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

HOWARD BARNETT, On
Behalf of Himself and All Others
Similarly Situated,

Plaintiff,

vs.

HYUNDAI MOTOR AMERICA,

Defendant.

CIVIL ACTION NO.: 8:20-cv-2162

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

Plaintiff, Howard Barnett (“Plaintiff”), by and through his attorneys,
brings this action on behalf of himself and all others similarly situated against
Defendant, Hyundai Motor America (“Defendant” or “Hyundai”), and alleges as
follows:

NATURE OF THE ACTION

1. Plaintiff brings this action individually and on behalf of a proposed
nationwide class (more fully defined below) for the benefit and protection of
purchasers and lessees of Defendant’s model year 2020 Ioniq vehicles with SE,

1 SEL, or Limited trims (“Ioniq(s)” or “Vehicle(s)”). As alleged herein,
2 Defendant deceptively markets and advertises the Ioniq as having Blind Spot
3 and Rear Cross Traffic Collision-Avoidance Assist systems (together, “BS and
4 RCT Collision-Avoidance Assist Systems”) when, in fact, it does not. This
5 causes a safety issue as customers are led to believe that their Vehicles have
6 safety features that will assist them with avoiding accidents, and may rely on
7 those non-existent features, to their detriment.

8 2. At all relevant times, Defendant has deceptively marketed,
9 advertised, and sold the Ioniqs as vehicles with BS and RCTC Collision-
10 Avoidance Assist Systems, when, in fact, the Ioniqs do not have such systems.

11 3. Plaintiff brings this action on behalf of himself and all other
12 similarly-situated consumers to stop Defendant’s false and misleading
13 advertising relating to the sale and lease of the Ioniqs and to obtain redress for
14 those who have purchased or leased Ioniqs across the United States. Plaintiff
15 alleges violations of the California Consumers Legal Remedies Act, Civil Code
16 § 1750, *et seq.* (“CLRA”); the Unfair Competition Law, California Business and
17 Professions Code § 17200, *et seq.* (“UCL”); and the False Advertising Law,
18 California Business and Professions Code § 17500, *et seq.* (“FAL”).

19 **JURISDICTION AND VENUE**

20 4. This Court has subject matter jurisdiction under 28 U.S.C.
21 § 1332(d)(2)(A) because the claims relating to the matter in controversy exceed
22 \$5 million, exclusive of interest and costs; the proposed classes have at least 100
23 members; and this is a class action in which certain of the class members
24 (including Plaintiff) and Defendant are citizens of different states.

25 5. Venue is proper in this judicial District under 28 U.S.C. § 1391
26 because Defendant is a resident of this judicial District, does business
27 throughout this District, and a substantial part of the acts and omissions giving
28 rise to Plaintiff’s claims occurred in or emanated from this District.

1 reverse maneuvers, and if necessary appl[ies] emergency braking to prevent
2 from [sic] collision.”¹

3 14. Meanwhile, according to Hyundai, a vehicle with the Blind-Spot
4 Collision-Avoidance Assist has “[r]adar sensors in the rear bumper [which] are
5 used to warn the driver of approaching vehicles in the blind sport area and
6 activate[s] the brakes when there is a collision risk in lane changing
7 maneuvers.”²

8 15. There is no practicable or safe way for consumers to test if the BS
9 and RCT Collision-Avoidance Assist Systems are installed and/or working in
10 their Vehicles, whether before or after purchase, unless they are involved in or
11 simulate an actual or potential accident involving cross traffic during reverse
12 maneuvers and vehicles approaching their Vehicles’ blind spots.

13 16. As it is responsible for U.S. operations, including the design,
14 manufacture, testing, marketing, and distribution of Hyundai vehicles such as
15 the Ioniq, Hyundai knew or should have known that the Ioniqs it sold/leased did
16 not contain the BS and RCT Collision-Avoidance Systems prior to the time of
17 sale.

18 **Plaintiff’s Experience**

19 17. On or about June 16, 2020, Plaintiff purchased a model year 2020
20 Ioniq Limited from Werner Hyundai in Tallahassee, Florida, an authorized agent
21 of Defendant, to replace his wife’s Toyota Camry hybrid.

22 18. Safety features were very important to Plaintiff and his wife, who
23 would be the Ioniq’s primary driver.

24 19. Indeed, Plaintiff and his wife purchased their Ioniq because of all of
25 the safety features listed on their Ioniq’s Monroney Sticker, which they
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27 ¹ <https://www.hyundai.com/worldwide/en/suv/newsantafe/safety>.

28 ² *Id.*

1 reviewed prior to purchase and which stated that the Ioniq they would purchase
2 had the BS and RCT Collision-Avoidance Assist Systems. *See* Exhibit A.

3 20. On or about August 12, 2020, however, Plaintiff received a letter
4 from Hyundai, informing him that his Ioniq did not, contrary to the Monroney
5 Sticker, have the BS and RCT Collision-Avoidance Assist Systems. *See* Exhibit
6 B.

7 21. Instead, Hyundai informed Plaintiff that his Vehicle only had the
8 Blind-Spot Collision and Rear Cross-Traffic Collision *Warning* Systems. In
9 other words, his Vehicle, contrary to Hyundai's representations at the time of
10 purchase, will only warn of approaching vehicles and vehicles in the Ioniq's
11 blind spots, but will not automatically apply brakes as needed to avoid an
12 accident. *See* Exhibit B.

13 22. After receiving and reviewing the letter, Plaintiff contacted
14 Hyundai customer support and the dealership, requesting that Hyundai provide
15 him relief for representing, at the time of sale, that his Vehicle had the Collision-
16 Avoidance Assist Systems when it did not. Despite Plaintiff's repeated attempts
17 and follow-up communications, Hyundai did not provide Plaintiff any such
18 relief.

19 23. Plaintiff and other members of the Class would have paid less for
20 the Vehicles or not purchased or leased the Vehicles had they known that
21 Hyundai's representations were false.

22 CLASS ACTION ALLEGATIONS

23 24. Plaintiff brings this lawsuit, both individually and as a class action,
24 on behalf of similarly-situated purchasers and lessees of the Ioniqs, pursuant to
25 Federal Rule of Civil Procedure 23(b)(2) and (3).

26 25. Plaintiff seeks to represent the following classes (collectively, the
27 "Class" defined as follows:
28

1 All owners and lessees of Defendant's model year 2020 Ioniq vehicles
2 with SE, SEL, or Limited trims.

3 Excluded from the Class is Defendant, as well as Defendant's affiliates,
4 employees, officers, and directors, and the Judge to whom this case is assigned.
5 Plaintiff reserves the right to amend the definition of the Class if discovery
6 and/or further investigation reveal that the Class should be expanded or
7 otherwise modified.

8 26. **Numerosity/Impracticability of Joinder:** There are so many
9 members of the Class that joinder of all members is impracticable, as a reported
10 9,239 Ioniqs were sold in the United States as of September 2020.³ Accordingly,
11 Plaintiff estimates that there are thousands of members of the Class who are
12 readily identifiable from information and records in Defendant's possession,
13 custody, or control. The disposition of these claims will provide substantial
14 benefits to the members of the Class.

15 27. **Commonality and Predominance:** There is a well-defined
16 community of interest and common questions of law and fact that predominate
17 over any questions affecting only individual members of the Class. These
18 common legal and factual questions, which do not vary from members of the
19 Class, and which may be determined without reference to the individual
20 circumstances of any members of the Class, include, but are not limited to, the
21 following:

- 22 a) whether Defendant's marketing, advertising and promotion of the
Ioniqs was false and misleading;
- 23 b) whether Defendant concealed facts from Plaintiff and members of
24 the Class about the BS and RCT Collision-Avoidance Assist
Systems' safety features of their Ioniqs;
- 25 c) whether Defendant knew, or should have known, that its
26 representations were false, or that the representations omitted
material information;

27 ³ <https://www.goodcarbadcar.net/hyundai-ioniq-usa-canada-sales-stats/>.

- 1 d) whether Defendant's conduct was a violation of the CLRA;
- 2 e) whether Defendant's conduct was a violation of the UCL;
- 3 f) whether Defendant's conduct was a violation of the FAL;
- 4 g) whether Defendant's conduct as alleged herein violates public
5 policy; and
- 6 h) whether Plaintiff and the members of the Class are entitled to
7 damages, restitution, equitable relief and/or other damages and
8 other relief, and, if so, the amount and nature of such relief.

9 28. **Typicality and Adequacy:** Plaintiff's claims are typical of the
10 claims of the proposed Class, and Plaintiff will fairly and adequately represent
11 and protect the interests of the proposed Class. Plaintiff does not have any
12 interests antagonistic to those of the proposed Class. Plaintiff's counsel are
13 experienced in the prosecution of this type of litigation. The questions of law
14 and fact common to the members of the Class, some of which are set out above,
15 predominate over any questions affecting only individual members of the Class.

16 29. **Superiority:** A class action is superior to all other available
17 methods for the fair and efficient adjudication of this controversy. The expense
18 and burden of individual litigation would make it impracticable or impossible
19 for members of the Class to prosecute their claims individually. The litigation
20 and trial of the Class-wide claims are manageable.

21 30. Unless a class is certified, Defendant will improperly retain monies
22 that it received from Plaintiff and members of the Class as a result of its
23 conduct. Unless Defendant is required to change its unfair and deceptive
24 practices, it will continue to commit the violations and the members of the
25 Class, and the general public, will continue to be misled.

26 31. Defendant has acted and refused to act on grounds generally
27 applicable to Class, making appropriate final injunctive relief with respect to the
28 Class as a whole.

COUNT I
Violation of Consumers Legal Remedies Act
California Civil Code § 1750, et seq.

32. Plaintiff incorporates by reference each and every preceding paragraph as though fully set forth herein.

33. This cause of action is brought under the CLRA. Plaintiff and members of the Class are consumers as defined by California Civil Code § 1761(d), and the Ioniqs constitute goods within the meaning of the CLRA.

34. Defendant violated and continues to violate the CLRA by engaging in the following deceptive practices proscribed by California Civil Code § 1770(a) in connection with transactions intended to result in, and that did result in, the sale and lease of the Ioniqs to Plaintiff and members of the Class, in violation of, *inter alia*, the following provisions:

a) Representing that the goods have characteristics, uses, or benefits which they do not have (Cal. Civ. Code § 1770(a)(5));

b) Representing that the goods are of a particular standard, quality, or grade if they are of another (Cal. Civ. Code § 1770(a)(7));

c) Advertising goods with the intent not to sell them as advertised (Cal. Civ. Code § 1770(a)(9));

d) Representing that a transaction involves rights, remedies, or obligations that it does not have or involve (Cal. Civ. Code § 1770(a)(14)); and

e) Representing that the goods have been supplied in accordance with a previous representation when they have not (Cal. Civ. Code § 1770(a)(16)).

35. Plaintiff and other Class members, in purchasing and using the Ioniqs, did reasonably act in response to Defendant's above representations and considered the misrepresentation set forth herein as material to their purchasing decisions. Plaintiff and the other members of the Class have suffered damages

1 by the wrongful acts and practices of Defendant that are in violation of
2 California Civil Code § 1781.

3 36. The representations regarding the Ioniqs were material to Plaintiff
4 and members of the Class. Defendant intended for Plaintiff and Class members
5 to rely on these representations and they did, in fact, rely on the representations.

6 37. In accordance with California Civil Code § 1780(a), Plaintiff and
7 the members of the Class seek injunctive relief for Defendant's violations of the
8 CLRA.

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10 **COUNT II**
11 **False and Misleading Advertising in Violation of**
12 **California Business and Professions Code, § 17500, et seq.**

13 38. Plaintiff incorporates by reference each and every preceding
14 paragraph as though fully set forth herein.

15 39. Defendant's acts and practices as described herein have deceived
16 and/or are likely to deceive members of the Class and the public. As detailed in
17 this Complaint, Defendant misrepresented that the Vehicles had BS and RCT
18 Collision-Avoidance Assist Systems when, in fact, they do not, in direct
19 contradiction to the Monroney Sticker that is attached to every Ioniq prior to
20 purchase or lease.

21 40. By its actions, Defendant has and continues to disseminate uniform
22 false advertising concerning the Ioniqs, which advertisements, by their nature,
23 are unfair, deceptive, untrue, or misleading within the meaning of the FAL.
24 Such advertisements are likely to deceive, and continue to deceive, the
25 consuming public for the reasons detailed above.

26 41. The above-described false, misleading, and deceptive advertising
27 Defendant disseminated continues to have the likelihood to deceive in that
28 Defendant has failed to disclose the true and actual nature of the Ioniqs. Upon
information and belief, Defendant has failed to initiate a public information

1 campaign to alert consumers of the Ioniq's actual features, which continues to
2 create a misleading perception of the Ioniq and their advertised safety features.

3 42. In making and disseminating the statements alleged herein,
4 Defendant should have known its advertisements and representations, including
5 those on the Ioniq's Monroney Sticker, were untrue and misleading, in violation
6 of the FAL. Plaintiff and the Class members based their decisions to purchase
7 the Ioniq, in substantial part, on Defendant's misrepresentations regarding the
8 true nature of the Ioniq's safety features. The revenues to Defendant attributable
9 to the Ioniq sold or leased using those false and misleading advertisements
10 amount to substantial monies paid for the Vehicles. Plaintiff and the Class were
11 injured in fact and lost money as a result.

12 43. Defendant intended for Plaintiff and Class members to rely on its
13 false and misleading representations, and Plaintiff and Class members
14 consequently did rely on Defendant's misrepresentations.

15 44. The misrepresentations and non-disclosures by Defendant of the
16 material facts detailed above constitute false and misleading advertising and,
17 therefore, are violations of the FAL.

18 45. As a result of Defendant's wrongful conduct, Plaintiff and Class
19 members request that this Court enjoin Defendant from continuing to violate the
20 FAL. Such conduct is ongoing and continues to this date. Plaintiff and the
21 Class are, therefore, entitled to the relief described below as appropriate for this
22 cause of action.

23 **COUNT III**
24 **Unlawful, Unfair, and Fraudulent Business Practices in Violation of**
25 **California Business and Professions Code § 17200, et seq.**

26 46. Plaintiff incorporates by reference each and every preceding
27 paragraph as though fully set forth herein.

28 47. The UCL defines unfair competition to include any "unfair,"
"unlawful," or "fraudulent" business act or practice.

1 48. Defendant violated, and continues to violate, the UCL by
2 misrepresenting the Ioniqs as having BS and RCT Collision-Avoidance Assist
3 Systems when, in fact, they do not, in direct contradiction to the Monroney
4 Sticker that is attached to every Ioniq prior to purchase or lease.

5 49. By engaging in the above-described acts and practices, Defendant
6 has committed an unfair business practice within the meaning of the UCL.
7 Consumers have suffered substantial injury they could not reasonably have
8 avoided other than by not purchasing the Ioniqs.

9 50. Defendant's acts and practices have deceived and/or are likely to
10 deceive Class members and the public and thus constitute a fraudulent business
11 practice. Despite Defendant's knowledge of the Ioniq's actual features,
12 Defendant uniformly marketed and advertised the Ioniqs as having BS and RCT
13 Collision-Avoidance Assist Systems, when, in fact, they do not.

14 51. As discussed above, Plaintiff and the members of the Class
15 purchased/leased Ioniqs directly from Defendant and/or its authorized agents.
16 Plaintiff and members of the Class were injured in fact and lost money as a
17 result of such acts of unfair competition.

18 52. The injuries suffered by Plaintiff and Class members are greatly
19 outweighed by any potential countervailing benefit to consumers or to
20 competition, nor are they injuries that Plaintiff and Class members should have
21 or could have reasonably avoided.

22 53. Defendant received the funds paid by Plaintiff and the members of
23 the Class and profited by misrepresenting the properties of the Ioniqs that it
24 otherwise would not have sold/leased. Defendant's revenues attributable thereto
25 are, thus, directly traceable to the substantial dollars paid out by Plaintiff and the
26 Class for the Ioniqs.

27 54. Unless Defendant is enjoined from continuing to engage in the
28 unlawful, unfair, and fraudulent business acts and practices as described herein,

1 which conduct is ongoing, Plaintiff and the Class will continue to be injured by
2 Defendant's conduct.

3 55. Defendant, through its acts of unfair competition, has acquired
4 money from the Class members. Plaintiff and the California Class request this
5 Court to enjoin Defendant from continuing to violate the UCL.

6 56. The unlawful, unfair, and fraudulent conduct described herein is
7 ongoing and continues to this date. Plaintiff and the Class, therefore, are entitled
8 to relief described below as appropriate for this cause of action.

9 **PRAYER FOR RELIEF**

10 WHEREFORE, Plaintiff, on behalf of himself and members of the
11 proposed Class, prays for judgment as follows:

- 12 a) Certification of the proposed Class under Federal Rule of
13 Civil Procedure 23 and appointment of Plaintiff as
representative of the Class and his counsel as Class counsel;
- 14 b) Compensatory and other damages for economic and non-
15 economic damages for the UCL claim;
- 16 c) Awarding restitution and disgorgement of Defendant's
17 revenues or profits to Plaintiff and the members of the
proposed Class for the FAL and UCL claims;
- 18 d) An Order requiring Defendant to cease and desist from
engaging in the alleged wrongful conduct and to engage in a
19 corrective advertising campaign;
- 20 e) Statutory pre-judgment and post-judgment interest on any
amounts;
- 21 f) Payment of reasonable attorneys' fees and recoverable
22 litigation expenses as may be allowable under applicable
law; and
- 23 g) Such other relief as the Court may deem just and proper.

24 **JURY DEMAND**

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26 Plaintiff demands a trial by jury on all causes of action so triable.
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Dated: November 9, 2020

Respectfully submitted,

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