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8 GANIM and DANIEL BALDESCHI, and the putative class

9 UNITED STATES DISTRICT COURT

10 FOR THE CENTRAL DISTRICT OF CALIFORNIA

11
12 KEHLIE R. ESPINOSA, LILLIAN
13 E. LEVOFF, THOMAS GANIM,
14 and DANIEL BALDESCHI, on
behalf of themselves and all others
similarly situated,

15 Plaintiffs,

16 v.

17 HYUNDAI MOTOR AMERICA;
18 and DOES 1 through 10, inclusive,

19 Defendants.

Case No.: CV 12-00800 GW (FFM)

**SECOND AMENDED CLASS ACTION
COMPLAINT**

1. VIOLATION OF UNFAIR BUSINESS
PRACTICES ACT [CALIFORNIA
BUSINESS & PROFESSIONS CODE
§ 17200, *ET SEQ.*]
2. VIOLATION OF FALSE
ADVERTISING LAWS
[CALIFORNIA BUSINESS &
PROFESSIONS CODE § 17500, *ET
SEQ.*]
3. VIOLATION OF CALIFORNIA'S
CONSUMER LEGAL REMEDIES
ACT [CALIFORNIA CIVIL CODE §
1750, *ET SEQ.*]
4. FRAUD
5. NEGLIGENT
MISREPRESENTATION
6. DECEIT [CALIFORNIA CIVIL
CODE § 1710]

Judge Assigned: Hon. George H. Wu

Complaint Filed: Jan. 6, 2012

Date of Removal: January 30, 2012

1 Plaintiffs KEHLIE R. ESPINOSA, LILLIAN E. LEVOFF, THOMAS GANIM,
2 and DANIEL BALDESCHI, as individuals, on behalf of themselves and on behalf of all
3 others similarly situated (*i.e.*, the members of the Plaintiff Class described and defined
4 within this Complaint), herein alleges as follows:

5 **I**

6 **JURISDICTION AND VENUE**

7 1. This Court has personal jurisdiction over the Defendant because Defendant
8 has conducted and continues to conduct business in the State of California, and because
9 Defendant has committed the acts and omissions complained of herein in the State of
10 California.

11 2. Venue as to Defendant is proper in this judicial district. Defendant
12 HYUNDAI Motor America sells a substantial amount of automobiles in this district, has
13 dealerships in this district, and many of Defendant's acts complained of herein occurred
14 in Los Angeles County, California.

15 3. This case was removed by the defendant from the Superior Court of the
16 State of California on January 30, 2012, based on the Class Action Fairness Act of 2005,
17 28 U.S.C. §§ 1332(d)(2) and 1453(b).

18 **II**

19 **GENERAL ALLEGATIONS**

20 4. This is a civil action primarily challenging the pervasive false
21 advertisements disseminated by Defendant HYUNDAI MOTOR AMERICA (hereinafter
22 "Defendant" or "HYUNDAI") regarding the expected gas mileage of its vehicle models,
23 including but not limited, to the Hyundai Elantra and Sonata. Exploiting the United
24 States consumer's market preference for high gas mileage vehicles, HYUNDAI has
25 undertaken in scope an almost unprecedented marketing campaign to sell its vehicles
26 through claiming that a number of its models, including the Elantra, will get at least 40
27 miles per gallon in highway driving, and for the Sonata to achieve 35 miles per gallon. In
28 actually, its models, including the Elantra and Sonata, get considerably less than the

1 advertised miles per gallon in normal highway driving conditions. Plaintiffs, for
2 themselves and all others similarly situated, bring this action for rescission and
3 reimbursement of the purchase price of the vehicles as well as an order enjoining
4 HYUNDAI from engaging in further deceptive advertisements, pursuant to the Unfair
5 Business Practices Act, California Business & Professions Code § 17200, *et seq.*; False
6 Advertising, California Business & Professions Code § 17500, *et seq.*; Consumer Legal
7 Remedies Act, California Civil Code § 1750, *et seq.*; statutory Deceit, California Civil
8 Code § 1710; and common law fraud and negligent misrepresentation.

9 5. Plaintiff KEHLIE R. ESPINOSA is a resident and citizen of the city of
10 Redlands, County of San Bernardino, State of California. She purchased a new 2012
11 Hyundai Elantra vehicle on or about October 17, 2011, at Cerritos Hyundai, a HYUNDAI
12 dealership located in Cerritos, California. She made her decision to purchase a Hyundai
13 Elantra after researching, viewing, and relying on television, print and online HYUNDAI
14 advertisements that stated the vehicle got 40 miles per gallon in highway driving. Based
15 on information and belief, those same televisions, print and online advertisements were
16 disseminated by HYUNDAI throughout California and the United States regarding the
17 expected gas mileage of HYUNDAI models.

18 6. Plaintiff LILLIAN E. LEVOFF is a resident and citizen of the city of Los
19 Angeles, County of Los Angeles, State of California. She purchased a new 2012
20 Hyundai Elantra vehicle on or about August 3, 2011, at Keyes Hyundai dealership, a
21 HYUNDAI dealership located in Van Nuys, California. She made her decision to
22 purchase a Hyundai Elantra after researching, viewing, and relying on television
23 commercials through the internet, print and online HYUNDAI advertisements that stated
24 the vehicle got 40 miles per gallon. Based on information and belief, those same internet
25 TV, print and online advertisements were disseminated by HYUNDAI throughout
26 California and the United States regarding the expected gas mileage of the 2011-12
27 Hyundai Elantra models.

1 7. Plaintiff THOMAS GANIM is a resident and citizen of the city of Santa
2 Clarita, County of Los Angeles, State of California. He purchased a new 2011 Hyundai
3 Elantra vehicle on about April, 2011, at Parkway Hyundai dealership, a HYUNDAI
4 dealership located in Valencia, California. He made his decision to purchase a Hyundai
5 Elantra after researching and viewing television commercials and billboards that stated
6 that the Elantra achieved 40 miles per gallon. Based on information and belief, those
7 same television commercials and billboards were disseminated by HYUNDAI throughout
8 California and the United States regarding the expected gas mileage of the 2011-12
9 Hyundai Elantra models.

10 8. Plaintiff DANIEL BALDESCHI is a resident and citizen of the city of Santa
11 Clarita, County of Los Angeles, State of California. He purchased a new 2012 Hyundai
12 Sonata vehicle on or about March 29, 2012, at Parkway Hyundai dealership, a
13 HYUNDAI dealership located in Valencia, California. He made his decision to purchase
14 a Hyundai Sonata after researching, viewing, and relying on HYUNDAI television
15 commercials that stated the Sonata got 35 miles per gallon. Based on information and
16 belief, those same televisions, print and online advertisements were disseminated by
17 HYUNDAI throughout California and the United States regarding the expected gas
18 mileage of 2011-12 Hyundai Sonata models.

19 9. Based on information and belief, Defendant HYUNDAI MOTOR
20 AMERICA is a corporation which is incorporated in the state of California, and is a
21 citizen of and has its principal place of business in the city of Fountain Valley, California.

22 10. The true names and capacities of Defendants sued herein as DOES 1 through
23 10, inclusive, are currently unknown to Plaintiffs, who therefore sue such Defendants by
24 such fictitious names. Each of the Defendants designated herein as a DOE is legally
25 responsible in some manner for the unlawful acts referred to herein. Plaintiffs will seek
26 leave of Court to amend this Complaint to reflect the true names and capacities of the
27 Defendants designated herein as DOES when such identities become known.
28

11. Based upon information and belief, Plaintiffs allege that at all times mentioned herein, each and every Defendant was acting as an agent and/or employee of each of the other Defendants, and at all times mentioned was acting within the course and scope of said agency and/or employment with the full knowledge, permission, and consent of each of the other Defendants. In addition, each of the acts and/or omissions of each Defendant alleged herein were made known to, and ratified by, each of the other Defendants.

III FACTUAL ALLEGATIONS

A. Plaintiff KEHLIE R. ESPINOSA

12. Plaintiff Espinosa purchased a new 2012 HYUNDAI Elantra vehicle on or about October 17, 2011, at Cerritos HYUNDAI, in Cerritos, California. Plaintiff Espinosa first learned of the HYUNDAI vehicle through television advertisement. Prominent in those advertisements was that the HYUNDAI vehicles got over 40 miles per gallon in highway driving. Both the price of the vehicle and the gas mileage were very important considerations for her in making the purchase of her new car.

13. Following seeing the television advertisements, Plaintiff Espinosa went to HYUNDAI's web site that provided information about the vehicle. Prominently included within the web site for the Elantra was a page about the performance of the Elantra, which stated: "...*the Elantra goes further with less. 40 mpg Hwy standard...*" (Ex. 1, p. 2; Ex. 1(a) blow-up of pertinent section – print out from the HYUNDAI website).

14. Plaintiff Espinosa then went to a dealership in Loma Linda, California. Outside the dealership, there was a very large banner she saw that stated: "*Tired of High Gas Prices? 40 MPG!*" (Ex. 2 – Picture of the Banner at Inland Empire Hyundai). Plaintiff Espinosa then talked to a salesperson at Inland Empire Hyundai who confirmed that the Elantra got 40 mpg. Plaintiff Espinosa then was provided a brochure by the dealership that, based on information and belief was developed by HYUNDAI, which

1 prominently stated in very large font that the Elantra got 40 Hwy MPG and also states
2 that the Elantra offers “40-mpg fuel efficiency”. (Ex. 3, p. 3 – Copy of the 2012 Elantra
3 brochure). None of these affirmative representations are accompanied by any adequate
4 disclosure that the advertised mpg ratings are based on EPA estimates or that the mileage
5 will vary in relation to normal, real world driving.

6 15. When researching the Hyundai Elantra by reviewing HYUNDAI websites,
7 television commercials, and banners, Ms. Espinosa was very impressed with the high gas
8 mileage that these materials advertised the Elantra would achieve and was led to believe
9 that the high gas mileage would be reflective of what she would experience during
10 normal, real-world highway use.

11 16. Based on these representations, Ms. Espinosa reasonably believed that the
12 Elantra would achieve approximately 40 miles per gallon in normal highway driving, as
13 well as the advertised city mileage. Furthermore, none of these advertisements provide
14 any clear or understandable disclaimer that the actual gas mileage under normal, real
15 world driving conditions would be less than the advertised mileage.

16 17. Plaintiff Espinosa heavily relied on these representations when she decided
17 to buy the 2012 Hyundai Elantra. It was a material consideration and substantial factor in
18 her decision to buy the HYUNDAI vehicle. However, after purchasing the vehicle, Ms.
19 Espinosa discovered that it consistently achieved gas mileage far below the advertised
20 mileage under normal, real-world use, both on the highway and in the city. Plaintiff
21 Espinosa did not know when she purchased the vehicle that the advertised mpg was
22 inaccurate as she reasonably expected that HYUNDAI would not falsely advertise the
23 mpg, and because there was no other adequate indication that the advertised rates were
24 unreliable because they were EPA estimates that vary from and are inflated in relation to
25 the actual performance in normal, real-world driving conditions. Had it been disclosed to
26 Ms. Espinosa that HYUNDAI’s advertisements of the Elantra’s expected gas mileage
27 under normal conditions was far inflated compared to the actual performance of the
28

1 vehicle she purchased, she would have considered buying other competitive vehicle
2 manufacturers' models.

3 18. Based on information and belief, HYUNDAI's 40 Hwy miles per gallon
4 advertisements made to Plaintiff Espinosa in television, online, and in print were part of a
5 concerted marketing plan conceived and executed by HYUNDAI to convey inflated
6 expected miles per gallon information to putative class members throughout California
7 and the United States, including 40 Hwy MPG for the Elantra. In fact, those
8 advertisements to the putative class members were false, as HYUNDAI vehicles do not
9 get the advertised mileage, and the Elantra does not get 40 Hwy MPG, in normal
10 highway driving conditions or the stated City MPG.

11 19. Ms. Espinosa has, therefore, been damaged, and seeks, on behalf of herself
12 and the putative class, damages, rescission, restitution, and injunctive relief in the form of
13 requiring HYUNDAI to cease its false advertising and engage in a corrective campaign to
14 fully disclose material information about the vehicle's mileage.

15 **B. Plaintiff LILLIAN E. LEVOFF**

16 20. Plaintiff Levoff purchased a new 2012 Hyundai Elantra vehicle on or about
17 August 3, 2011, at Keyes Hyundai dealership, a HYUNDAI dealership located in Van
18 Nuys, California. In the summer of 2011, she decided to transition out of a six-cylinder
19 car specifically in order to benefit from the new fuel efficient vehicles that were now
20 available. Fuel efficiency was the primary basis for her in choosing a new vehicle.

21 21. She made her decision to purchase a Hyundai Elantra after researching,
22 viewing, and relying on television commercials, internet, print and online HYUNDAI
23 advertisements that stated the vehicle got 40 miles per gallon. Specifically, among
24 others, Ms. Levoff saw commercials in which the narration described the new Elantra
25 with "40 miles per gallon standard" and contained super script graphic "40 MPG" on the
26 screen shot of the vehicle. Ms. Levoff also saw internet and other ads that consisted of
27 the statement "The 40-MPG Elantra" combined with an image of the Elantra vehicle.
28 Based on information and belief, those same internet TV, print and online advertisements

1 were disseminated by HYUNDAI throughout California and the United States regarding
2 the expected gas mileage of the 2011-12 Hyundai Elantra models.

3 22. The advertisement representations of the 40 mpg fuel efficiency rating were
4 the primary reason that she chose to purchase the 2012 Elantra. These advertisements did
5 not adequately disclose whether the advertised mileage figure is an EPA highway
6 estimate that will vary from real-world driving, and instead presented the mileage figure
7 as the actual, expected fuel efficiency of the vehicle.

8 23. Based on these representations, Plaintiff Levoff reasonably believed that the
9 Elantra would actually achieve 40 mpg when driving in the real world. Plaintiff Levoff
10 heavily relied on these representations when she decided to buy the 2012 Hyundai
11 Elantra. It was a material consideration and substantial factor in her decision to buy the
12 HYUNDAI vehicle. Furthermore, none of these advertisements provide any clear or
13 understandable disclaimer that the actual gas mileage under normal, real world driving
14 conditions would be less than the advertised mileage.

15 24. However, after purchasing the vehicle, Ms. Levoff discovered that it
16 consistently achieved gas mileage far below the advertised mileage under normal, real-
17 world use, both on the highway and in the city. She subsequently rented two Elantras
18 from Enterprise Rental Cars, and those vehicles also achieved a gas mileage far below
19 what was advertised.

20 25. Plaintiff Levoff did not know when she purchased the vehicle that the
21 advertised mpg was inaccurate as she reasonably expected that HYUNDAI would not
22 falsely advertise the mpg, and because there was no other adequate indication that the
23 advertised rates were unreliable because they were EPA estimates that vary from and are
24 inflated in relation to the actual performance in normal, real-world driving conditions.
25 Had it been disclosed to Ms. Levoff that HYUNDAI's advertisements of the Elantra's
26 expected gas mileage under normal conditions was far inflated compared to the actual
27 performance of the vehicle she purchased, she would have considered buying other
28 competitive vehicle manufacturers' models.

1 26. Therefore, Ms. Levoff has been damaged from HYUNDAI's false,
2 misleading, and inadequate representations of mpg ratings.

3 **C. Plaintiff THOMAS GANIM**

4 27. Plaintiff Ganim purchased a new 2011 Hyundai Elantra vehicle on about
5 April, 2011, at Parkway Hyundai dealership, a HYUNDAI dealership located in
6 Valencia, California. Fuel efficiency was one of the primary factors for him in choosing
7 a new vehicle. Prior to purchasing the vehicle, he viewed a relied on advertisements by
8 HYUNDAI stating that the Elantra would achieve 40 mpg. Specifically, he viewed and
9 relied on a television commercial campaign for the Elantra shown regularly on the cable
10 television network TNT during its program "Inside the NBA" during the halftime of
11 televised National Basketball Association games. He also viewed and relied on
12 billboards near his home that represented the same 40 mpg rating for the Elantra.

13 28. These advertisement representations of the 40 mpg fuel efficiency rating was
14 the one of the primary reasons that he chose to purchase the 2011 Elantra. These
15 advertisements did not adequately disclose whether the advertised mileage figure is an
16 EPA highway estimate that will vary from real-world driving, and instead presented the
17 mileage figure as the actual, expected fuel efficiency of the vehicle.

18 29. Based on these representations, Plaintiff Ganim reasonably believed that the
19 Elantra would actually achieve 40 mpg when driving in the real world. Plaintiff Ganim
20 heavily relied on these representations when he decided to buy the 2012 Hyundai Elantra.
21 It was a material consideration and substantial factor in his decision to buy the
22 HYUNDAI vehicle. Furthermore, none of these advertisements provide any clear or
23 understandable disclaimer that the actual gas mileage under normal, real world driving
24 conditions would be less than the advertised mileage.

25 30. However, after purchasing the vehicle, Mr. Ganim discovered that it
26 consistently achieved gas mileage far below the advertised mileage under normal, real-
27 world use, both on the highway and in the city.

1 31. Plaintiff Ganim did not know when he purchased the vehicle that the
2 advertised mpg was inaccurate as he reasonably expected that HYUNDAI would not
3 falsely advertise the mpg, and because there was no other adequate indication that the
4 advertised rates were unreliable because they were EPA estimates that vary from and are
5 inflated in relation to the actual performance in normal, real-world driving conditions.
6 Had it been disclosed to Mr. Ganim that HYUNDAI's advertisements of the Elantra's
7 expected gas mileage under normal conditions was far inflated compared to the actual
8 performance of the vehicle he purchased, he would have considered buying other
9 competitive vehicle manufacturers' models.

10 32. Therefore, Mr. Ganim has been damaged from HYUNDAI's false,
11 misleading, and inadequate representations of mpg ratings.

12 **D. Plaintiff DANIEL BALDESCHI**

13 33. Plaintiff Baldeschi purchased a new 2012 Hyundai Sonata vehicle on or
14 about March 29, 2012, at Parkway Hyundai dealership, a HYUNDAI dealership located
15 in Valencia, California.

16 34. When shopping around and researching, he also looked at other makes and
17 models, but ultimately chose the Sonata because of the price and advertised gas mileage.
18 His plan was to trade in a Jeep Cherokee which he owned, for the primary purpose of
19 buying a car with a lower cost of driving based on the fuel mileage.

20 35. Prior to purchasing the vehicle, Mr. Baldeschi viewed and relied on the
21 television commercials which were shown multiple times a day all advertising that
22 Sonata achieved a 35 mpg rating. These advertisements did not adequately disclose
23 whether the advertised mileage figure is an EPA highway estimate that will vary from
24 real-world driving, and instead presented the mileage figure as the actual, expected fuel
25 efficiency of the vehicle.

26 36. Based on these representations, Plaintiff Baldeschi reasonably believed that
27 the Sonata would actually achieve 35 mpg when driving in the real world. Plaintiff
28 Baldeschi heavily relied on these representations when he decided to buy the 2012

1 Hyundai Sonata. It was a material consideration and substantial factor in his decision to
2 buy the HYUNDAI vehicle. Furthermore, none of these advertisements provide any
3 clear or understandable disclaimer that the actual gas mileage under normal, real world
4 driving conditions would be less than the advertised mileage.

5 37. However, after purchasing the vehicle, Mr. Baldeschi discovered that it
6 consistently achieved gas mileage far below the advertised mileage under normal, real-
7 world use, both on the highway and in the city. He had heard that there was a break-in
8 period before the vehicle achieves a higher gas mileage, but his car continues to achieve
9 gas mileage far below the advertised rates.

10 38. Plaintiff Baldeschi did not know when he purchased the vehicle that the
11 advertised mpg was inaccurate as he reasonably expected that HYUNDAI would not
12 falsely advertise the mpg, and because there was no other adequate indication that the
13 advertised rates were unreliable because they were EPA estimates that vary from and are
14 inflated in relation to the actual performance in normal, real-world driving conditions.
15 Had it been disclosed to Mr. Baldeschi that HYUNDAI's advertisements of the Sonata's
16 expected gas mileage under normal conditions was far inflated compared to the actual
17 performance of the vehicle he purchased, he would have considered buying other
18 competitive vehicle manufacturers' models.

19 39. Based on information and belief, HYUNDAI's 35 miles per gallon
20 advertisements made to Plaintiff Ganim in television, online, and in print were part of a
21 concerted marketing plan conceived and executed by HYUNDAI to convey inflated
22 expected miles per gallon information to putative class members throughout California
23 and the United States, including 35 Hwy MPG for the Sonata. In fact, those
24 advertisements to the putative class members were false, as HYUNDAI vehicles do not
25 get the advertised mileage, and the Sonata does not get 35 Hwy MPG, in normal highway
26 driving conditions or the stated City MPG.

27 40. Therefore, Mr. Baldeschi has been damaged from HYUNDAI's false,
28 misleading, and inadequate representations of mpg ratings.

E. Defendant HYUNDAI MOTOR AMERICA

41. HYUNDAI is one of the largest auto-manufacturers in the world, and designs, manufactures, advertises, and sells numerous well-known brands. In attempting to capitalize on strong consumer preference for better fuel economy and smaller vehicles, HYUNDAI has focused the last couple of years on producing, advertising, and selling fuel-efficient vehicles. However, in the process of promoting sales, HYUNDAI engaged in widespread misleading and deceptive advertisements, including throughout California, regarding the real-world gas mileage of these vehicles by promoting grossly inflated gas mileage numbers when the vehicles, in fact, fall substantially short of attaining in real-world, normal use. The marketing campaign has been widely successful, and the sales of HYUNDAI vehicles have skyrocketed. In addition to the advertisements seen by Plaintiffs, as mentioned above, HYUNDAI also advertised:

- “Elantra’s standard fuel economy is EPA-rated at 29 mpg city and 40 mpg highway, and 33 combined, with the six-speed automatic transmission or manual transmission. These figures give Elantra a highway-only driving range of up to 500 miles.” (Ex. 4, p. 2 – Hyundai Press Release [Hyundai website]; Ex. 5, p. 2 – Hyundai Awards & Reviews: Elantra [Hyundai website].) This statement of mileage range on a single tank further expresses that the 40 mpg on the highway is actually achievable. There is no statement that the actual mileage will vary.
- “100 percent of Elantras we build will deliver 40 mpg on the highway.” (Commercial advertisement viewable online.¹) This statement of guarantee also affirmatively expresses that the 40 mpg on the highway is actually achievable. As there is no mention of “EPA estimate”, HYUNDAI clearly intended its advertisement of the 40 mpg as being what a consumer can expect, regardless of whether it is based on EPA estimates or not. Additionally, there is no statement that the actual mileage will vary.

¹ <http://www.autoblog.com/2010/12/02/video-hyundai-launches-save-the-asterisks-campaign-for-40-mpg-e/#continued>

1 42. The MPG figure provided by HYUNDAI in advertisements are not real
2 world driving estimates. Instead, they are an EPA fuel mileage figure used for sticker
3 comparisons that, pursuant to federal law, must include on the window sticker an
4 accompanying disclosure that the EPA estimate would not reflect real world fuel mileage.
5 The reason is, as HYUNDAI was well aware, that the miles per gallon under EPA test
6 conditions grossly overstates actual expected highway mileage in real world driving
7 conditions.

8 43. The purpose of the EPA gas mileage estimate is to provide a consistent way
9 for consumers to be able to compare the fuel efficiency of different vehicles under
10 identical test conditions. However, the EPA estimates are not designed to determine, nor
11 are they accurate predictors of, the actual expected mileage for a vehicle under normal,
12 real life driving conditions. The reason is that the test conditions are such as to maximize
13 fuel mileage far beyond what a normal customer would experience. First, the EPA
14 mileage tests are not conducted on roads, but rather are conducted in laboratories on
15 machines known as dynamometers that do not provide the normal challenges to fuel
16 mileage as would be experienced under real world driving conditions. Further, the
17 highway portion of the test averages only 48.3 mph and tops out at 60 mph. Obviously,
18 an average highway speed of 48.3 mph is not reflective of normal highway speeds and
19 will result in inflated mpg versus normal highway driving conditions. In addition, the
20 fuel used for these tests is a special fuel that is more efficient than fuel used by
21 consumers in normal driving conditions. Also, the test lasts about 95 minutes with the
22 car's air conditioning on for just 10 minutes of that time. Finally, the test is performed
23 with only the driver, who is a professional driver whose job is to maximize the results of
24 the test. Each of these issues results in a test mpg figure that is inflated over what can be
25 expected in real world driving conditions and, as such, is improper to use for purposes of
26 representing to customers what they can expect from the vehicle in real life driving
27 conditions.
28

1 44. Additionally, the EPA relies on automakers to conduct their own tests, and
2 self-report the results. The agency physically tests and audits only about 15% of the
3 models on the market.

4 45. As a result of the tremendous difference in driving conditions between the
5 EPA testing and normal, real-world driving, the EPA mileage estimates are substantially
6 inflated in comparison to the mileage attained by the same models driven in the real
7 world.

8 46. On its website, the EPA acknowledges this discrepancy by stating the rating
9 “may not accurately predict the average MPG you will get.” In fact, the EPA, which
10 requires that auto manufacturers place window stickers on new models with the EPA city
11 and highway estimates printed on them, also requires on the sticker as a significant,
12 material disclosure the words, “[a]ctual mileage *will vary*,” pursuant to 40 C.F.R. §
13 600.307-86(a)(ii)(A). (Emphasis added).

14 47. The discrepancy between EPA estimate mpg ratings and actual fuel
15 economy achieved in the real world has been specifically problematic for the HYUNDAI
16 Elantra. One example is USA Today tech writer Jefferson Graham, who wrote about his
17 experiences with the Elantra’s underperforming gas mileage in a September 22, 2011
18 article.² He had purchased an Elantra in 2011 after seeing ads about its industry-leading
19 gas mileage – especially its 40 miles per gallon on the highway – but was disappointed
20 when he discovered that he achieved a lowly 22 mpg for combined highway and city
21 driving.

22 48. Industry magazine Motor Trend also expressed concern about complaints
23 about the EPA-certified 29/40 mpg fuel economy number that the magazine’s experts
24
25
26
27

28 ² <http://content.usatoday.com/communities/driveon/post/2011/09/hyundai-elantras-gas-mileage-disappoints-this-tech-writer/1>

1 “did not come close to replicating. Among the gas burners, the Elantra’s 25.9 mpg in
2 mixed driving was solidly midpack.”³

3 49. Consumer Reports echoed these results in its evaluation of the 2012 Elantra,
4 which achieved less than 30 mpg’s in overall fuel economy.⁴ Likewise, the New York
5 Times, in its July 8, 2011 review of the 2012 Elantra,⁵ also expressed serious concerns
6 about the sharp discrepancy between HYUNDAI’s advertised mpg and what is actually
7 attained:

8 Hyundai, for its part, has trumpeted the fact that every
9 version of the Elantra – not just special models like the stick-
10 shift version of the Cruze Eco – is rated at 40 m.p.g. on the
11 highway.

12 But Hyundai might want to turn down the volume: I couldn’t
13 get above 37 m.p.g. in the Elantra, even when observing a 55
14 m.p.h. speed limit, with or without cruise control. In typical
15 highway driving, I got 31 to 34 m.p.g., which is reasonably
16 good economy, but much less than advertised.

17 50. Indeed, there are a substantial number of consumer complaints regarding the
18 Elantra’s failure to achieve anywhere near the advertised mpg ratings posted in auto
19 industry forums, including Edmunds.com and ElantraClub.com. (Ex. 6 - Examples of
20 forum postings from 2011) These complaints by purchasers of the 2011 and 2012 Elantra
21 models include such statements as:

- 22 • “it does not get near the gas mileage that it purports to. I average 28 mpg
23 per tank.”

24
25 ³[http://www.motortrend.com/roadtests/sedans/1107_best_selling_compact_sedan_compa](http://www.motortrend.com/roadtests/sedans/1107_best_selling_compact_sedan_comparison/viewall.html)
26 [rison/viewall.html](http://www.motortrend.com/roadtests/sedans/1107_best_selling_compact_sedan_comparison/viewall.html)

27 ⁴ [http://www.consumerreports.org/cro/cars/new-cars/buying-advice/best-worst-cars-](http://www.consumerreports.org/cro/cars/new-cars/buying-advice/best-worst-cars-review/best-worst-fuel-economy/best-and-worst-fuel-economy.htm)
28 [review/best-worst-fuel-economy/best-and-worst-fuel-economy.htm](http://www.consumerreports.org/cro/cars/new-cars/buying-advice/best-worst-cars-review/best-worst-fuel-economy/best-and-worst-fuel-economy.htm)

⁵ [http://www.nytimes.com/2011/07/10/automobiles/autoreviews/hyundai-throws-a-new-](http://www.nytimes.com/2011/07/10/automobiles/autoreviews/hyundai-throws-a-new-curve-at-small-car-shoppers.html?pagewanted=2&_r=2)
[curve-at-small-car-shoppers.html?pagewanted=2&_r=2](http://www.nytimes.com/2011/07/10/automobiles/autoreviews/hyundai-throws-a-new-curve-at-small-car-shoppers.html?pagewanted=2&_r=2)

- 1 • “If you are primarily buying it for its fuel economy, you will probably be
- 2 disappointed in this car. The gas mileage is ... not what they advertise it to
- 3 be.”
- 4 • “our Elantra averages around 27-28 mixed driving now but even during
- 5 last trip on a freeway gave only 33 mpg.”
- 6 • “the only concern is the gas mileage. It never reaches even the lowest
- 7 number on the sheet. Even in mixed driving it goes to only 26. And in pure
- 8 city driving it is around 20 mpg!”
- 9 • “I have taken it on 2 trips and the best gas mileage I have been able to get is
- 10 32 MPG!! A far cry from the stated 40 mpg that Hyundai is advertising.”

11 51. Not only do these numerous publications and internet postings give
 12 HYUNDAI notice of the deceptiveness of its advertising, but they also emphasize the
 13 importance of high mpg ratings to consumers and that the advertisement of inflated mpg
 14 ratings does mislead and induce consumers to purchase vehicles to their detriment.
 15 HYUNDAI continues its deceptive scheme to this day.

16 52. On November 30, 2011, consumer advocate group Consumer Watchdog
 17 submitted a letter to the EPA, emphasizing the importance of ensuring the accuracy of
 18 EPA mpg estimates as auto manufacturers gear their advertisements to take advantage of
 19 strong consumer preferences for vehicles that are sensible for financial and
 20 environmental reasons. (Ex. 7 - Consumer Watchdog letter to EPA, dated November 30,
 21 2011.) However, the Consumer Watchdog specifically expressed concerns about the
 22 HYUNDAI Elantra, which is marketed with a very high 29/40 mpg and 33 mpg average,
 23 but “leaving a trail of disappointed drivers.” In addition to some of the publications
 24 mentioned above, the letter also mentions the scores of Elantra drivers who are unable to
 25 duplicate such high mpg rates. It also notes that there are numerous Elantra drivers who
 26 reported complaints to the EPA, including at least eighteen (18) complaints for the 2012
 27 model (“an unusually high number”), after finding, on average, less than 29 mpg. The
 28 letter states that consumers place an increasingly strong emphasis on fuel economy when

1 buying cars, making significant discrepancies between advertised and actual fuel
2 economy a very important consumer issue. Because the Elantra's mpg discrepancies
3 appear far more serious than those of similar models by other makers, the Consumer
4 Watchdog concludes that it is necessary for the EPA to re-test the 2011 and 2012 Elantra
5 models in the EPA's own facility, to determine an explanation for why real world fuel
6 economy rates so far below the listed and advertised mpg rating,

7 53. Based on this large amount of complaints regarding the staggering
8 discrepancy between the advertised and actual mpg rates, Plaintiffs, upon such
9 information and belief, allege that the HYUNDAI Elantra may have inflated EPA
10 numbers and may not have followed the appropriate protocols set forth by the EPA in
11 determining the EPA estimate ratings for its vehicles. If the advertised EPA estimates for
12 HYUNDAI vehicles are inaccurate as would seem to be indicated by the difference
13 between what customers are experiencing and the stated EPA estimates, then HYUNDAI
14 is liable for affirmatively misrepresenting the EPA estimates.

15 54. Plaintiffs further challenge HYUNDAI's systematic advertising scheme that
16 misleadingly and unfairly uses the existing EPA mileage numbers to represent and imply
17 that the miles-per-gallon highway EPA estimate reflects actual, expected mileage under
18 normal, real-world driving conditions. HYUNDAI accomplishes this scheme in several
19 ways. First, it advertises the mpg ratings that are inaccurate for what customers will
20 experience in normal real-world use. Second, in so far as it purports to be advertising the
21 EPA mpg estimates, it does so while failing to disclose that the ratings are in fact based
22 on testing performed under the EPA standard and that they are estimates. Third, it fails to
23 provide the disclaimer that the advertised rates will vary with actual mpg ratings achieved
24 in the real world. Fourth, it provides additional affirmative misrepresentations that
25 indicate that consumers should expect the vehicles to achieve the advertised mpg ratings
26 in normal, real-world use.

27 55. Plaintiffs and the putative class reasonably relied on HYUNDAI's material
28 false representations that its vehicles would achieve the advertised miles per gallon

1 during normal, real-world highway use. A reasonable consumer would expect and rely
 2 on HYUNDAI's advertisement that the listed miles per gallon would be reflective of the
 3 miles per gallon they could expect to get in normal driving conditions. Furthermore, a
 4 reasonable consumer in today's market attaches material importance to advertisements of
 5 high gas mileage, as fuel efficiency is one of the most, if not *the* most, important
 6 considerations in making purchasing decisions for most consumers.

7 IV

8 CLASS ACTION ALLEGATIONS

9 56. Plaintiffs initially propose a Nationwide class – the “Class” – in litigating
 10 this case, as defined as follows:

11 All owners of 2010-2012 HYUNDAI models who purchased or leased their
 12 vehicles in the United States.

13 Excluded from the above class is any entity in which Defendant has a controlling interest,
 14 and officers or directors of Defendant.

15 57. Alternatively, Plaintiffs propose a California class, as defined as follows:

16 All owners of 2010 -2012 HYUNDAI models who purchased their vehicles
 17 in California.

18 Excluded from the above class is any entity in which Defendant has a controlling interest,
 19 and officers or directors of Defendant.

20 58. This action is brought as a class action and may properly be so maintained
 21 pursuant to the provisions of California Code of Civil Procedure section 382 and
 22 California Civil Code section 1781. Plaintiffs reserve the right under Rule 1855(b),
 23 California Rules of Court, to amend or modify the Class description with greater
 24 specificity or further division into subclasses or limitation to particular issues, based on
 25 the results of discovery.

26 59. **Numerosity of the Class** – The members of the Class are so numerous that
 27 their individual joinder is impracticable. Plaintiffs are informed and believe that there are
 28 at least thousands of purchasers in the class. Inasmuch as the class members may be

1 identified through business records regularly maintained by Defendant and its employees
 2 and agents, and through the media, the number and identities of class members can be
 3 ascertained. Members of the Class can be notified of the pending action by e-mail, mail,
 4 and supplemented by published notice, if necessary;

5 60. **Existence and Predominance of Common Question of Fact and Law** –

6 There are questions of law and fact common to the Class. These questions predominate
 7 over any questions affecting only individual class members. These common legal and
 8 factual issues include, but are not limited to:

- 9 a. Whether the subject vehicles achieve gas mileage materially lower than
 10 the advertised expected mileage;
- 11 b. Whether the subject vehicles achieve mileage range on a single tank of
 12 gas materially less than the advertised expected range.
- 13 c. Whether HYUNDAI's advertisements were false and deceptive in
 14 advertising the expected mileage of the subject vehicles in normal, real-
 15 world highway usage;
- 16 d. Whether HYUNDAI's advertisements failed to provide material
 17 disclosures that the expected gas mileage cannot be achieved in normal,
 18 real-world highway usage;
- 19 e. Whether HYUNDAI's conduct violates the laws as set forth in the causes
 20 of action.

21 61. **Typicality** – The claims of the representative Plaintiffs are typical of the
 22 claims of each member of the Class. Plaintiffs, like all other members of the Class, have
 23 sustained damages arising from Defendant's violations of the laws, as alleged herein.
 24 The representative Plaintiffs and the members of the Class were and are similarly or
 25 identically harmed by the same unlawful, deceptive, unfair, systematic, and pervasive
 26 pattern of misconduct engaged in by Defendant.

27 62. **Adequacy** – The representative Plaintiffs will fairly and adequately
 28 represent and protect the interests of the Class members and have retained counsel who

1 are experienced and competent trial lawyers in complex litigation and class action
2 litigation. There are no material conflicts between the claims of the representative
3 Plaintiffs and the members of the Class that would make class certification inappropriate.
4 Counsel for the Class will vigorously assert the claims of all Class members.

5 63. **Predominance and Superiority** – This suit may be maintained as a class
6 action under California Code of Civil Procedure section 382, California Civil Code
7 section 1781, and Federal Rule of Civil Procedure 23(b)(3), because questions of law and
8 fact common to the Class predominate over the questions affecting only individual
9 members of the Class and a class action is superior to other available means for the fair
10 and efficient adjudication of this dispute. The damages suffered by individual class
11 members are small compared to the burden and expense of individual prosecution of the
12 complex and extensive litigation needed to address Defendant's conduct. Further, it
13 would be virtually impossible for the members of the Class to individually redress
14 effectively the wrongs done to them. Even if Class members themselves could afford
15 such individual litigation, the court system could not. In addition, individualized
16 litigation increases the delay and expense to all parties and to the court system resulting
17 from complex legal and factual issues of the case. Individualized litigation also presents
18 a potential for inconsistent or contradictory judgments. By contrast, the class action
19 device presents far fewer management difficulties; allows the hearing of claims which
20 might otherwise go unaddressed because of the relative expense of bringing individual
21 lawsuits; and provides the benefits of single adjudication, economies of scale, and
22 comprehensive supervision by a single court.

23 64. The Class Plaintiffs contemplate the eventual issuance of notice to the
24 proposed Class members setting forth the subject and nature of the instant action. Upon
25 information and belief, Defendant's own business records and electronic media can be
26 utilized for the contemplated notices. To the extent that any further notices may be
27 required, the Class Plaintiffs would contemplate the use of additional media and/or
28 mailings.

1 65. In addition to meeting the California statutory prerequisites of a Class
2 Action, this action is properly maintained as a Class Action pursuant to Rule 23(b) of the
3 Federal Rules of Civil Procedure, in that:

4 a. Without class certification and determination of declaratory, injunctive,
5 statutory and other legal questions within the class format, prosecution of separate actions
6 by individual members of the Class will create the risk of:

7 i. Inconsistent or varying adjudications with respect to individual
8 members of the Class which would establish incompatible standards of conduct for the
9 parties opposing the Class; or

10 ii. Adjudication with respect to individual members of the Class
11 which would as a practical matter be dispositive of the interests of the other members not
12 parties to the adjudication or substantially impair or impede their ability to protect their
13 interests;

14 b. The parties opposing the Class have acted or refused to act on grounds
15 generally applicable to each member of the Class, thereby making appropriate final
16 injunctive or corresponding declaratory relief with respect to the Class as a whole; or

17 c. Common questions of law and fact exist as to the members of the Class
18 and predominate over any questions affecting only individual members, and a Class
19 Action is superior to other available methods of the fair and efficient adjudication of the
20 controversy, including consideration of:

21 i. The interests of the members of the Class in individually
22 controlling the prosecution or defense of separate actions;

23 ii. The extent and nature of any litigation concerning controversy
24 already commenced by or against members of the Class;

25 iii. The desirability or undesirability of concentrating the litigation
26 of the claims in the particular forum;

27 iv. The difficulties likely to be encountered in the management of a
28 Class Action.

FIRST CAUSE OF ACTION
(Violation of California Business & Professions Code Sections 17200, *et seq.* –
Unfair Business Practices Act)

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

67. The Unfair Business Practices Act defines unfair business competition to include any “unfair,” “unlawful,” or “fraudulent” business act or practice. The Act also provides for injunctive relief, restitution, and disgorgement of profits for violations.

68. Defendant’s unlawful, unfair, and fraudulent business acts and practices are described throughout this Complaint and include, but are not limited to the following. First, it advertises the mpg ratings that are inaccurate for what drivers would actually achieve in the real world. Second, insofar as it purports to be advertising the EPA mpg estimates, it does so while failing to disclose that the ratings are in fact based on testing performed under the EPA standard and that they are estimates. Furthermore, compliance with the EPA testing standard itself is questionable, as required by 16 C.F.R. § 259.2(a). Third, it fails to provide the disclaimer that the advertised rates will vary with actual mpg ratings achieved in the real world, consistent with the requirements of 40 C.F.R. § 600.302-08(b)(4). Fourth, it provides additional affirmative misrepresentations that indicate that consumers should expect the vehicles to achieve the advertised mpg ratings in normal, real-world use.

69. In addition to the above, the conduct as alleged throughout the complaint constitutes a violation of False Advertising Laws (Cal. Bus. & Prof. Code § 17500, *et seq.*), the Consumer Legal Remedies Act (Cal. Civ. Code § 1750, *et seq.*), statutory Deceit (Cal. Civ. Code § 1710), and fraud and negligent misrepresentation that not only result in liability as individual causes of action, they also provide a basis for a finding of liability under California Business and Professions Code § 17200, *et seq.*

70. Furthermore, Defendant’s practices violate the declared legislative policies as set forth by the Federal government in 40 C.F.R. § 600.307(a)(ii)(A); 40 C.F.R. § 600.302-08(b)(4) and 16 C.F.R. § 259.2(a).

1 71. Plaintiffs and the Class members, and each of them, have been damaged by
 2 said practices. Pursuant to California Business and Professions Code §§ 17200 and
 3 17203, Plaintiffs, on behalf of themselves and all others similarly situated, seek relief as
 4 prayed for below.

5 **SECOND CAUSE OF ACTION**
 6 **(Violation of California Business & Professions Code Sections 17500, *et seq.* –**
 False Advertising Laws)

7 72. Plaintiffs incorporate by reference and re-allege all paragraphs previously
 8 alleged herein.

9 73. Defendant disseminated advertisements in print, online, and television
 10 formats materially misleading and deceptive information and omitted material
 11 information, as discussed throughout the Complaint, for purposes of inducing customers
 12 to purchase the subject vehicles, in violation of California Business and Professions Code
 13 § 17500, *et seq.*

14 74. Plaintiffs and the Class, and each of them, have been damaged by said
 15 practice and seeks relief as prayed below.

16 **THIRD CAUSE OF ACTION**
 17 **(Violation of California Civil Code Section 1750 *et seq.* –**
 Consumer Legal Remedies Act)

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

20 76. The following definitions come within the meaning of the Consumer Legal
 21 Remedies Act (Cal. Civ. Code § 1750, *et seq.*):

- 22 a. The members of the Class, all of whom purchased the subject vehicles
- 23 manufactured and sold by HYUNDAI are “consumers” (Cal. Civ. Code §
- 24 1761(d));
- 25 b. Defendant HYUNDAI is a “person” (Cal. Civ. Code § 1761(c));
- 26 c. Plaintiffs’ and each and every Class members’ purchase of the subject
- 27 vehicle constitute a “transaction” (Cal. Civ. Code § 1761(e)); and
- 28 d. The subject vehicles are “goods” (Cal. Civ. Code § 1761 (a)).

1 77. The acts and practices of Defendant as discussed throughout the Complaint,
2 constitute “unfair or deceptive acts or practices” by Defendant, that are unlawful, as
3 enumerated in section 1770(a) of the California Civil Code.

4 78. Such misconduct materially affected the purchasing decisions of Plaintiffs
5 and the members of the Classes.

6 79. Plaintiffs seek restitution and injunctive relief pursuant to California Civil
7 Code § 1780.

8 80. On or about January 18, 2012, Plaintiff notified Defendant of the unlawful
9 acts and practices described above by written notice which contained a demand that
10 Defendant pay damages in the amount of the reimbursement cost for Plaintiff and all
11 other purchasers of the purchase price of the subject vehicles. A copy of Plaintiff’s
12 “Notice of Intent to Bring an Action for Damages Under the Consumer Legal Remedies
13 Act” is attached as Exhibit 8 and is incorporated by reference.

14 81. Pursuant to California Civil Code section 1782(b), Defendant was required
15 to respond to Plaintiff’s notice and demand letter within 30 days of its receipt by either
16 correcting, repairing, replacing, or rectifying the violation set forth in the notice and
17 demand or by agreeing to correct, repair, replace, or rectify the violation within a
18 reasonable time. Defendant failed to respond to Plaintiff’s notice and demand.

19 82. As a result of the California Civil Code section 1770 violations described
20 above, Plaintiffs and each and every member of the Class have suffered actual damages.

21 83. Plaintiffs seek actual damages and restitution pursuant to California Civil
22 Code section 1780. Furthermore, Defendant acted with oppression, fraud, and/or malice
23 in engaging in the California Civil Code section 1770 violations described above. As a
24 result, Plaintiffs are entitled to punitive damages, pursuant to California Civil Code
25 section 1780.

26 //

27 //

28 //

**FOURTH CAUSE OF ACTION
(Fraud)**

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

85. The misrepresentations, nondisclosure, and/or concealment of material facts made by Defendant to Plaintiffs and the members of the Class, as set forth above, were known, or through reasonable care should have been known, by Defendant to be false and material and were intended by Defendant to mislead Plaintiffs and the members of the Class.

86. Plaintiffs and the Class were actually misled and deceived and were induced by Defendant to purchase the subject vehicles which they would not otherwise have purchased.

87. As a result of the conduct of Defendant, Plaintiffs and the Class members have been damaged. In addition to such damages, Plaintiffs seek punitive or exemplary damages pursuant to California Civil Code § 3294 in that Defendant engaged in “an intentional misrepresentation, deceit, or concealment of a material fact known to the defendant with the intention on the part of the defendant of thereby depriving a person of property or legal rights or otherwise causing injury.”

**FIFTH CAUSE OF ACTION
(Negligent Misrepresentation)**

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

89. Defendant had a duty to provide honest and accurate information to its customers so that customers could make informed decisions on the substantial purchase of automobiles.

90. Defendant specifically and expressly misrepresented material facts to Plaintiff and Class members, as discussed above.

1 91. Defendant knew, or in the exercise of reasonable diligence should have
2 known, that the ordinary consumer would be misled by Defendant's misleading and
3 deceptive advertisements.

4 92. Plaintiffs and the Class members justifiably relied on Defendant's
5 misrepresentations and have been damaged thereby.

6 **SIXTH CAUSE OF ACTION**
7 **(California Civil Code § 1710 - Deceit)**

8 93. Plaintiffs incorporate by reference and re-allege all paragraphs previously
9 alleged herein.

10 94. Based on Defendant's conduct as discussed above, Defendant has engaged
11 in fraud and deceit as set forth in California Civil Code § 1710. Plaintiffs and the Class
12 members have reasonably relied on the material misrepresentations and omissions made
13 by Defendant and have been damaged thereby.

14 **PRAYER FOR RELIEF**

15 WHEREFORE, Plaintiffs, on behalf of themselves and the members of the Class,
16 demands judgment against and general and special relief from Defendant as follows:

17 1. An order certifying that the action may be maintained as a Class Action as
18 defined herein and appointing Plaintiffs and their counsel of record to represent the
19 defined Class;

20 2. An order enjoining Defendant under California Business and Professions
21 Code §§ 17203 and 17535 and California Civil Code §§ 1780 and 1781:

22 a. To rescind the sales of subject vehicles purchased in California and/or
23 reimburse Plaintiffs and the Class members the purchase price for those
24 subject vehicles as restitution of all funds improperly obtained by
25 Defendant as a result of such acts and practices declared by this Court to
26 be an unlawful, fraudulent, or an unfair business act or practice, a
27 violation of laws, statutes, or regulations, or constituting unfair
28 competition;

- 1 b. To disgorge all profits and compensation improperly obtained by
2 Defendant as a result of such acts and practices declared by this Court to
3 be an unlawful, fraudulent, or unfair business act or practice, a violation
4 of laws, statutes, or regulations, or constituting unfair competition; and
5 c. To cease engaging in false advertising and to disseminate an informational
6 campaign to correct its misrepresentations and material omissions.

7 3. For damages under the causes of action for violation of the Consumer Legal
8 Remedies Act, fraud, negligent misrepresentation and statutory Deceit;

9 4. For punitive damages, pursuant to California Civil Code § 3294 and
10 1780(a)(4);

11 5. For reasonable attorney's fees and costs, pursuant to California Code of
12 Civil Procedure § 1021.5, California Civil Code § 1780(d), and other statutes as may be
13 applicable;

14 6. For prejudgment interest to the extent allowed by law;

15 7. For costs of suit incurred herein;

16 8. For such other and further relief as the Court deems appropriate.

17
18 DATED: August 1, 2012.

MCCUNEWRIGHT, LLP

19
20 BY:

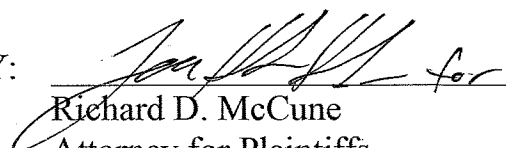
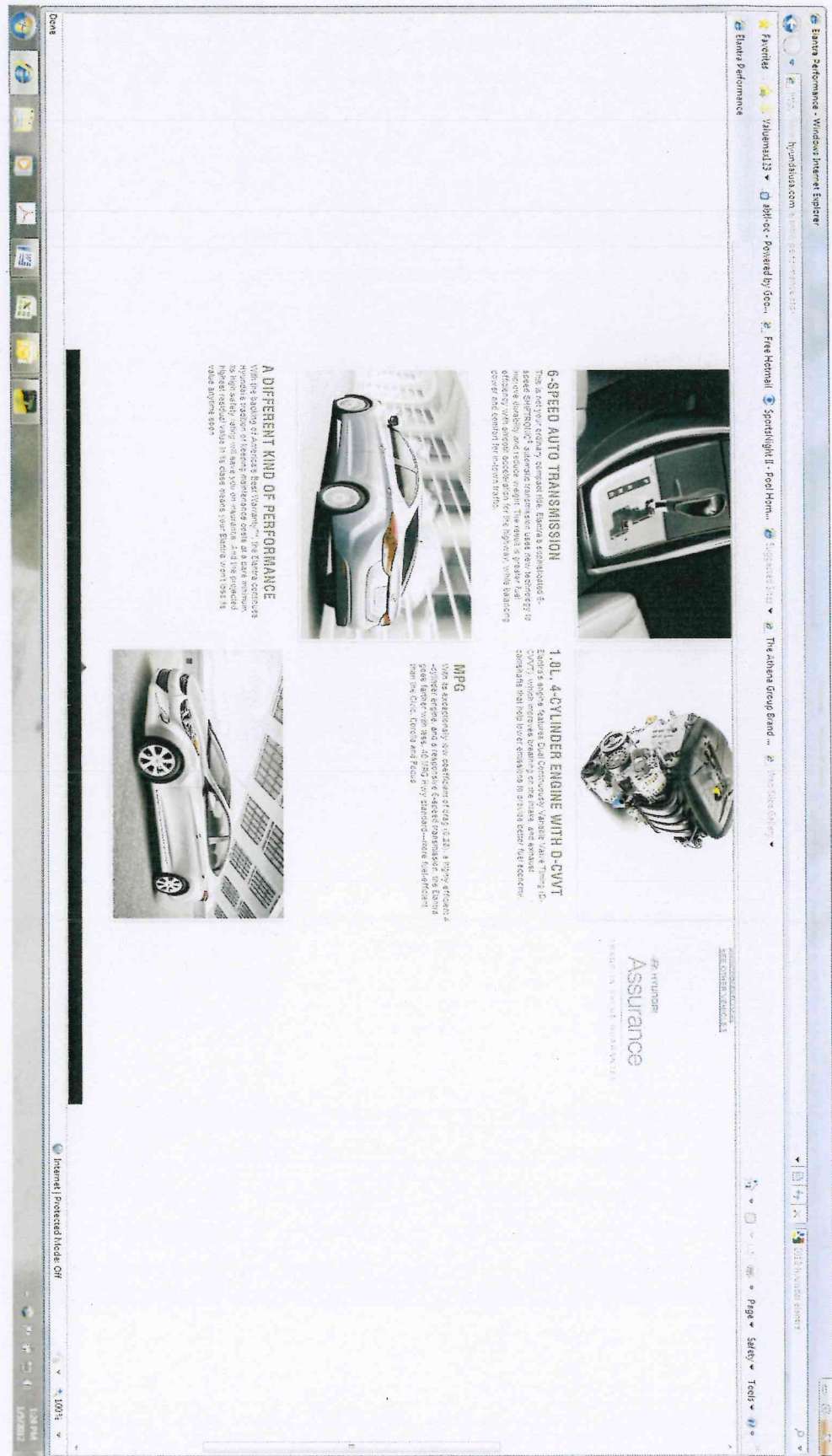

Richard D. McCune
Attorney for Plaintiffs

EXHIBIT “1”







MPG

With its exceptionally low coefficient of drag (0.28), a highly efficient 4-cylinder engine, and a responsive 6-speed transmission, the Elantra goes farther with less. 40 MPG Hwy standard—more fuel-efficient than the Civic, Corolla and Focus.

EXHIBIT “2”

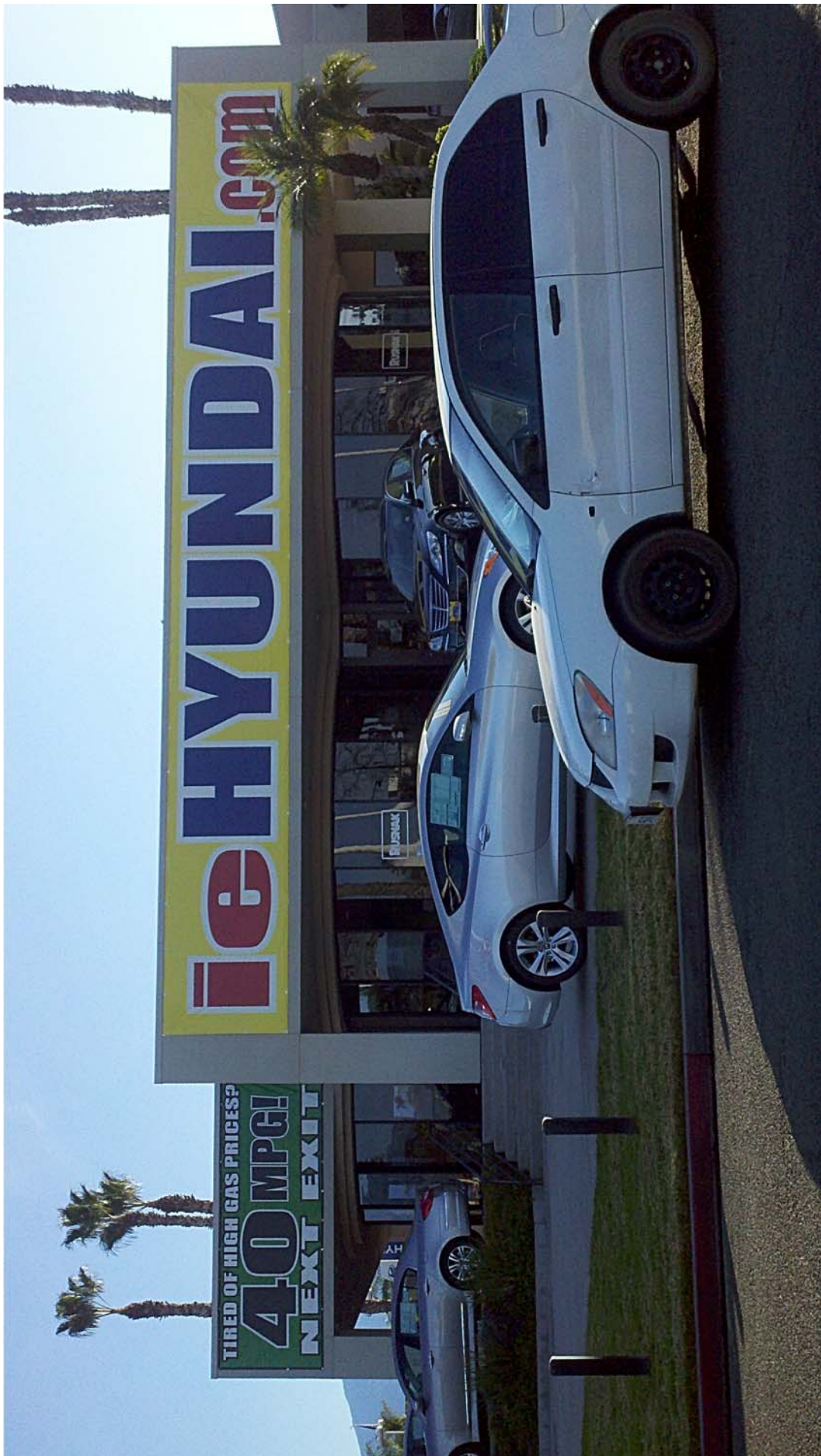


EXHIBIT 2

EXHIBIT “3”

2012 HYUNDAI

ELANTRA | ELANTRA TOURING



**“...STYLISH,
AUTHENTICALLY SOPHISTICATED,
AND CONTENT RICH.”**
— Motor Trend, July 2011



LIMITED IN SILVER / LIMITED IN INDIGO NIGHT

2012 ELANTRA CLASS REDEFINED

The number of accolades heaped upon the Hyundai Elantra this past year reflects a car that has done more than outclass its class. It has redefined the very idea of what a compact car can be.

It's something readily seen in Elantra's sleek, modern styling. And unmistakably felt as the compact exterior dimensions transform into midsize¹ dimensions once you slip inside a comfortable, feature-rich cabin *Motor Trend* described as "...better inside than some Lexuses."²

The availability of two trim levels let you choose between a well-equipped GLS or a more luxurious Limited model that adds heated front and rear seats, a power sunroof, 17-inch alloy wheels, and more. Both offer 40-mpg fuel efficiency³ and an arsenal of advanced safety features: Six airbags. Vehicle Stability Management. Four-wheel disc brakes with ABS. The list is long, which explains why Elantra was awarded a 2011 Top Pick by the Insurance Institute for Highway Safety (IIHS).⁴

And we're just getting warmed up. Elantra has taken top honors this year in one comparison after another. In a shootout of five compact cars, *Cars.com* and *USA Today* found Elantra to be the "Best Value: Price to Pump".⁵ In a similar showdown against seven other leading contenders, *Motor Trend* awarded Elantra the top spot.² A quick trip to your Hyundai dealer is all you'll need to discover the long list of features that put the 2012 Elantra on everyone's short list.

29^{CITY} **MPG** **40**^{HWY} **MPG**

¹www.epa.gov. ²Comparison: Best-Selling Compact Sedans - *Motor Trend*, July 2011. ³EPA estimates listed are highway ratings for comparison. Your actual mileage will vary with options, driving conditions, driving habits and your vehicle's condition. ⁴www.iihs.org/ratings. ⁵Best Value: Price to Pump Award - *Cars.com*, June 13, 2011.

OVERALL WINNER - *Cars.com/USA Today Shootout*, June 2011
OVERALL WINNER - *Motor Trend Shootout*, July 2011
BEST VALUE: PRICE TO PUMP - *Cars.com*, June 2011





2012 ELANTRA COMFORT & CONVENIENCE

AN INTERIOR PUNCTUATED WITH EXPERTLY DESIGNED SPACES. AND A FEW EXCLAMATION POINTS.

Inside, Elantra greets you with best-in-class front legroom and an interior so spacious, the U.S. EPA classifies it as a mid-sized car. A quick survey of the cockpit confirms Hyundai's designers have put all that space to good use. The fluid lines of Elantra's expertly appointed interior lead your eyes to large, beautifully lit gauges on the instrument panel and an ergonomic center console that helps your fingertips quickly locate any knob or button. Expertly integrated storage spaces let you stash your sunglasses, cell phone, water bottles and more, while steering-wheel-mounted audio, cruise and phone controls¹ help keep your hands on the task of driving as you check your voicemail. Choose your music. Set your speed. And enjoy your drive.

HEATED FRONT & REAR SEATS

In addition to heated front seats, Elantra Limited comes standard with heated rear seats as well – a first within the compact car segment.



POWER SUNROOF

From sun worshipping to star gazing, a power tilt-and-slide, one-touch glass sunroof lets you add a large swath of sky to the spacious interior.¹



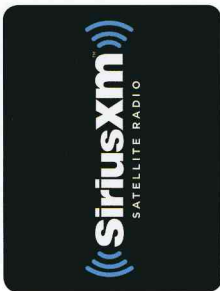
BLUETOOTH WITH VOICE RECOGNITION

Elantra's available built-in microphone and speaker deliver exceptional Bluetooth® hands-free phone clarity and audio streaming when used with compatible phones.²



SATELLITE RADIO

With a complimentary 3-month subscription to SiriusXM™ Satellite Radio, you can plug into more than 170 channels of digital music, news, talk and sports programming.³



YOUR TUNES, YOUR WAY

Navigate your iPod® playlists using the available steering-wheel audio controls or the head unit, which displays song artists and titles.⁴ The standard 6-speaker, 172-Watt audio system keeps your ears entertained while you navigate traffic.



COMMAND CENTRAL

A navigation system featuring a 7-inch touchscreen, voice recognition and a rearview backup camera is available with Elantra Limited. It also includes XM NavTraffic® for live traffic updates, XM NavWeather™ and XM Sports and Stocks feeds.⁵



¹Standard on Limited. ²The Bluetooth® wordmark and logos are registered trademarks owned by Bluetooth SIG, Inc., and any use of such marks by Hyundai is under license. Other trademarks are those of their respective owners. ³SiriusXM™ Satellite Radio and XM NavTraffic® require a SiriusXM subscription, sold separately after the complimentary introductory period. All fees and programming are subject to change. Traffic and weather channels only available in select metropolitan markets. See your dealer for details. SiriusXM service is only available in the 48 contiguous United States. The SiriusXM name is a registered trademark of SiriusXM Satellite Radio Inc. All other trademarks are property of their respective owners. ⁴iPod® is a registered trademark of Apple Inc.

2011 "GREENEST VEHICLE" - GreenerCars.org, February 2011
TOP 10 MOST FUEL-EFFICIENT CARS - TrueCar.com, March 2011
2011 IIHS TOP SAFETY PICK



LIMITED IN INDIGO NIGHT

2012 ELANTRA PERFORMANCE & SAFETY

TOP SAFETY PICK. TOP FUEL ECONOMY. AND AN IMPRESSIVE BOTTOM LINE.

Earning a Top Safety Pick rating from the Insurance Institute for Highway Safety – as Elantra has done in 2011 – is a big deal. It requires a level of safety design and engineering that goes above and beyond in critical areas like high-speed frontal crash tests, side crash tests and rollover tests. So it's no wonder Elantra drivers feel secure in putting the car's 148 horses beneath the hood through their paces. A lightweight, compact engine design features the best power-to-weight ratio in its class, which accelerates both your fun factor and fuel economy. Perhaps *The New York Times* summed it up best when they observed, "Elantra drivers will look good, but they will also look smart."¹



SOPHISTICATED DESIGN

An aluminum engine block and head contribute lighter weight and better fuel efficiency, while a unibody chassis forged from high-tensile steel improves body stiffness for a smoother ride with less vibration and better handling.



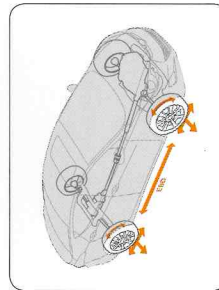
ADVANCED VARIABLE VALVE TIMING

Dual Continuously Variable Valve Timing technology optimizes intake and exhaust valve timing for better fuel economy, improved performance and lower emissions.



6-SPEED SHIFTRONIC®

Hyundai's 6-speed automatic transmission features SHIFTRONIC manual shift mode, allowing you to manually take charge over gear shifting on inclines, winding roads or freeway passing lanes.



VEHICLE STABILITY MANAGEMENT

Elantra comes with Vehicle Stability Management and Electronic Stability Control with Traction Control System. These electronic sentinels help keep your car riveted to the road and heading in the direction you intend.²

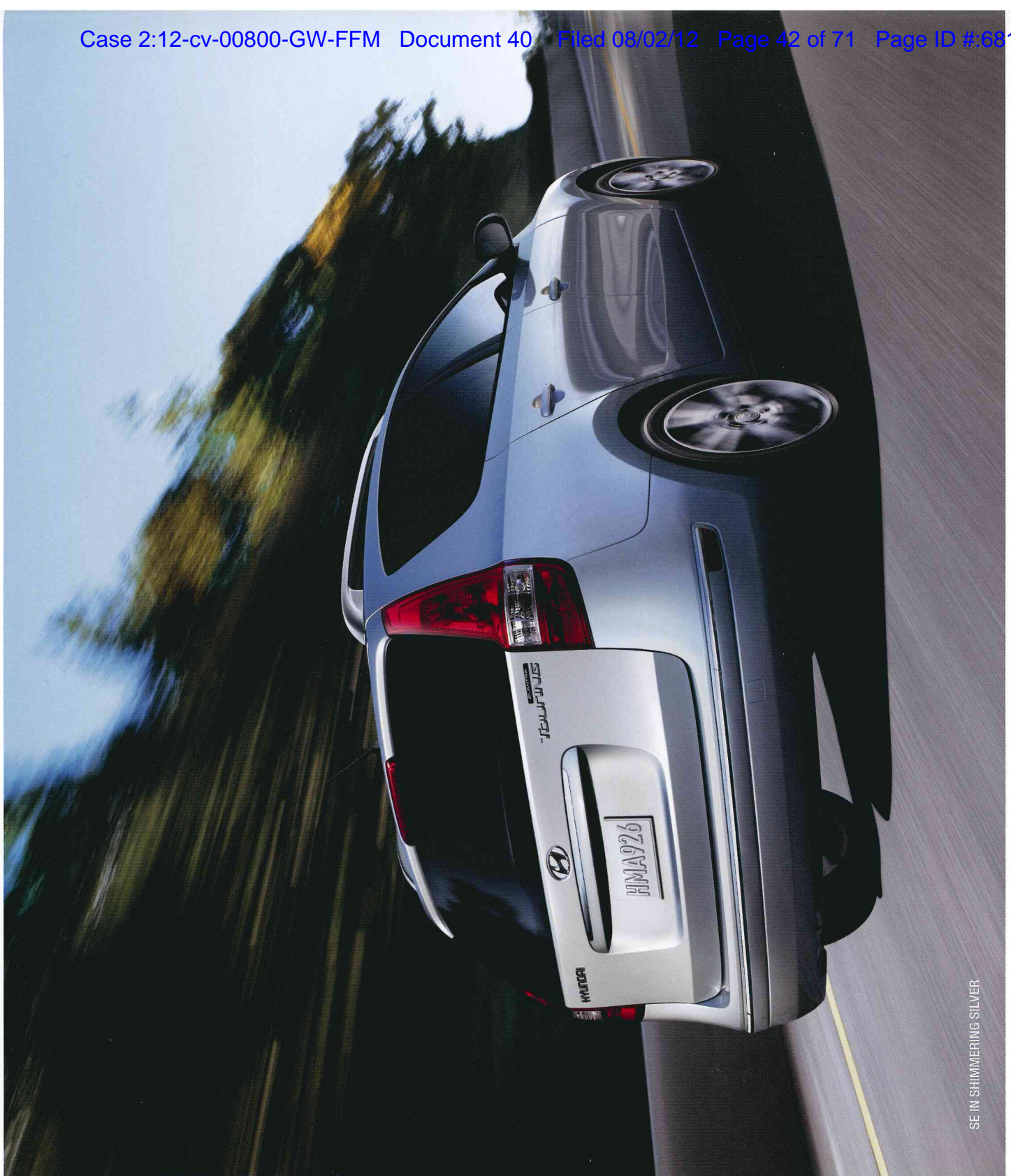
AIRBAG SAFETY

Our six-airbag safety system offers peace of mind at every seating position.³ According to the Insurance Institute for Highway Safety, this combination of airbags can reduce fatalities up to 45%.⁴

DYNAMIC BRAKING

An Anti-lock Brake System with Brake Assist helps maintain vehicle control during emergency braking. Electronic Brake-force Distribution progressively maintains optimal brake pressure at all four corners to provide even more quick-stop stability.

¹ *The New York Times*, July 8, 2011. ² Electronic Stability Control (ESC) cannot control your vehicle's stability under all driving situations. ESC is not a substitute for safe driving practices. No system, no matter how advanced, can overcome physics or correct poor driving. The driver is always responsible for controlling the vehicle and must use caution to avoid loss of control in all driving conditions. Speed, road conditions and driver steering input will affect whether ESC can help prevent loss of control. See Owner's Manual for details. The Traction Control System (TCS) is meant to enhance conscientious driving habits and is not a substitute for safe driving practices. ³ The supplemental restraint system (SRS) is designed to work with the three-point seatbelt system. The SRS deploys in certain frontal and/or side-impact conditions where significant injury is likely. The SRS is not a substitute for seatbelts, which should be worn at all times. Children under age of 13 should be restrained securely in the rear seat. NEVER place a rear-facing child seat in the front seat of a vehicle that has a passenger-side airbag. ⁴ For details, visit www.iihs.org.

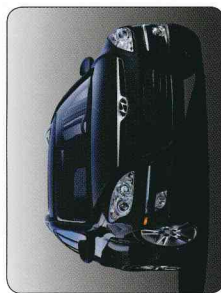


SE IN SHIMMERING SILVER

2012 ELANTRA TOURING ROOM FOR FUN

WE ADDED MORE ROOM. SO YOU CAN ADD MORE FUN AND ADVENTURE.

Add more room, and more driving enjoyment is sure to follow. Which is why Elantra Touring features the longest wheelbase in its class (106.3 inches) and an overall length that surrounds up to five occupants with class-leading passenger volume. Not to mention abundant cargo room – 10 percent more than its nearest competitor. The Touring model offers two trim levels: GLS and SE. Both come with a 138-hp inline-4 engine that sips fuel, and a 5-speed manual or optional 4-speed automatic transmission. The SE cranks up the fun factor with a sport-tuned suspension, short-throw B&M Racing® Sport Shifter, 17-inch alloy wheels and roof rails that let you pack what you need for extending your fun beyond the blackout.¹



BEST CAR FOR THE MONEY

The Elantra Touring was named "Best Car For The Money 2011" by *U.S. News & World Report*, receiving top honors in the Affordable Compact Wagon category.²



LEATHER INTERIOR

The SE offers an upgraded interior featuring a leather-wrapped steering wheel, leather-wrapped shift knob, leather seating surfaces and heated front seats. Go ahead, indulge your senses.



CLASS-LEADING CARGO ROOM

Fold down Elantra Touring's 60/40 split rear seatbacks, and a best-in-class 65.3 cubic feet of space allows for getaways that require more gear.



AUDIO DELIGHTS

The standard AM/FM/XM/CD/MP3 audio system with six speakers incorporates auxiliary and USB input jacks for iPod® or MP3 players.

HIGH SAFETY STANDARDS

A six-airbag safety system. Four-wheel disc brakes with ABS. Electronic Stability and Traction Control Systems. Peace of mind. All standard on Elantra Touring.



¹B&M Racing® is a registered trademark of B&M Racing & Performance Inc. ²Best Car For The Money Awards 2011, *U.S. News & World Report*, Jan 20, 2011

2012 ELANTRA & ELANTRA TOURING LINE-UP

ELANTRA TOURING
GLSELANTRA TOURING
SE

POWER / PERFORMANCE	ELANTRA			SE
	GLS	Limited	ELANTRA TOURING	
1.8L DOHC 4-cylinder engine with Dual Continuously Variable Valve Timing	S	S	-	-
2.0L DOHC 4-cylinder engine with Continuously Variable Valve Timing	-	-	S	-
6-speed manual transmission	S	-	-	S
5-speed manual transmission	-	-	S	S
4-speed automatic transmission	-	-	0	0
6-speed automatic transmission with SHIFTRONIC®	0	S	-	-
B&M Racing® Sport Shifter (M/T)	-	-	-	S
Electronic power steering	S	S	S	S
Active ECO System (A/T only)	0	S	-	-
17" Euroflange alloy wheels	-	S	-	-
17" alloy wheels with chrome inserts	-	-	S	-
16" alloy wheels	0	0	-	-
16" steel wheels with full wheel covers	0	-	-	-
15" steel wheels with full wheel covers	S	-	S	-
COMFORT / CONVENIENCE				
Leather seating surfaces	-	S	-	S
Leather-wrapped steering wheel and shift knob	-	S	-	S
Heated front seats	-	S	-	S
Heated rear seats	-	S	-	-
Air conditioning	0	S	S	-
Trip computer	S	S	0	S
60/40 split fold-down rear seatback & rear-seat center armrest with cupholders	S	S	S	S
Center console with storage compartment and armrest	S	S	S	S
8-way adjustable driver seat	-	0	S	-
6-way adjustable driver seat	0	S	-	-
Tilt-and-telescopic steering wheel	0	S	0	S
Power windows with driver auto-down	S	S	S	S
Power door locks	S	S	S	S
Dual power heated mirrors	S	S	S	S
Proximity key entry with electronic push-button start	-	0	-	-
Keyless entry system with alarm	S	S	S	S
Rear defroster	S	S	S	S
Rear 12-volt power retained outlet	-	-	S	S
Cruise control	0	S	0	S

S = STANDARD 0 = OPTIONAL FEATURE - = NOT AVAILABLE

ENTERTAINMENT SYSTEMS

	ELANTRA			SE
	GLS	Limited	ELANTRA TOURING	
AM/FM/XM®/CD/MP3 audio system with 6 speakers	S	S	S	S
360-Watt premium audio with digital external amp	-	0	-	-
Navigation system with 7" touchscreen and rearview camera	-	0	-	-
Bluetooth® hands-free phone system	0	S	0	0
iPod®/USB auxiliary input jacks	S	S	S	S

SAFETY / SECURITY

Vehicle Stability Management System	S	S	-	-
Electronic Stability Control with Traction Control System	S	S	S	S
6-airbag safety system with advanced dual front airbags and Occupant Classification System	S	S	S	S
4-wheel disc Anti-lock Braking System with Electronic Brake-force Distribution	S	S	S	S
Front seatbelt pretensioner	S	S	S	S
Daytime running lights	S	S	-	-
Tire Pressure Monitoring System	S	S	S	S
Fog lights	0	S	-	S

STYLE / FUNCTIONALITY

Black chrome grille	-	S	-	-
Limited Badge	-	S	-	-
Outside mirrors with integrated turn signal indicators	-	S	-	-
Power glass tilt-and-slide safety one-touch sunroof	-	S	-	S
Bodycolor door handles and mirrors	S	S	S	S
Solar glass	0	S	-	-
Windshield sunshade band	0	S	-	-
Steering wheel audio controls	0	S	0	S
One-touch triple turn signal	S	S	S	S
Headlight welcome function	S	S	S	S
Front 2-speed intermittent wiper	S	S	S	S

EPA MILEAGE ESTIMATES (CITY / HIGHWAY / COMBINED)	ELANTRA	
	ELANTRA TOURING	
	29 / 40 / 33 (M/T)	29 / 40 / 33 (A/T)
	23 / 31 / 26 (M/T)	23 / 30 / 26 (A/T)

Fuel economy estimated by EPA for comparison only. While the information contained in this brochure was correct at the time of printing, specifications and equipment can change. Feature comparisons based on competitor information available at the time of printing. No warranty or guarantee is being extended in this brochure, and Hyundai reserves the right to change product specifications and equipment at any time without incurring obligations. Some vehicles are shown with optional equipment. Specifications apply to U.S. vehicles only. Please contact your Hyundai dealer for current vehicle specifications.

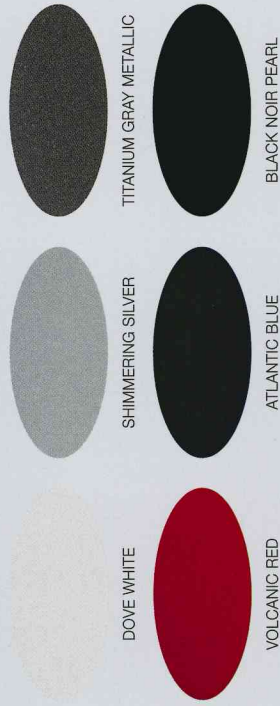
2012 ELANTRA EXTERIOR COLORS



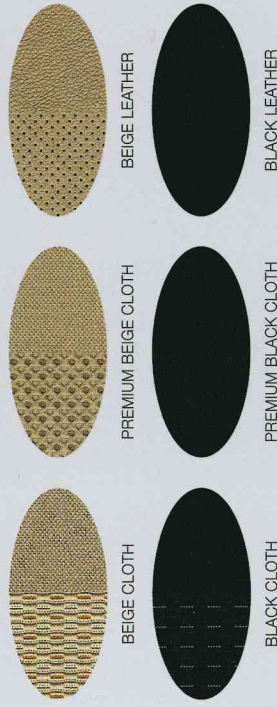
INTERIOR COLORS



2012 ELANTRA TOURING EXTERIOR COLORS



INTERIOR COLORS



AMERICA'S BEST WARRANTY

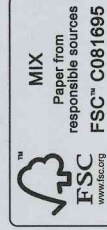
10 YEARS 100,000 MILES POWERTRAIN LIMITED WARRANTY	5 YEARS 60,000 MILES NEW VEHICLE LIMITED WARRANTY
7 YEARS UNLIMITED MILES ANTI-PERFORATION WARRANTY	5 YEARS UNLIMITED MILES 24-HOUR ROADSIDE ASSISTANCE

See dealer for LIMITED WARRANTY details.

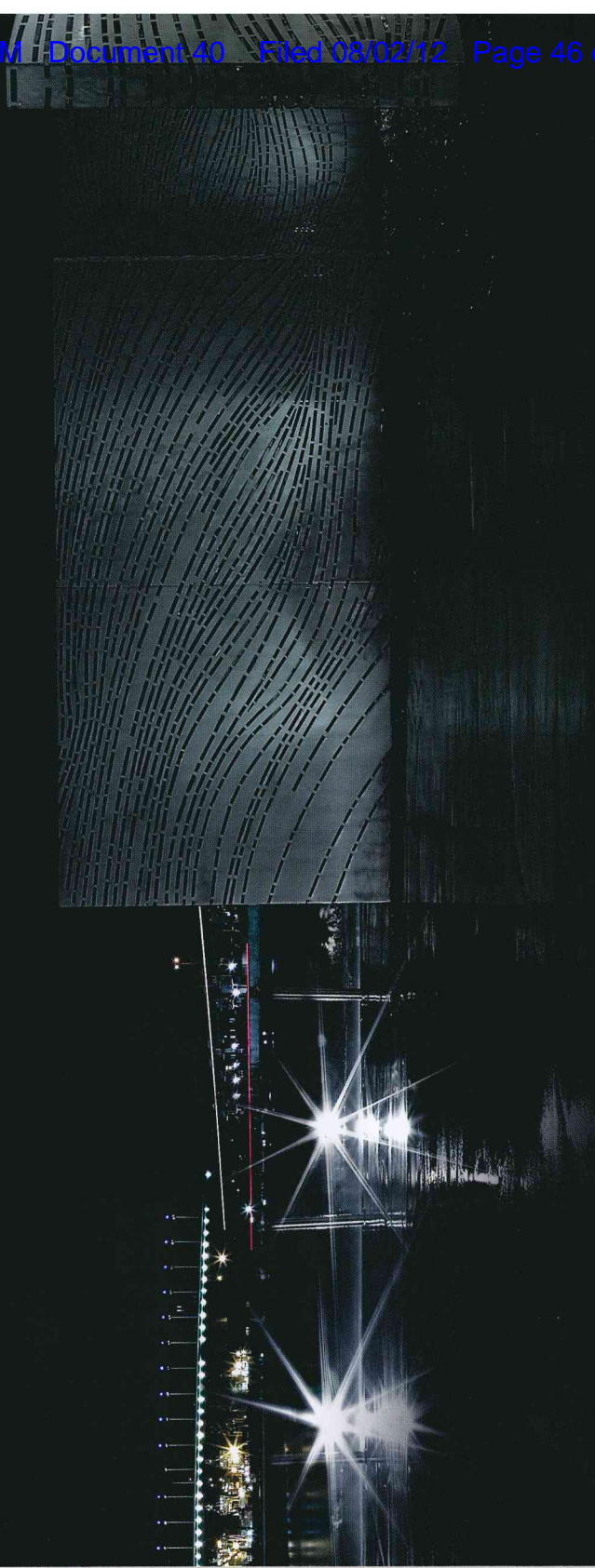
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EXHIBIT “4”



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HYUNDAI ELANTRA NAMED 2012 NORTH AMERICAN CAR OF THE YEAR

[<< Click here for more 2012 Elantra Vehicle Information >>](#)

Award caps record year for Hyundai Motor America and Elantra

- **Bold Fluidic Sculpture design**
- **Best-in-class standard fuel economy on all models**
- **Highest owner satisfaction with real world fuel economy of all compact cars**
- **Mid-size interior room in a compact class footprint**
- **Elantra is built at Hyundai Motor Manufacturing Alabama**

DETROIT, Jan. 9, 2012 – The 2012 Hyundai Elantra took top honors in the most exclusive award in North America when it was named 2012 North American Car of the Year today.

A jury of 50 independent North American automotive journalists evaluated each of the new cars introduced last year and chose the 2012 Hyundai Elantra as the winner. The award was announced at a news conference at the 2012 North American International Auto Show in Detroit, which marks Hyundai's second win. The Hyundai Genesis was named North American Car of the Year in 2009.

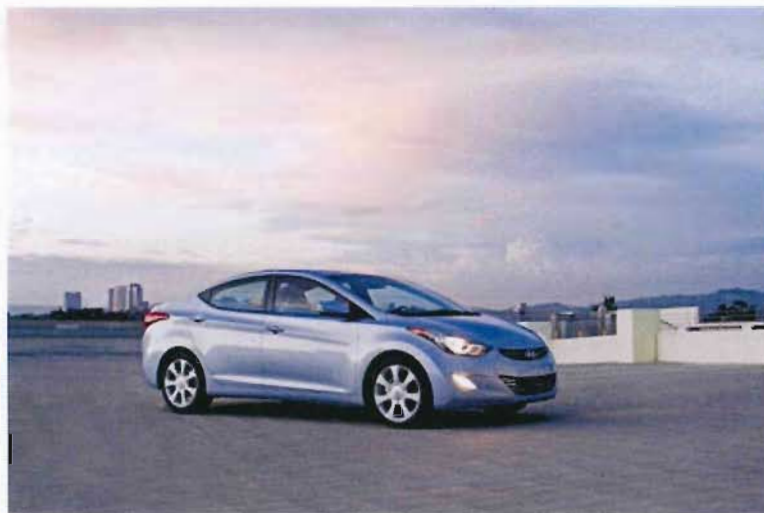
"Elantra speaks to the success of our recipe of bold design and great fuel economy," said John Krafcik, president and chief executive officer, Hyundai Motor America. "In a year with some truly breakthrough competitors, we are honored that the jury recognizes Elantra's far-reaching impact on the industry."

The jurors considered more than 50 new vehicles, before selecting the top three cars and top three trucks. The Volkswagen Passat and Ford Focus were the other car finalists.

This is the 19th year of the awards, which were inspired by the prestigious European "Car of the

Year.” The jury is administered by an organizing committee and funded exclusively with dues paid by the jurors. Jurors judge the cars on a number of factors including innovation, impact on the industry, design, safety, handling, driver satisfaction and value for the dollar.

HYUNDAI “FLUIDIC SCULPTURE” DESIGN



Elantra exemplifies Hyundai’s emotional “Fluidic Sculpture” design principles. “Fluidic Sculpture” considers the interplay of wind with rigid surfaces to create the illusion of constant motion. Elantra is an evolution of the design qualities found in Sonata.

Along Elantra’s sides are Sonata’s flowing lines, with the addition of a strong undercut feature line starting at the front door. These lines, along with muscular wheel arches and a sleek roofline, create a memorable and spacious package. Flowing lines also lead to an aerodynamic body. The drag coefficient for the Elantra is an exceptionally low 0.28 that compares favorably to the Chevrolet Volt (0.29).

Hyundai’s signature hexagonal front grille and detailed swept-back headlights give Elantra a compact athletic face. The assertive stance is complimented by 15-, 16- or 17-inch alloy wheels and athletic proportions. Available fog lights and side repeater mirrors complete the distinct design. Elantra was designed at Hyundai’s North American Design Center in Irvine, Calif.

40 MPG POWERTRAIN

Elantra’s standard fuel economy is EPA-rated at 29 mpg city and 40 mpg highway, and 33 mpg combined, with the six-speed automatic transmission or manual transmission. These figures give Elantra a highway-only driving range of up to 500 miles. Elantra’s strong EPA ratings are backed up by the highest owner satisfaction with real-world fuel economy in the compact class, according to data from J.D. Power and Associates.

Under the hood, the Elantra is powered by an all-new 1.8-liter Nu four-cylinder engine with 148 horsepower and 131 lb-ft of torque (145 horsepower and 130 lb-ft of torque for Elantra PZEV). Thanks to advanced clean engine technology, most Elantras sold in California, Oregon and several Northeast states are certified as Partial Zero Emission Vehicles (PZEV) by the EPA.

The PZEV Elantra is as clean as many hybrid electric vehicles. The PZEV Elantra helps Hyundai meet its environmental commitments. Outside of these "green" states, the Elantra is available as an Ultra Low Emission Vehicle (ULEV).

Mark on the Market

Most importantly, Elantra is driving traffic to Hyundai showrooms. Elantra's record 186,361 sales helped Hyundai achieve its record sales of 645,691 units in the U.S. in 2011. Hyundai Motor America posted a 20 percent increase over 2011 total sales.

[<< Click here for more 2012 Elantra Vehicle Information >>](#)

HYUNDAI MOTOR AMERICA

Hyundai Motor America, headquartered in Costa Mesa, Calif., is a subsidiary of Hyundai Motor Co. of Korea. Hyundai vehicles are distributed throughout the United States by Hyundai Motor America and are sold and serviced through more than 800 dealerships nationwide. All Hyundai vehicles sold in the U.S. are covered by the [Hyundai Assurance](#) program, which includes the 5-year/60,000-mile fully transferable new vehicle warranty, Hyundai's 10-year/100,000-mile powertrain warranty, and five years of complimentary Roadside Assistance.

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###

EXHIBIT “5”

AWARDS & REVIEWS : ELANTRA

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ELANTRA WINS NORTH AMERICAN CAR OF THE YEAR FOR 2012.

Fifty veteran automotive writers from the U.S. and Canada evaluated 30 cars, then voted. They rated Elantra above all the others. In 2009, [Genesis](#) won. Now it's [Elantra](#)'s turn.

Award caps record year for Hyundai Motor America and [Elantra](#)

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8 of 9 people found this review helpful

I wish it got better gas mileage!

By keylcat on 06/19/11 22:12 PM (PDT)

Vehicle

2011 Hyundai Elantra Limited PZEV 4dr Sedan (1.8L 4cyl 6A)

Performance

Comfort

Fuel Economy

Fun-to-Drive

Interior Design

Exterior Design

Build Quality

Reliability

Review

I have had a Hyundai Elantra Limited since February. It currently has 5000 miles on it. It is a very attractive car, but like many other posts I would agree that it does not get near the gas mileage that it purports to. I average 28 mpg per tank. I do a mix of city and highway driving. Often just in town, I am getting 24 mpg.

Suggested Improvements

Better gas mileage - that is why I bought the car. Better tires. A spare tire.

Recommend (8) (1)

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Comments (2) [Post a Comment](#)

By ggoal
on 06/22/11
06:32 AM (PDT)

Hi Friend, Even I am planning to buy this car. Please can you tell me if it is worth the investment. And please may I know how much did you get this car for. Thank you

[Report It](#)

By keylcat
on 07/03/11
16:18 PM (PDT)

Hi, I paid approx. \$23,500.00 for this car. It is a very nice looking car. If you are primarily buying it for its fuel economy, you will probably be disappointed in this car. The gas mileage is obviously not terrible, but just not what they advertise it to be.

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2012 ELANTRA
THE 2012 NORTH AMERICAN
CAR OF THE YEAR



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EXHIBIT 6, p. 1

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ElantraClub - For Hyundai Owners and Enthusiasts _ Elantra MD/UD General _ 2012 elantra MPG problem

Posted by: VMF Aug 25 2011, 10:38 AM

well the 10k range for the mpg improvement might be actually true. my friend with a gs350 said his mileage improved only after the car hit 20k. i dunno why or how. i also think 1k break in period should be enough, even the manual states that brake in is only 600 miles. but mileage is actually even worse the mine! where do you live? what kind of traffic do you experience? our elantra averages around 27-28 mixed driving now. thats with heavy city/hwy traffic with constant stop n go. but even during last trip on a freeway gave only 33 mpg

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ElantraClub - For Hyundai Owners and Enthusiasts _ Elantra MD/UD General _ 2012 Elantra Limited Mileage

Posted by: VMF Aug 15 2011, 09:39 AM

Good day everyone, quick question for you elantra gurus:)
just got a 2012 elantra for my wife last wed. awesome car all and all. the only concern is the gas mileage. it never reaches even the lowest number on the sheet. even in mixed driving it goes to only 26. and in pure city driving it is around 20 mpg!
eco mode is on and i tried driving it as smoothly as i could, not revving over 2k rpm. still the same thing. i understand that when Hyundai created that number, they didnt have nyc city driving in mind but nevertheless, my jeep with more 2 times of displacement gets 15 mpg! the sole reason we picked the elantra was the winning gas mileage and now its a bit dissapointing. not sure what is causing this, engine has to be broken in first or smth is not right with the car. please advice.


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ElantraClub - For Hyundai Owners and Enthusiasts _ Elantra MD/UD General _ 2011 Elantra - elusive 40 mpg!

Posted by: Brian2011 Feb 4 2011, 07:05 PM

I just purchased a 2011 Elantra GLS with a 6-speed automatic transmission. I have taken it on 2 trips and the best gas mileage I have been able to get is 32 MPG!!! A far cry from the stated 40 mpg that Hyundai is advertising. Is anyone else out there having the same problem? Hyundai must have tested it in a total vacuum at under 60 miles per hour. My trips were freeway speeds with nothing below 50 mph or higher than 75 mph. What a bummer due to the fact I purchased this vehicle for the high 40 mpg rating on the sticker.....Have an appointment with the dealer to see if something is wrong.....  AGAIN IS ANYONE OUT THERE HAVING THE SAME PROBLEM OF LOW GAS MILEAGE WITH THEIR NEW 2011 ELANTRA?????

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EXHIBIT “7”



November 30, 2011

Administrator Lisa Jackson
USEPA Headquarters
Ariel Rios Bldg. (1101A)
1200 Pennsylvania Ave. NW
Washington, DC 20460 (also via fax)

Director Margo T. Oge
EPA Office of Transportation and Air Quality
1200 Pennsylvania Ave. NW 20460
Washington, DC 20460

Deputy Director Chris Grundler
EPA National Vehicle and Emissions Laboratory
2000 Traverwood Drive
Ann Arbor, MI 48105 (also via fax)

RE: EPA MPG for 2011, 2012 Hyundai Elantra, request for re-test

Dear Ms. Jackson, Ms. Oge and Mr. Grundler,

We admire the success of this administration and your agency in achieving consensus on substantially improved automotive fleet MPG, after years of inaction by previous administrations. Your action has resulted in the active marketing of new models based on high MPG, a market response that comports with the EPA's aims.

As the holiday season commences, automakers are touting discounts and year-end deals; record-high gasoline prices for the season will make MPG a significant part of their red-bow advertising. Consumers will actively count MPG in their calculation of a holiday deal, for both pocketbook and air quality reasons.

This makes the accuracy of EPA MPG estimates all the more important, to prevent any maker from marketing autos on a stated city or highway MPG that substantially misstates the result that drivers will get on the road. In general, the new EPA MPG estimates seem to comport closely to real-world results. For instance, driver reports to the EPA on the last few model years of the Honda Civic show average on-road results about 2 mpg above the EPA estimate. The same is true for the Toyota Corolla. (The two models cited are among the few that had enough reports to be credible for a single model).

Overall, the EPA estimates and on-road results for gasoline engines are quite close in tests by enthusiast magazines. The general lack of discrepancies is very good news,

However, a notable exception to this rule has caught the attention of Consumer Watchdog. For the two most recent model years, Hyundai Motors has actively marketed its base models of the Elantra on their very high 29/40 MPG, and 33 MPG average, leaving a trail of disappointed drivers. An Edmunds online Town Hall

discussion on the Elantra attracted scores of drivers who can't, no matter how hard they try, duplicate such numbers.

One very public example of this was USA Today tech writer Jefferson Graham, whose Sept. 22 article on his new Elantra expressed his disappointment that he averaged only 22 MPG, a gap that no "break-in" period seems likely to fill.

Additionally, while Motor Trend named the 2011 Elantra Car of the Year in its class, the magazine's on-road testers achieved only a very disappointing 25.9 MPG average [ED: corrected from 26.5], bad enough to get special note in the review. Consumers Union found similar fault in with the 2012 Elantra, a redesign. While CU's highway mileage was 39, its city mileage, with experienced drivers who know how to drive a low-mileage auto, was only 20 MPG--very far from the listed 29 MPG.

Elantra drivers reporting their Elantra MPG to the EPA (there were 18 reports, an unusually high number, for the 2012 model), found they averaged only 28.9.5 MPG, also far from 33.

Consumers are increasingly buying new and used cars on the basis of their fuel economy, which makes significant discrepancies in listed and real mileage an important consumer issue. The Elantra's MPG discrepancies appear to be far more serious than those of similar models by other makers, disappointing and angering buyers who can't reach the listed MPG no matter how gently they try to drive.

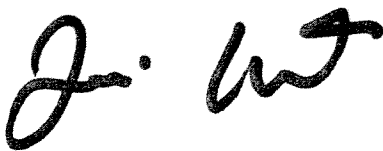
Consumer Watchdog requests that the EPA re-test the 2011 and 2012 Elantra models in its own facility, to seek an explanation for the MPG disappointments of so many Elantra buyers. For instance, was Hyundai's own testing overly reliant on its low-power ECO mode (Which could be dangerous for drivers trying to enter a freeway, pass another driver or stay with traffic in hilly areas)? If so, do other makers with similar low-power modes test their cars in identical fashion? If not, that would make the Elantra's MPG claims deceptive.

What consumers need when buying a car is full and accurate information. Hyundai and other makers actively trade on the EPA's seal of approval when marketing their cars, and any manipulation or errors in MPG tests can only harm the EPA's reputation.

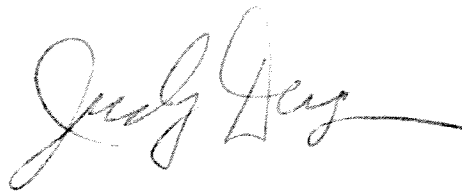
If your re-testing finds the Elantra's manufacturer testing inaccurate even by a few MPG we ask that you assess a substantial penalty on the manufacturer, including fines, notification to buyers of its recent Elantra models and rebates that cover drivers' added cost of fuel for average yearly miles driven.

Gasoline prices remain at record high levels for this season, making efficiency a top purchasing issue for consumers. Neither Hyundai for any other car company should be allowed to misrepresent its efficiency standards or dupe consumers into buying its cars. We ask you, through prompt re-testing and action as needed, to send a message to the company and the auto industry that MPG misrepresentation will not be tolerated.

Sincerely,



Jamie Court



Judy Dugan

EXHIBIT “8”

RICHARD D. McCUNE, State Bar No. 132124
rdm@mccunewright.com
JAE (EDDIE) K. KIM, State Bar No.: 236805
jkk@mccunewright.com
McCUNEWRIGHT LLP
2068 Orange Tree Lane, Suite 216
Redlands, California 92374
Telephone: (909) 557-1250
Facsimile: (909) 557-1275

Attorneys for Plaintiff and the putative class

KEHLIE R. ESPINOSA, as an individual, and on
behalf of all others similarly situated,

Plaintiffs,

v.

HYUNDAI MOTOR AMERICA; and DOES 1
through 10, inclusive,

Defendants.

NOTICE OF INTENT TO BRING AN ACTION
FOR DAMAGES UNDER THE CONSUMER
LEGAL REMEDIES ACT
(Civil Code Sections 1750-1784)

1. NOTICE SENT TO:

Hyundai Motor America
Attention: Legal Department
3200 Park Center Dr., Fl 14
Costa Mesa, CA 92626

2. ENTITY ALLEGED TO HAVE VIOLATED THE CONSUMER LEGAL REMEDIES
ACT (CLRA):

Hyundai Motor America

3. APPROXIMATE NUMBER OF AFFECTED COSTUMERS:

Precise number unknown, but a substantial number of people as to warrant a class action
suit.

4. SPECIFIC SECTION(S) OF CLRA VIOLATED.:

Civil Code § 1770:

(5) Representing that goods or services have sponsorship, approval,
characteristics, ingredients, uses, benefits, or quantities which they do not have or that a

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

3 (7) Representing that goods are of a particular standard, quality, or grade, or that
4 goods are of a particular style or model, if they are of another; and

5 (9) Advertising goods or services with intent not to sell them as advertised.

6 5. FACTS SUPPORTING VIOLATION OF CIVIL CODE § 1770

7 Claimant contends that Hyundai Motor America ("Hyundai") engaged in
8 widespread misleading and deceptive advertisements throughout California and the
9 United States regarding the real-world gas mileage of its vehicles, including the 2010
10 through 2012 year models (together, "subject vehicles"). Specifically, Hyundai asserts
11 misrepresentations and makes material omissions when advertising the gas mileage of its
12 vehicles, without disclosing that the estimates are E.P.A. gas mileage that will be
13 substantially less than the real world estimates. For example, Hyundai advertises in its
14 brochures and online that the 2012 Elantra achieves 40 miles per gallon, when in fact,
15 this vehicle does not reach this gas mileage under real world driving conditions.
16 Hyundai's advertisements are further misleading because they fail to include the material
17 disclaimer that actual mileage "will vary," a requirement that is imposed by the EPA for
18 the window sticker label so as to not mislead consumers about *actual* expected mileage.
19 A reasonable consumer in the current market values fuel economy as highly as any other
20 consideration in purchasing a new car, and would understand such advertisements as
21 representing the expected gas mileage under normal, real-life driving conditions.

22 Claimant purchased a 2012 Elantra on or about October 17, 2011 at the Hyundai
23 dealership in the city of Cerritos, CA. Prior to purchasing the vehicle, she reviewed and
24 relied on several Hyundai advertisements that made the above misleading advertisements
25 concerning the Elantra's gas mileage that is achievable when driving her vehicle in
26 normal, real-world conditions. Had she known that the Elantra in fact achieves a
27 substantially and materially lower gas mileage figure, she would not have purchased the
28 vehicle, and has therefore been damaged.

1 Accordingly, Hyundai's unfair and deceptive practices are in violation of Civil
2 Code § 1770(a)(5), (7) and (9).

3 6. DEMAND

4 Claimant, on behalf of the proposed class, demands that Hyundai Motor America
5 pay damages in the amount of the reimbursement cost for Claimant and all other
6 purchasers of the purchase price for the subject vehicles.

7
8 DATED: January 18, 2012.

McCUNE WRIGHT, LLP

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10 BY: 

11 Richard D. McCune
12 Attorney for Plaintiff
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PROOF OF SERVICE

STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

I am employed in the County of San Bernardino, State of California. I am over the age of 18 years and not a party to the within action; my business address is 2068 Orange Tree Lane, Suite 216, Redlands, California, 92374.

On January 18, 2012, I served the foregoing document described as **NOTICE OF INTENT TO BRING AN ACTION FOR DAMAGES UNDER THE CONSUMER LEGAL REMEDIES ACT (Civil Code Sections 1750-1784)** on the interested parties through their respective attorneys of record in this action, by placing a ☐ true copy or ☒ original thereof enclosed in sealed envelopes addressed as follows:

HYUNDAI MOTOR AMERICA
Attention: Legal Department
3200 Park Center Dr., Fl 14
Costa Mesa, CA 92626

METHOD OF SERVICE:

- ☐ **(BY MAIL)** I am readily familiar with the firm's business practice for collection and processing of correspondence for mailing. Under that practice, I caused such envelopes with postage thereon fully prepaid to be placed in the United States mail at Redlands, California.
- ☐ **(BY FACSIMILE)** I caused such documents to be transmitted by facsimile to the offices of the addressee(s) to the facsimile number(s) listed above.
- ☐ **(BY PERSONAL SERVICE)** I caused such envelope(s) to be delivered by hand to the offices of the addressee(s).
- ☒ **(BY OVERNIGHT DELIVERY)** I caused such document to be delivered by overnight delivery to the offices of the addressee(s).

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on the above-referenced date at Redlands, California.


 Ann Marie Smith

From: (909) 557-1250
 Richard D. McCune, Esquire
 McCune & Wright, LLP
 2088 Orange Tree Lane, Ste. 216
 Redlands, CA 92374

Origin ID: RIVA



Ship Date: 18JAN12
 Act/Wgt: 0.5 LB
 CAD: 9533514/INET3210

Delivery Address Bar Code

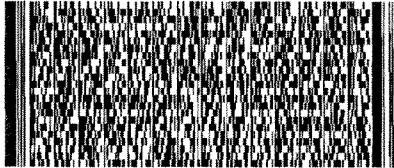


SHIP TO: (909) 557-1250
Attn: Legal Department
Hyundai Motor America
3200 PARK CENTER DR FL 14

COSTA MESA, CA 92626

BILL SENDER

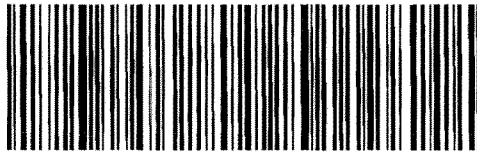
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Ann Smith

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Sent: Thursday, January 19, 2012 9:38 AM
To: Ann Smith
Subject: FedEx Shipment 793131456929 Delivered

This tracking update has been requested by:

Company Name: McCune & Wright, LLP
Name: Richard D. McCune, Esquire
E-mail: ams@mccunewright.com

Our records indicate that the following shipment has been delivered:

Reference: Espinosa v Hyundai
Ship (P/U) date: Jan 18, 2012
Delivery date: Jan 19, 2012 9:33 AM
Sign for by: L.LITO
Delivery location: COSTA MESA, CA
Delivered to: Receptionist/Front Desk
Service type: FedEx Standard Overnight
Packaging type: FedEx Envelope
Number of pieces: 1
Weight: 0.50 lb.
Special handling/Services: Deliver Weekday
Residential Delivery
Tracking number: 793131456929

Shipper Information	Recipient Information
Richard D. McCune, Esquire	Attn: Legal Department
McCune & Wright, LLP	Hyundai Motor America
2068 Orange Tree Lane, Ste. 216	3200 PARK CENTER DR FL 14
Redlands	COSTA MESA
CA	CA
US	US
92374	92626

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Thank you for your business.

PROOF OF SERVICE

STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO

I am employed in the County of San Bernardino, State of California. I am over the age of 18 years and not a party to the within action; my business address is 2068 Orange Tree Lane, Suite 216, Redlands, California, 92374.

On August 1, 2012, I served the foregoing document described as **SECOND AMENDED CLASS ACTION COMPLAINT** on the interested parties through their respective attorneys of record in this action, by placing a ☒ true copy or ☐ original thereof enclosed in sealed envelopes addressed as follows:

QUINN EMANUEL URQUHART & SULLIVAN, LLP

Shon Morgan - shonmorgan@quinnemanuel.com

Valerie Roddy - valerieroddy@quinnemanuel.com

Joseph R. Ashby - josephashby@quinnemanuel.com

865 South Figueroa Street, 10th Floor

Los Angeles, California 90017-2543

Tel: (213) 443-3000 / Fax: (213) 443-3100

METHOD OF SERVICE:

☐ **(BY MAIL)** I am readily familiar with the firm's business practice for collection and processing of correspondence for mailing. Under that practice, I caused such envelopes with postage thereon fully prepaid to be placed in the United States mail at Redlands, California.

☐ **(BY E-MAIL)** By transmitting it to the known email addresses of the above-referenced individuals.

☐ **(BY FAX)** I caused such documents to be transmitted by facsimile to the offices of the addressee(s). The facsimile machine used complied with California Rules of Court, rule 2003, and no error was reported by the machine.

☐ **(BY PERSONAL SERVICE)** I caused such envelope(s) to be delivered by hand to the offices of the addressee(s).

☒ **(BY OVERNIGHT DELIVERY)** I caused such document to be delivered by overnight delivery to the offices of the addressee(s).

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made. Executed on the above-referenced date at Redlands, California.


Ann Marie Smith

Proof of Service