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CLERK U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SAN FRANCISCO, CALIF.

FILED

1 CARTWRIGHT LAW FIRM, INC.
2 Robert E. Cartwright, Jr. (CA SBN 104284)
3 222 Front Street
4 Fifth Floor
5 San Francisco, Ca 94111
6 T: 415-433-0444

5 HENRETTA LAW OFFICES
6 J. Thomas Henretta (OH 0031439)
7 159 S. Main Street Suite 400
8 Akron, Ohio 44308
9 T: 330-376-7800

8 Attorneys for Plaintiff, DENNIS J. MURPHY

9 **IN THE UNITED STATES DISTRICT COURT**
10 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
11 **SOUTHERN DIVISION**

11 **DENNIS J. MURPHY,**)
12 Individually and)
13 on behalf of others similarly situated,)
14 Plaintiff,)

Case No. **SACV13-01504 SJO (ANx)**

CLASS ACTION COMPLAINT
FOR DAMAGES

15 _____)
16 **HYUNDAI MOTOR AMERICA.,**)
17 a California Corporation,)
18 Defendant.)

JURY TRIAL DEMANDED

1 **COMPLAINT FOR DAMAGES**

2 Plaintiff Dennis J. Murphy, Individually and behalf of others similarly
3 situated, alleges as his Complaint and Demand for Jury Trial the following:

4 **I. NATURE OF THE ACTION**

5 1. Plaintiff brings this class and representative action for a Class defined
6 as: “All persons in Ohio who currently own or lease a Hyundai automobile whose
7 EPA fuel economy ratings were less than the fuel economy rating produced by
8 the applicable federal test.”

9 2. Defendant Hyundai Motor America (“Hyundai”) has adopted,
10 promulgated, represented, and benefited from inaccurate fuel efficiency numbers
11 for certain models of its vehicles under the Hyundai brand name, including the
12 following 2011 through 2013 models: 2011-2013 Elantra (including the Coupe and
13 the GT); 2011-2012 Sonata Hybrid; 2012-2013 Veloster; 2012-2013 Tucson;
14 2012-2013 Genesis; 2012-2013 Azera; 2012-2013 Accent; and 2013 Santa Fe
15 Sport (the “Subject Vehicles”). These fuel economy ratings result from mandated
16 tests outlined and specified in federal law, and they exist to help foster realistic
17 numbers with which consumers can compare one of the most important factors in
18 new-car buyers' purchase decisions.

1 3. Defendant's EPA fuel economy ratings and advertising statements
2 overstated the actual numbers that the required testing would have produced by a
3 material amount.

4 4. Plaintiff purchased the Subject Vehicle, a 2012 Hyundai Sonata, on
5 July 30, 2012.

6 5. Plaintiff's vehicle's EPA fuel economy ratings and advertised fuel
7 efficiency numbers were inaccurate and higher than they would have been if
8 proper test procedures were followed.

9 6. Hyundai conducted inadequate and inaccurate EPA fuel economy
10 testing on the Subject Vehicles resulting in vehicles whose miles-per-gallon EPA
11 fuel economy ratings were higher than that produced by the appropriate federal
12 testing. Hyundai has now admitted its testing methods were incorrect and
13 produced artificially high fuel economy ratings. These misstatements are material
14 because the EPA numbers provide a necessary tool for vehicle comparison for
15 consumers when evaluating vehicles to lease or purchase.

16 7. Hyundai represented to customers, including Plaintiff, that the Subject
17 Vehicles had achieved specific MPG estimates. The EPA testing methods are
18 required by federal law, but Hyundai's testing methods were flawed and

1 insufficient. They produced inaccurate fuel economy ratings that did not comply
2 with federal regulations. Hyundai knew or should have known facts indicating the
3 inaccuracies in the promised gas mileages of the Subject Vehicles. Defendant
4 Hyundai consciously or recklessly disregarded facts that indicated the fuel
5 economy ratings were erroneous and overstated. Standard internal testing and
6 investigation, especially reviews precipitated by consumer complaints to the
7 National Highway Traffic Safety Administration's Office of Defects Investigation
8 (“ODI”), should have revealed the problem. Hyundai willfully and uniformly
9 failed to identify and correct its misstatements. Hyundai’s failure to disclose the
10 defects in its fuel economy testing constitutes an actionable misrepresentation, an
11 unfair, unlawful, fraudulent, and deceptive business practice in violation of
12 California's consumer protection law, and a breach of the express warranties
13 offered by Hyundai. Hyundai's failure to comply with federal law violates the
14 unfair competition law.

15 8. This action seeks relief for the injuries sustained as the result of the
16 inaccurate testing methods used by Hyundai to ascertain the fuel economy ratings
17 of the Subject Vehicles and material misstatements regarding those ratings used in
18 the marketing and sales of the Subject Vehicles.

1 9. Plaintiff and the Class have been damaged by Hyundai's
2 misrepresentations, concealment, and non-disclosure of the incorrect fuel economy
3 numbers, because they was misled into purchasing Subject Vehicles of a quality
4 different than they were promised, and paying higher fuel costs they would not
5 otherwise have paid.

6 **II. JURISDICTION AND VENUE**

7 10. This Court has diversity jurisdiction over this action under 28 U.S.C.
8 § 1332(a) and (d) because the amount in controversy exceeds \$75,000.00 and
9 Plaintiff is a citizen of a different state than Defendant.

10 11. This Court has jurisdiction over the subject matter presented by this
11 Complaint because it is a class action arising under 28 U.S.C. § 1332(d), which,
12 under the Class Action Fairness Act of 2005 (“CAFA”), Pub. L. No. 109-2, 119
13 Stat. 4 (2005), explicitly provides for the original jurisdiction of the federal
14 courts of any class action in which any member of the class is a citizen of a state
15 different from any defendant, and in which the matter in controversy exceeds in
16 the aggregate the sum of \$5,000,000, exclusive of interest and costs. Plaintiff
17 alleges that the total claims of individual class members are in excess of
18 \$5,000,000 in the aggregate, exclusive of interest and costs, as required by 28

1 U.S.C. § 1332(d)(2) and (5). Plaintiff alleges that the total number of members of
2 the proposed class is greater than 100, under 28 U.S.C. § 1332(d)(5)(B). This
3 Court also has supplemental jurisdiction over the state law claims pursuant to 28
4 U.S.C. § 1367.

5 12. This Court has personal jurisdiction over the Plaintiff because
6 Plaintiff submits to the Court's jurisdiction. This Court has personal jurisdiction
7 over the Defendant because Defendant Hyundai Motors America is headquartered
8 in the District and conducts substantial business in the District. Many of the
9 actions giving rise to the complaint took place in the District, including all
10 executive decisions relating to the fuel efficiency and EPA numbers, and all
11 advertising and marketing decisions for Subject Vehicles.

12 13. Venue is proper in this District under 28 U.S.C. § 1391 because
13 Defendant, as a corporation, is “deemed to reside in any judicial district in which
14 25 [it is] subject to personal jurisdiction,” and because decisions about the design,
15 manufacture, marketing, and sale of the Hyundais' fuel economy ratings were made
16 in the District. Because Hyundai resides in the District, Hyundai transacts business
17 within the District, and a substantial part of the events establishing the claims arose
18 in this District, venue is proper.

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

7 15. Hyundai Motors America is headquartered in Irvine, California.
8 Hyundai is the sales, marketing, and distribution arm for all United States
9 operations. According to its website, Hyundai's Design and Research Center,
10 located in Irvine, California, is a \$30 million design facility is “fitted with the
11 world’s most advanced visualization, graphics, and clay-modeling technologies,
12 keeping Hyundai at the forefront of car technology and design”.

13 16. Hyundai uses proving grounds in California City, California. According to
14 its website, the California proving ground is a testing facility which “covers 4,300
15 acres with eight different driving courses, including a 2.75-mile winding track, a
16 3.3-mile hill road, and a durability loop that includes a range of special surfaces,
17 from cobblestones to potholes.”
18

1 **III. PARTIES**

2 17. Plaintiff Dennis J. Murphy is a resident and citizen of Ohio. He
3 purchased a 2012 Hyundai Sonata. Plaintiff saw advertisements and the EPA fuel
4 economy window stickers that represented a certain number of miles per gallon
5 during the weeks before he purchased his vehicle in July 2012.

6 18. Defendant Hyundai Motors America is a California corporation with
7 its national headquarters in Irvine, California. Hyundai is a subsidiary of Hyundai
8 Motors Corporation, a Korean corporation which is not a part to this lawsuit.
9 Hyundai operates out of its headquarters in Irvine, California and has a design
10 center in Irvine. At all times, Hyundai was actively involved in designing,
11 manufacturing, assembling, marketing, distributing, and selling Hyundais sold in
12 the United States.

13 **IV. FACTUAL ALLEGATIONS**

14 19. Under regulations issued by the United States Environmental
15 Protection Agency (“EPA”), every new car and truck or SUV up to 10,000 pounds
16 sold in the United States (the “New Vehicles”) must have a fuel economy label or
17 window sticker that contains the vehicle's miles-per-gallon (“MPG”) estimates, and
18 the EPA provides the data used on these labels. The fuel economy ratings have

1 been given to consumers since the 1970s and are posted for the customer's benefit
2 to help them make valid comparisons between vehicles' MPGs when shopping for
3 a new vehicle.

4 20. In 2006, the EPA revised the testing methods used to determine fuel
5 economy ratings (for both city and highway mileage) appearing on the window
6 stickers of all New Vehicles. This revision became effective beginning with 2008
7 model-year vehicles.

8 21. Before the revision, two laboratory tests were used to determine the
9 ratings for city and highway fuel economy. Both tests were performed under mild
10 climate conditions (75 degrees Fahrenheit) and included acceleration rates and
11 driving speeds that were lower than those used by drivers in the real world.
12 Neither test was run while using accessories (i.e., air conditioning), and the
13 highway test topped out at 60 miles per hour with an average speed of 48 miles per
14 hour. The EPA's revision incorporated several significant changes to the prior
15 testing methods. First, the tests now include factors such as high speeds, quicker
16 accelerations, air conditioning use, and driving in cold temperatures, which bring
17 the MPG estimates closer to consumers' actual fuel economy. Second, beginning
18 with the 2011 model year, certain heavier vehicles (such as SUVs and vans up to

1 10,000 pounds gross vehicle weight) must have fuel economy labels. Third, the
2 EPA required a change in the design and content of window stickers for vehicles
3 manufactured after September 1, 2007, to allow consumers to more easily compare
4 the fuel economy of different vehicles.

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

10 23. Auto manufacturers use “coastdown” tests to help calculate their fuel
11 economy ratings. Coastdown testing simulates aerodynamic drag, tire rolling
12 resistance, and drivetrain frictional losses and provides the technical data used to
13 program the test dynamometers that generate EPA fuel economy ratings. In a
14 coastdown test, a vehicle is brought to a high speed on a flat, straight road and then
15 set coasting in neutral until it slows to a low speed. By recording the time the
16 vehicle takes to slow down, it is possible to model the forces affecting the vehicle.
17 Coastdown tests are governed by tests developed by The Society of Automotive
18 Engineers ("SAE"). SAE developed a standard procedure (J2263-Dec 2008) to

1 perform road load measurement using coastdown testing, and a standard procedure
2 (J1263-Mar 2010) to perform road load measurement and dynamometer simulation
3 using coastdown testing, and the current government-approved standard for road
4 load measurement using onboard anemometry and coastdown testing techniques is
5 SAE International Standard J2263. These standards must be followed by federal
6 regulation. The data relating to speed and distance are recorded by special
7 instruments, and to account for various factors that might affect the results. The
8 test produces data that identifies or maps the drag of a vehicle.

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

18

1 25. Defendant’s fuel economy rating discrepancies resulted from
2 procedural errors during “coastdown” testing at the company’s testing operations
3 in California. The methods implemented by Hyundai to test fuel economy were
4 not under the EPA’s requirements and were insufficient in design, procedure,
5 content, execution, and/or completeness. The fuel economy ratings were affected,
6 inaccurate, and overstated.

7 26. Part of a coastdown test is validation of results. Defendant knew or
8 should have known its testing methodology was flawed, as its stated fuel
9 economy ratings were uniformly inaccurate across a large segment of vehicles and
10 model years.

11 27. Between 2011 and 2013, Hyundai manufactured, marketed, and sold
12 Subject Vehicles that contained flawed MPG estimates. Consumers have
13 complained to the EPA and to NHTSA’s ODI about the inaccurate fuel economy
14 ratings in many of these models. These consumers were concerned because they
15 based their decisions to purchase these Hyundai models on the material factor of
16 fuel economy, and they are not receiving the MPGs they were promised.

17 28. Hyundai has promoted its vehicles’ fuel economy. Hyundai refers to
18

1 its vehicles' MPG estimates in its advertising to consumers and developed
2 "ebrochures" as part of its marketing campaign. The 2013 ebrochure for the
3 Genesis sedan stated: "In 2010, Hyundai announced plans to strive for a
4 corporate fuel economy rating that exceeds the U.S. government's stated average
5 fuel economy (CAFE) standards for our lineup of passenger cars and light duty
6 trucks. Through May of 2012, our Blue Drive products and technologies are well
7 on their way towards keeping Hyundai ahead of National Highway Traffic Safety
8 Administration guidelines."¹ The 2012 Accent ebrochure stated that the Accent
9 manages "a best-in-class standard 40 mpg fuel economy rating on the highway"
10 and "achieves a category-leading 30 mpg city/40 mpg highway rating, making it
11 one of four Hyundai nameplates to eclipse the 40 mpg mark."² The Hyundai
12 website promotes the 2013 Accent as "[t]he first subcompact to offer 40-MPG fuel
13 economy" and states it "delivers greater standard highway fuel efficiency than any
14 other car in its class."³ Likewise, the 2013 Veloster ebrochure touts that the vehicle

16 ¹See <http://viewer.zmags.com/publication/235df2e8#/235df2e8/16> (last visited
17 Nov. 2, 2012).

18 ²See <https://www.hyundaiusa.com/ebrochure/accent/> (last visited Nov. 1, 2012).

³See <https://www.hyundaiusa.com/vehicles/2013/accent/> and

1 “burns rubber, not fuel” and delivers “40 MPG on the highway—a testament to
2 Hyundai being named America’s most fuel-efficient car company.”⁴

3 29. At all times, Hyundai possessed vastly superior information to that of
4 consumers about the inaccurate results of their fuel economy testing and the
5 corresponding increase in MPG ratings provided to consumers through
6 advertisements and the vehicles' window stickers.

7 30. Consumers, such as Plaintiff, use the window sticker to compare
8 material vehicle qualities to help make informed choices about the cars they buy.

9 31. Hyundai is willfully intending consumers will rely on its advertised
10 MPG estimates and attempts to mask the actual MPG estimate.

11 32. Recognizing the materiality of these misrepresentations, Defendant
12 announced it was adopting a “refund” program that would reimburse
13

14 <https://www.hyundaiusa.com/vehicles/2013/accent/performance.aspx> (both last
15 visited Nov. 1, 2011).

16
17 ⁴See <http://viewer.zmags.com/publication/0f3aab68#/0f3aab68/6> (last visited
18 Nov. 2, 2012).

1 consumers for their losses. However, Hyundai's reimbursement program is
2 fraught with problems. First, there is no indication individual notice will be sent to
3 Class members. Second, it only seeks to reimburse consumers for mileage
4 discrepancies that are "recalled" by the vehicle dealer. Third, it does not offer
5 consumers the ability to return their vehicles or obtain reimbursement for the price
6 premium they paid. Fourth, it only offers consumers debit cards for
7 reimbursement, even though it is well known that consumers routinely do not use
8 the full value of such cards.

9 **V. CLASS ALLEGATIONS**

10 33. Plaintiff seeks certification of a Class defined as follows:

11 All persons in Ohio who currently own or
12 lease a Subject Vehicle for purposes other
13 than resale or distribution.

14 34. Excluded from the Class are Defendant, its employees, co-
15 conspirators, officers, directors, legal representatives, heirs, successors and wholly
16 or partly owned subsidiaries or affiliated companies; class counsel and their
17 employees; and the judicial officers and their immediate family members and
18

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

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

9 36. Plaintiff is informed and believes that Hyundai sold approximately
10 300,000 Subject Vehicles. Plaintiff is informed and believes that all of these
11 vehicles were marketed and sold with inaccurate fuel economy estimates, and that
12 other vehicles may be included. Accordingly, the Class consists of thousands of
13 individuals in Ohio, making individual joinder of all the Class Members
14 impracticable.

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

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

- 3 a) Whether a model year of a vehicle received proper testing for
4 its fuel economy rating;
- 5 b) Whether a model year's stated EPA fuel economy rating was
6 inaccurate;
- 7 c) Whether Defendant violated federal law with its testing
8 methods or presentation of EPA fuel economy ratings;
- 9 d) Whether a failure to accurately state EP A fuel economy ratings
10 constitutes an unlawful business practice or act;
- 11 e) Whether Defendant willfully concealed the error in fuel
12 economy ratings or recklessly disregarded their falsity;
- 13 f) Whether Defendant breached express warranties by misstating
14 the EPA fuel economy ratings;
- 15 g) Whether Defendant engaged in unfair, unlawful and/or
16 fraudulent business practices under California's Unfair
17 Competition Law ("UCL"), Cal. Bus. & Prof. Code § 17200, *et*
18 *seq.*, by misstating the EPA fuel economy ratings on its

1 vehicles' window stickers or in its advertisements, or in
2 communications with the EPA;

3 h) Whether the same conduct violated California's Consumer
4 Legal Remedies Act ("CLRA"), Cal. Civ. Code §§ 1750, et
5 seq.;

6 i) Whether Defendant's unlawful, unfair and/or deceptive
7 practices harmed Plaintiff and the members of the Class;

8 j) Whether Defendant was unjustly enriched by its deceptive
9 practices; and

10 k) Whether Defendant violated its duty of good faith and fair
11 dealing owed to Plaintiff and the Class.

12 39. Plaintiff's claims are typical of the claims of the Class members and
13 arise from the same conduct by Hyundai. The relief Plaintiff seeks is typical of the
14 relief sought for the absent Class members.

15 40. Plaintiff will fairly and adequately represent and protect the interests
16 of all absent Class members. Plaintiff is represented by counsel competent and
17 experienced in both consumer protection and class action litigation.
18

1 41. A class action is superior to other available methods for the fair and
2 efficient adjudication of this controversy, since joinder of all the individual Class
3 members is impracticable. Because the damages suffered, and continued to be
4 suffered, by each individual Class member may be relatively small, the expense
5 and burden of individual litigation would make it very difficult or impossible for
6 individual Class members to redress the wrongs done to each of them individually
7 and the burden imposed on the judicial system would be enormous.

8 42. The prosecution of separate actions by the individual Class members
9 would create a risk of inconsistent or varying adjudications regarding individual
10 Class members, which would establish incompatible standards of conduct for
11 Defendant. The conduct of this action as a class action presents far fewer
12 management difficulties, conserves judicial resources and the parties' resources,
13 and protects the rights of each Class member.

14 **VI. CAUSES OF ACTION**

15 **Count I**

16 **Violation of the California Unfair Competition Law**
17 **(Cal. Bus. & Prof. Code § 17200, et seq.)**

18 43. Plaintiff realleges and incorporates by reference all paragraphs alleged
herein.

1 44. California Business and Professions Code section 17200 prohibits any
2 "unlawful, unfair, or fraudulent business act or practices." Defendant has engaged
3 in unlawful, fraudulent, and unfair business acts and practices in violation of the
4 UCL.

5 45. Defendant has violated the unlawful prong because it has failed to
6 comply with the testing methods required by the EPA. 71 Fed. Reg. 77,872-01
7 (Dec. 27, 2006); 40 C.F.R. §§ 86,600, 1037, 1066 (2011). Defendant's fuel
8 economy rating discrepancies resulted from procedural errors during "coastdown"
9 testing at the company's testing operations in California, and, as a result, produced
10 inaccurate fuel economy estimates requiring a downward adjustment across the
11 entire Class.

12 46. Defendant has violated the fraudulent prong of section 17200 because
13 the misrepresentations and omissions regarding the MPG of its vehicles as set forth
14 were likely to deceive a reasonable consumer, and the information would be
15 material to a reasonable consumer.

16 47. Defendant has violated the unfair prong of section 17200 because the
17 acts and practices set forth offend established public policy and because the harm it
18 causes to consumers greatly outweighs any benefits associated with those

1 practices. Defendant's conduct has also impaired competition within the
2 automotive vehicles market and has prevented Plaintiff and the class from making
3 fully informed decisions about whether to purchase or lease their vehicles and/or
4 the price to be paid to purchase or lease them. Defendant's conduct also offends
5 established public policy as delineated in the regulatory provisions described above
6 and their underlying purposes.

7 48. Plaintiff has suffered injury in fact, including losing money or
8 property, as a result of Defendant's unfair, unlawful and/or deceptive practices. As
9 set forth in the allegations concerning Plaintiff, in purchasing his vehicle, the
10 Plaintiff relied on the misrepresentations and/or omissions of Defendant regarding
11 the MPG of the vehicles. Had Plaintiff known the true MPG, he would not have
12 purchased his vehicle and/or paid as much for it. Plaintiff has already paid, and
13 will be required to pay in the future, fuel costs over what he would have paid if
14 Defendant had accurately disclosed its vehicles' fuel economy.

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

1 53. Defendant caused to be made or disseminated through California and
2 the United States, through advertising, including stickers affixed to vehicle
3 windows, statements that were untrue or misleading, and which were known, or
4 which by exercising reasonable care should have been known to Defendant, to be
5 untrue and misleading to consumers and Plaintiff.

6 54. Defendant has violated section 17500 because the misrepresentations
7 and omissions regarding the fuel economy of its vehicles as set forth were material
8 and likely to deceive a reasonable consumer.

9 55. Plaintiff has suffered injury in fact, including losing money or
10 property, as a result of Defendant's false advertising. As set forth in the
11 allegations concerning Plaintiff, in purchasing his vehicle, the Plaintiff relied on
12 the misrepresentations and/or omissions of Defendant regarding the MPG of its
13 vehicle. Had the Plaintiff known the true MPG he would not have purchased his
14 vehicle and/or paid as much for it. Plaintiff has already paid and will be required
15 to pay in the future fuel costs over what he would have paid if Defendant had
16 accurately disclosed the Subject Vehicles' fuel economy.

17 56. All of the wrongful conduct alleged herein occurred, and continues to
18 occur, in the conduct of Defendant's business. Defendant's wrongful conduct is

1 part of a pattern or generalized conduct that is still perpetuated and repeated, both
2 in California and nationwide.

3 57. Plaintiff requests this Court enter such orders or judgments as may be
4 necessary to enjoin Defendant from continuing its false advertising and to restore
5 to Plaintiff and members of the Class any money Hyundai acquired by unfair
6 competition, and for such other relief set forth below.

7 **COUNT III**

8 **Violations of the Consumer Legal Remedies Act**
9 (Cal. Civ. Code § 1750, et seq.)

10 58. Plaintiff realleges and incorporates by reference all paragraphs alleged
11 herein.

12 59. Defendant is a "person" under CAL. CIV. CODE § 1761(c).

13 60. Plaintiff is a "consumer," as defined by CAL. CIV. CODE § 1761(d),
14 who purchased one or more vehicles manufactured by Defendant.

15 61. Defendant both participated in unfair or deceptive acts or practices
16 that violated the Consumer Legal Remedies Act ("CLRA"), CAL. CIV. CODE §
17 1750, *et seq.*, as described in this Complaint.

18 62. By employing deficient testing methods which produced inaccurate
fuel economy estimates requiring a material downward adjustment across the

1 Class, Defendant has engaged in deceptive business practices prohibited by the
2 CLRA, 12 CAL. CIV. CODE § 1750, *et seq.*, including (1) representing the
3 vehicles have characteristics, uses, benefits, and qualities which they do not have;
4 (2) representing the vehicles are of a particular standard, quality, and grade when
5 they are not; and (3) advertising the vehicles with the intent not to sell them as
6 advertised.

7 63. Defendant knew its testing methods were insufficient and therefore
8 produced inaccurate fuel economy ratings. Defendant nevertheless failed to make
9 appropriate disclosures despite its superior knowledge and affirmative
10 misrepresentations to the contrary.

11 64. A reasonable consumer would not have purchased or paid as much as
12 for the vehicles had Defendant disclosed the true fuel economy of the vehicles, as
13 that information is material to a reasonable consumer.

14 65. Because of its violations of the CLRA detailed above, Defendant has
15 caused actual damage to Plaintiff. Had Plaintiff known the true MPG, he would
16 not have purchased his vehicle and/or paid as much for it. The Plaintiff has
17 already paid and will be required to pay in the future fuel costs over what he would
18 have paid if Defendant had accurately disclosed its vehicles' fuel economy.

1 and in advertising, upon which Plaintiff and members of the Class were exposed
2 to and acted in positive and material response to in purchasing or leasing the
3 Subject Vehicles at the prices they did. These representations constitute express
4 warranties that became part of the basis of the bargain.

5 70. Such representations also created implied warranties that the Subject
6 Vehicles conformed to such representations and would pass without objection in
7 the trade or industry.

8 71. All conditions precedent to seeking liability under this claim for
9 breach of express and implied warranty have been performed by or on behalf of
10 Plaintiff.

11 72. Defendant breached the terms of these express and implied
12 agreements and warranties by not providing Subject Vehicles that provide and
13 conform with the promised benefits, as described above.

14 73. Because of Defendant's systematic breach of warranties, including
15 violations of the California Song-Beverly Warranty Act, Plaintiff and other
16 members of the Class have been damaged for an amount to compensate them for
17 not receiving the benefit of their bargain.
18

1 **COUNT V**

2 **Violation of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301, et seq.**

3 74. Plaintiff repeats every allegation contained in the paragraphs above
4 and incorporates such allegations by reference.

5 75. Plaintiff and the Class are “consumers” within the meaning of the
6 Magnuson-Moss Warranty Act (“MMWA”), 15 U.S.C. § 2301, *et seq.*

7 76. Defendant is a “supplier” and “warrantor” within the meaning of
8 the MMWA.

9 77. The Subject Vehicles are a “consumer product” within the meaning
10 of the MMWA.

11 78. Defendant’s written affirmations of fact, promises and/or descriptions
12 as alleged are each a “written warranty,” and there exists an implied warranty for
13 the sale of such Subject Vehicles within the meaning of the MMWA.

14 79. Defendant breached these express and implied warranties, as the
15 Subject Vehicles did not provide the properties Defendant represented. Defendant
16 has refused to remedy such breaches despite prior demand therefor.

17 80. The amount in controversy meets or exceeds the sum or value of
18 \$50,000 (exclusive of interest and costs) computed on the basis of all claims to be

1 determined.

2 81. Resorting to any informal dispute settlement procedure and/or
3 affording Defendant an opportunity to cure these breaches of warranties is
4 unnecessary and/or futile. Any remedies available through any informal dispute
5 settlement procedure would be inadequate under the circumstances. Any
6 requirement under the MMWA or otherwise that Plaintiff resort to any informal
7 dispute settlement procedure and/or afford Defendant a reasonable opportunity
8 to cure the breach of warranties described above is excused and/or has been
9 satisfied.

10 82. Because of Defendant's breaches of warranty, Plaintiff and the
11 Class have sustained damages and other losses in an amount to be determined at
12 trial as described above, and therefore are entitled to recover damages, costs,
13 attorneys' fees, rescission, and/or other relief as deemed appropriate.

14 **COUNT VI**

15 **Negligent Misrepresentation**

16 83. Plaintiff realleges and incorporates by reference all paragraphs alleged
17 herein.
18

1 E) Award Plaintiff and the Class members restitution of all monies
2 paid to Defendant as a result of unlawful, deceptive, and unfair
3 business practices;

4 F) Award Plaintiff and the Class members reasonable attorneys'
5 fees, costs, and pre- and post-judgment interest; and

6 G) Award Plaintiff and the Class members such other further and
7 different relief as the nature of the case may require or as may
8 be determined to be just, equitable, and proper by this Court.

9 **VIII. JURY TRIAL DEMAND**

10 Plaintiff and the Class, by counsel, request a trial by jury on their legal
11 claims, as set forth herein.

12 This 24th day of September, 2013.

13 CARTWRIGHT LAW FIRM, INC.

14 
15 _____
16 ROBERT E. CARTWRIGHT, JR.

17 State Bar No. 104284

18 222 FRONT STREET

FIFTH FLOOR

SAN FRANCISCO, CA 94111

T: 415-433-0444

F: 415-433-0449

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HENRETTA LAW OFFICES
J. THOMAS HENRETTA
Ohio State Bar No. 0031439
159 S. Main Street
Suite 400
Akron, Ohio 44308
T: 330-376-7800
F: 330-376-7854
jth@henrettalaw.com

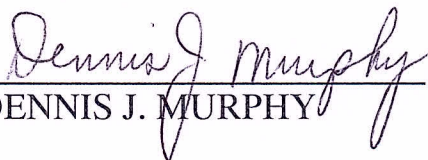
DECLARATION REGARDING CLRA VENUE

I, Dennis J. Murphy, do hereby declare and state as follows:

1. I am the named Plaintiff in Dennis J. Murphy, individually and on behalf of other similarly situated v. Hyundai Motors America, Inc. Pursuant to Cal. Civ. Code § 1780(d), I make this declaration in support of the Class Action Complaint and the claim therein for relief under Cal. Civ. Code § 1780(a). I have personal knowledge of the facts stated herein and, if necessary, could competent testify thereto.

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

This declaration is signed under penalty of perjury under the laws of the States of Ohio and California this 28th day of August, 2013.


DENNIS J. MURPHY

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

NOTICE OF ASSIGNMENT TO UNITED STATES JUDGES

This case has been assigned to District Judge Fernando M. Olguin and the assigned Magistrate Judge is Arthur Nakazato.

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

SACV13-01504 SJO (ANx)

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

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

Clerk, U. S. District Court

September 25, 2013

Date

By Lori Wagers

Deputy Clerk

NOTICE TO COUNSEL

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

Subsequent documents must be filed at the following location:

Western Division
312 N. Spring Street, G-8
Los Angeles, CA 90012

Southern Division
411 West Fourth St., Ste 1053
Santa Ana, CA 92701

Eastern Division
3470 Twelfth Street, Room 134
Riverside, CA 92501

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

THE CARTWRIGHT LAW FIRM
 Robert E. Cartwright, Jr. SBN: 104284
 222 Front Street, 5th Floor
 San Francisco, CA 94111
 Attorney for Plaintiff, DENNIS J. MURPHY

UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA

DENNIS J. MURPHY, Individually and on behalf
 of others similarly situated

PLAINTIFF(S)

v.

HYUNDAI MOTOR AMERICA.,
 a California Corporation

DEFENDANT(S).

CASE NUMBER

SACV13-01504 SJO (ANx)

SUMMONS

TO: DEFENDANT(S):

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached complaint _____ amended complaint counterclaim cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Robert E. Cartwright, Jr., whose address is 222 Front Street, 5th Floor, San Francisco, CA 94111. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

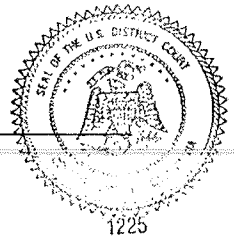
Clerk, U.S. District Court

Dated: 9-25-13

By: Lori Wagers

Deputy Clerk

LORI WAGERS
 (Seal of the Court)



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

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

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? No Yes
If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? No Yes
If yes, list case number(s): 2:13-ml-02424-GW

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

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

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

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named plaintiff resides.
 Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

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

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named defendant resides.
 Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

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

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH claim arose.
Note: In land condemnation cases, use the location of the tract of land involved.

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

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

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

X. SIGNATURE OF ATTORNEY (OR PRO PER):  Date September 24, 2013

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

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