 27 § 325F.68(2).
 28

1 347. HMA, HMC, KA, and KC engaged in “sales” as defined by Minn. Stat.
2 § 325F.68(4).

3 348. HMA, HMC, KA, and KC engaged in fraud, false pretense, false promise,
4 misrepresentation, misleading statements, and deceptive practices in connection with the
5 sale of merchandise, in violation of Minn. Stat. § 325F.69(1), including:
6

- 7 a. Misrepresenting the safety, reliability, and quality of the Class
8 Vehicles;
- 9 b. Failing to comply with common law and statutory duties pertaining to
10 duties to disclose material facts and safety defects found in the Class
11 Vehicles; and
- 12 c. Failing to comply with FMVSS No. 114.

13 349. HMA’s, HMC’s, KA’s, and KC’s representations and omissions were
14 material because they were likely to deceive reasonable consumers about the safety,
15 reliability, and quality of the Class Vehicles.
16

17 350. HMA, HMC, KA, and KC intended to mislead Plaintiff and Minnesota Class
18 Members and induce them to rely on its misrepresentations and omissions.
19

20 351. HMA’s, HMC’s, KA’s, and KC’s fraudulent, misleading, and deceptive
21 practices affected the public interest, including thousands of Minnesotans that own a
22 Class Vehicle.

23 352. As a direct and proximate result of HMA’s, HMC’s, KA’s, and KC’s
24 fraudulent, misleading, and deceptive practices, Plaintiff and Minnesota Class Members
25 have suffered and will continue to suffer injury, ascertainable losses of money or
26 property, and monetary and non-monetary damages.
27

28 353. Plaintiff and Minnesota Class Members seek all monetary and nonmonetary

1 relief allowed by law, including damages; injunctive or other equitable relief; and
2 attorneys' fees, disbursements, and costs.

3
4 **NINTH CAUSE OF ACTION**
5 **BREACH OF IMPLIED WARRANTY, MINN. STAT. § 336.2-314**
6 (Individually and on behalf of the Minnesota Class)
7 (As to all Defendants)

8 354. Plaintiff Ragsdale incorporates by reference each preceding and succeeding
9 paragraph as though fully set forth at length herein.

10 355. Plaintiff Ragsdale brings this claim on behalf of herself and the Minnesota
11 Class against HMA, HMC, KA, and KC.

12 356. At all relevant times hereto, HMA, HMC, KA, and KC were the
13 manufacturer, distributor, warrantor, and/or seller of the Class Vehicles. HMA, HMC,
14 KA, and KC knew or should have known of the specific use for which the Class Vehicles
15 were purchased.

16 357. HMA, HMC, KA, and KC provided Plaintiff Ragsdale and the Minnesota
17 Class Members with an implied warranty that the Class Vehicles, and any parts thereof,
18 are merchantable and fit for the ordinary purposes for which they were sold. The Class
19 Vehicles, however, are not fit for their ordinary purpose because, *inter alia*, the Class
20 Vehicles pose a substantial safety hazard because the Defect renders them highly
21 susceptible and predisposed to theft by experienced and amateur thieves, which makes
22 them prime targets to be used as instrumentalities through which thieves engage in
23 reckless driving or other criminal activity.
24

25 358. The Class Vehicles are not fit for the purpose of providing safe and reliable
26 transportation because of the Defect.
27

28 359. HMA, HMC, KA, and KC impliedly warranted that the Class Vehicles were

1 of merchantable quality and fit for such use. This implied warranty included, *inter alia*,
2 the following: (i) a warranty that the Class Vehicles manufactured, supplied, distributed,
3 and/or sold by HMA, HMC, KA, and KC were safe and reliable for providing
4 transportation; and (ii) a warranty that the Class Vehicles would be fit for their intended
5 use—providing safe and reliable transportation.
6

7 360. Defendants market and advertise the sale of the Class Vehicles in various
8 media outlets across the State of Minnesota, including to the Plaintiffs and the Class.

9 361. Contrary to the applicable implied warranties, the Class Vehicles at the time
10 of sale and thereafter were not fit for their ordinary and intended purpose. Instead, the
11 Class Vehicles are defective, including, but not limited to, the Defect which renders them
12 highly susceptible and predisposed to theft and makes them prime targets to be used as
13 instrumentalities through which thieves engage in reckless driving or other criminal
14 activity.
15

16 362. Plaintiff Ragsdale and the other Minnesota Class Members have had
17 sufficient direct dealings with either HMA, HMC, KA, and KC or their agents (e.g.,
18 dealerships, Consumer Affairs departments, and technical support) to establish privity of
19 contract between HMA and HMC or KA and KC on one hand, and Plaintiff Ragsdale
20 and each of the other Class Members on the other hand. Nonetheless, privity is not
21 required here because Plaintiff Ragsdale and each of the other Class Members are
22 intended third-party beneficiaries of contracts between HMA and HMC or KA and KC
23 and their dealers, and specifically, of Defendants' implied warranties. The dealers were
24 not intended to be the ultimate consumers of the Class Vehicles and have no rights under
25 the warranty agreements provided with the Class Vehicles; the warranty agreements were
26 designed for and intended to benefit the consumers only. The sole and express purpose
27
28

1 that each authorized Kia and Hyundai dealer has when it acquires the vehicles from KA
2 and HMA is to immediately re-sell them to the end-users like Plaintiffs and the Class
3 Members.

4
5 363. Additionally, privity is excused here because Plaintiff Ragsdale and each of
6 the other Minnesota Class Members relied on statements made by HMA, HMC, KA, and
7 KC themselves in choosing to purchase or lease a Class Vehicle.

8 364. HMA, HMC, KA, and KC advertise their authorized dealer network on their
9 respective websites and task them with administering the promotional material and
10 warranty information for new Class Vehicles to prospective consumers throughout the
11 nation. Through Defendants' websites, consumers obtain information about vehicles;
12 design specific vehicles to meet their needs; obtain information about the value of trade-
13 in vehicles; request additional marketing materials; and request quotes for vehicles.
14 Defendants then send these consumers to "authorized dealers" to consummate sales and
15 leases.
16

17 365. HMA, HMC, KA, and KC control various details regarding their dealers'
18 operations through various written agreements, such as: (i) granting each dealer a license
19 to use their respective trademarks and intellectual property; (ii) furnishing each dealer
20 with marketing materials to assist in the sale of their vehicles; (iii) providing training to
21 dealership personnel to assist in their sales activities; and (iv) prohibiting their dealers
22 from engaging in certain practices that otherwise detract from their respective brands or
23 undermine the sale of their respective vehicles, including the Class Vehicles.
24

25 366. Additionally, the MMWA specifies that when a manufacturer offers a written
26 warranty, it may limit the duration of an implied warranty to the duration of an express
27 warranty, but it cannot disclaim implied warranties all together. *See* 15 U.S.C. § 2308(a)
28

1 (“No supplier may disclaim or modify . . . any implied warranty to a consumer with
 2 respect to such consumer product if (1) such supplier makes any written warranty to the
 3 consumer with respect to such consumer Product....”). A manufacturer should not be
 4 permitted to avoid this prohibition by claiming an ostensible lack of privity when the
 5 manufacturer itself chose its distribution model.
 6

7 367. HMA’s, HMC’s, KA’s, and KC’s actions, as complained of herein, breached
 8 the implied warranty that the Class Vehicles were of merchantable quality and fit for
 9 such use in violation of MINN. STAT. § 336.2-314.

10 368. As a direct and proximate result of HMA’s, HMC’s, KA’s, and KC’s breach
 11 of implied warranties of merchantability, Plaintiff Ragsdale and the other Minnesota
 12 Class Members are entitled to damages in an amount to be determined at trial.
 13

14 **TENTH CAUSE OF ACTION**

15 **BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY** 16 **GA. CODE. ANN. §§ 11-2-314 AND 11-2A-212**

17 369. Plaintiff Taylor incorporates by reference each preceding and succeeding
 18 paragraph as though fully set forth at length herein.

19 370. Plaintiff Taylor brings this claim on behalf of himself and the Georgia Class
 20 against HMA, HMC, KA, and KC.

21 371. HMA, HMC, KA, and KC are and were at all relevant times “merchants”
 22 with respect to motor vehicles under Ga. Code Ann. §§ 11-2-104(1) and 11-2A-103(3),
 23 “sellers” of motor vehicles under § 11-2-103(1)(d), and “lessors” of motor vehicles under
 24 § 11-2A-103(1)(p).
 25

26 372. The Class Vehicles are and were at all relevant times “goods” within the
 27 meaning of Ga. Code Ann. §§ 11-2-105(1) and 11-2A-103(1)(h).
 28

1 373. A warranty that the Class Vehicles were in merchantable condition and fit
2 for the ordinary purpose for which vehicles are used is implied by law pursuant to Ga.
3 Code Ann. §§ 11-2-314 and 11-2A-212.

4 374. At all relevant times hereto, HMA, HMC, KA, and KC were the
5 manufacturer, distributor, warrantor, and/or seller of the Class Vehicles. HMA, HMC,
6 KA, and KC knew or should have known of the specific use for which the Class Vehicles
7 were purchased.

8 375. HMA, HMC, KA, and KC provided Plaintiff Taylor and the Georgia Class
9 Members with an implied warranty that the Class Vehicles, and any parts thereof, are
10 merchantable and fit for the ordinary purposes for which they were sold. The Class
11 Vehicles, however, are not fit for their ordinary purpose because, *inter alia*, the Class
12 Vehicles pose a substantial safety hazard because the Defect renders them highly
13 susceptible and predisposed to theft by experienced and amateur thieves, which makes
14 them prime targets to be used as instrumentalities through which thieves engage in
15 reckless driving or other criminal activity.

16 376. The Class Vehicles are not fit for the purpose of providing safe and reliable
17 transportation because of the Defect.

18 377. HMA, HMC, KA, and KC impliedly warranted that the Class Vehicles were
19 of merchantable quality and fit for such use. This implied warranty included, *inter alia*,
20 the following: (i) a warranty that the Class Vehicles manufactured, supplied, distributed,
21 and/or sold by HMA, HMC, KA, and KC were safe and reliable for providing
22 transportation; and (ii) a warranty that the Class Vehicles would be fit for their intended
23 use—providing safe and reliable transportation.

24 378. Defendants market and advertise the sale of the Class Vehicles in various
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1 media outlets across the State of Georgia, including to the Plaintiffs and the Class.

2 379. Contrary to the applicable implied warranties, the Class Vehicles at the time
3 of sale and thereafter were not fit for their ordinary and intended purpose. Instead, the
4 Class Vehicles are defective, including, but not limited to, the Defect which renders them
5 highly susceptible and predisposed to theft and makes them prime targets to be used as
6 instrumentalities through which thieves engage in reckless driving or other criminal
7 activity.
8

9 380. Plaintiff Taylor and the other Georgia Class Members have had sufficient
10 direct dealings with either HMA, HMC, KA, and KC or their agents (e.g., dealerships,
11 Consumer Affairs departments, and technical support) to establish privity of contract
12 between HMA and HMC or KA and KC on one hand, and Plaintiff Taylor and each of
13 the other Class Members on the other hand. Nonetheless, privity is not required here
14 because Plaintiff Taylor and each of the other Class Members are intended third-party
15 beneficiaries of contracts between HMA and HMC or KA and KC and their dealers, and
16 specifically, of Defendants' implied warranties. The dealers were not intended to be the
17 ultimate consumers of the Class Vehicles and have no rights under the warranty
18 agreements provided with the Class Vehicles; the warranty agreements were designed
19 for and intended to benefit the consumers only. The sole and express purpose that each
20 authorized Kia and Hyundai dealer has when it acquires the vehicles from KA and HMA
21 is to immediately re-sell them to the end-users like Plaintiffs and the Class Members.
22
23

24 381. Additionally, privity is excused here because Plaintiff Taylor and each of the
25 other Georgia Class Members relied on statements made by HMA, HMC, KA, and KC
26 themselves in choosing to purchase or lease a Class Vehicle.
27

28 382. HMA, HMC, KA, and KC advertise their authorized dealer network on their

1 respective websites and task them with administering the promotional material and
2 warranty information for new Class Vehicles to prospective consumers throughout the
3 nation. Through Defendants' websites, consumers obtain information about vehicles;
4 design specific vehicles to meet his or her needs; obtain information about the value of
5 trade-in vehicles; request additional marketing materials; and request quotes for vehicles.
6 Defendants then send these consumers to "authorized dealers" to consummate sales and
7 leases.
8

9 383. HMA, HMC, KA, and KC control various details regarding their dealers'
10 operations through various written agreements, such as: (i) granting each dealer a license
11 to use their respective trademarks and intellectual property; (ii) furnishing each dealer
12 with marketing materials to assist in the sale of their vehicles; (iii) providing training to
13 dealership personnel to assist in their sales activities; and (iv) prohibiting their dealers
14 from engaging in certain practices that otherwise detract from their respective brands or
15 undermine the sale of their respective vehicles, including the Class Vehicles.
16

17 384. Additionally, the MMWA specifies that when a manufacturer offers a written
18 warranty, it may limit the duration of an implied warranty to the duration of an express
19 warranty, but it cannot disclaim implied warranties all together. *See* 15 U.S.C. § 2308(a)
20 ("No supplier may disclaim or modify . . . any implied warranty to a consumer with
21 respect to such consumer product if (1) such supplier makes any written warranty to the
22 consumer with respect to such consumer Product...."). A manufacturer should not be
23 permitted to avoid this prohibition by claiming an ostensible lack of privity when the
24 manufacturer itself chose its distribution model.
25
26

27 385. HMA's, HMC's, KA's, and KC's actions, as complained of herein, breached
28 the implied warranty that the Class Vehicles were of merchantable quality and fit for

1 such use in violation of Ga. Code Ann. §§ 11-2-314 and 11-2A-212.

2 386. As a direct and proximate result of HMA's, HMC's, KA's, and KC's breach
3 of implied warranties of merchantability, Plaintiff Taylor and the other Georgia Class
4 Members are entitled to damages in an amount to be determined at trial.
5

6 **IX. REQUEST FOR RELIEF**

7 WHEREFORE, Plaintiffs, individually and on behalf of members of the Class,
8 respectfully request that this Court:

9 a. Certify this action as a class action, proper and maintainable pursuant to Rule
10 23 of the Federal Rules of Civil Procedure; declare that Plaintiffs are proper class
11 representatives; and appoint Plaintiffs' counsel as Class Counsel;
12

13 b. Declare that any applicable statutes of limitations are tolled due to
14 Defendants' fraudulent concealment and that Defendants are estopped from relying on
15 any statutes of limitations in defense;

16 c. Grant appropriate injunctive and/or declaratory relief, including, without
17 limitation, an order that requires Defendants to repair and/or recall the Class Vehicles
18 and to extend the applicable warranties to a reasonable period of time, or, at a minimum,
19 to provide Plaintiffs and Class Members with appropriate curative notice regarding the
20 existence and cause of the Defect;
21

22 d. Award Plaintiffs and Class Members actual, compensatory, general, special,
23 incidental, statutory, punitive, and consequential damages, costs, and disgorgement in an
24 amount to be determined at trial;

25 e. Award to Plaintiffs the costs and disbursements of the action, along with
26 reasonable attorneys' fees, costs, and expenses;
27

28 f. Award pre- and post-judgment interest at the maximum legal rate;

g. Grant leave to amend this Complaint to conform to the evidence produced in discovery and at trial; and

h. Grant all such other relief as is just and proper.

X. DEMAND FOR JURY TRIAL

Plaintiffs demand a jury trial on all claims so triable.

Dated: September 9, 2022

By: /s/ Jennifer A. Lenze

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