

FILED

12 DEC -3 PM 2:47

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

BY: _____

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

10 **GUILLERMO QUIROZ and LISA SANDS, on**
11 **behalf of themselves and all others similarly**
12 **situated,**

Plaintiffs,

v.

13 **KIA MOTORS AMERICA, INC. and DOES 1**
14 **through 10, inclusive,**

Defendants.

Case No.:
Assigned to: **SA CV 12-2091 JST (ANX)**

CLASS ACTION COMPLAINT

1. Violation of Unfair Business Practices Act [California Business & Professions Code § 17200, *et seq.*]
2. Violation of False Advertising Law [California Business & Professions Code § 17500, *et seq.*]
3. Fraud
4. Negligent Misrepresentation
5. Deceit [California Civil Code § 1710]

JURY TRIAL DEMANDED

21
22 Plaintiffs Guillermo Quiroz and Lisa Sands, as individuals, on behalf of themselves and on
23 behalf of all others similarly situated (*i.e.*, the members of the Plaintiff Class described and defined
24 within this Complaint), herein allege as follows:

INTRODUCTION

25
26 1. This consumer fraud class action is based on Defendant Kia Motors America, Inc.'s
27 ("Defendant" or "KMA") extensive and misleading marketing campaigns for the following vehicle
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1 models: 2011-2012 Optima HEV; 2012-2013 Rio; 2012-2013 Sorrento; 2012-2013 Soul (including the
2 ECO); and 2012-2013 Sportage (together the “Affected Kia Models”). Knowing that fuel efficiency
3 was a primary motivating factor for car buyers, Defendant decided to market these Affected Kia Models
4 as achieving class-leading gas mileage, including some models with as much as 40 miles per gallon.
5 Specifically, Defendant inflated the results of mileage testing the Company reported to the EPA and
6 advertised that the affected vehicles achieved better fuel efficiency than actually achieved. This
7 message was false and Defendant failed to comply with EPA regulations which would have given
8 consumers accurate information about the vehicles’ fuel efficiency. The results were massive increases
9 in sales of these models for the 2011-13 model years, and a legion of defrauded consumers, including
10 named Plaintiffs Guillermo Quiroz and Lisa Sands (“Plaintiffs”), who bring this action based on fraud-
11 based claims.

12
13 **I**

14 **JURISDICTION AND VENUE**

15 2. This Court has subject matter jurisdiction over this action because it is a class action
16 arising under 28 U.S.C. § 1332(d), the Class Action Fairness Act of 2005, because at least one Class
17 member is of diverse citizenship from the Defendant and the aggregate amount in controversy exceeds
18 \$5,000,000.

19 3. This Court has personal jurisdiction over the Defendant because Defendant has
20 conducted and continues to conduct business in the State of California, and because Defendant has
21 committed the acts and omissions complained of herein in the State of California.

22 4. Venue as to Defendant is proper in this judicial district. Defendant sells a substantial
23 amount of automobiles in this district, has dealerships in this district, and many of Defendant’s acts
24 complained of herein occurred in the Central District of California. Defendant also maintains its
25 headquarters in this District.
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II

GENERAL ALLEGATIONS

5. This civil action is based on Defendant's campaign to boost sales of its vehicles by portraying its cars as having class leading gas mileage. During the class period, Defendant accomplished this goal by misrepresenting the miles per gallon of its vehicles in filings with the EPA, and through the marketing of the Affected Kia Models to customers touting their class leading gas mileage. The marketing and advertising claimed that these vehicles achieved certain specific miles per gallon ratings. However, in actuality, the Affected Kia Models achieved significantly worse gas mileage. Plaintiffs, for themselves and all others similarly situated, bring this action for damages, rescission and reimbursement of the purchase price of the vehicles as well as an order enjoining Defendant from engaging in further deceptive advertisements, pursuant to the Unfair Business Practices Act, California Business & Professions Code § 17200, *et seq.*; False Advertising, California Business & Professions Code § 17500, *et seq.*; statutory Deceit, California Civil Code § 1710; and common law fraud and negligent misrepresentation.

6. Plaintiff Guillermo Quiroz is a resident and citizen of the city of Anaheim Hills, California. He purchased a new 2011 Kia Optima Hybrid (HEV) on or about October 2011, at Kia Depot in Santa Ana, California. Plaintiff first learned of the Kia Optima Hybrid through television commercials and online information received from Kia's website. Prominent in the online sources was that the 2011 Kia Optima Hybrid got 40 miles per gallon in highway driving. The gas mileage was a very important consideration for Plaintiff in making the purchase of his new car. Plaintiff made his decision to purchase the Kia Optima Hybrid after researching, viewing, and relying on these online advertisements that stated the Kia Optima Hybrid received 40 miles per gallon. Based on information and belief, those same television and online advertisements were disseminated by Defendant throughout California and the United States regarding the expected gas mileage of the Affected Kia Models. Plaintiff also relied on representations of dealership sales personnel who stated the Kia Optima Hybrid got over 40 mpg.

1 7. Based on Defendant's representations, Plaintiff Quiroz reasonably believed that the
2 Optima Hybrid would actually achieve 40 mpg when driven in the real world. Plaintiff heavily relied on
3 these representations when he decided to buy the 2011 Kia Optima Hybrid. It was a material
4 consideration and substantial factor in his decision to buy the Kia vehicle.

5 8. However, after purchasing the vehicle, Plaintiff Quiroz discovered that it consistently
6 achieved gas mileage far below the advertised mileage under normal, real-world use, both on the
7 highway and in the city.

8 9. Plaintiff Quiroz did not know when he purchased the vehicle that the EPA estimated
9 mileage for the Optima Hybrid overstated the vehicle's estimated fuel efficiency and that the advertised
10 mpg was inaccurate as he reasonably expected that Defendant would not falsely advertise the mpg.
11 Plaintiff has been damaged from Defendant's false, misleading, and inadequate representations of mpg
12 ratings.

13 10. Plaintiff Lisa Sands is a resident and citizen of the city of Escondido, California. She
14 purchased a new 2012 Kia Soul ECO on or about December 3, 2011, at North County Kia in Escondido,
15 California. Plaintiff first learned of the Kia Soul ECO through television commercials and online
16 information received from Kia's website and other online sources. Prominent in those sources was that
17 the 2012 Kia Soul ECO got over 30 miles per gallon in highway driving. The gas mileage was a very
18 important consideration for Plaintiff in making the purchase of her new car because she travels
19 approximately 100 miles per day for her job. Plaintiff made her decision to purchase the Kia Soul ECO
20 after researching, viewing, and relying on these television advertisements and online sources that stated
21 the Kia Soul ECO received over 30 miles per gallon. Based on information and belief, those same
22 television and online advertisements were disseminated by Defendant throughout California and the
23 United States regarding the expected gas mileage of the Affected Kia Models.

24 11. Based on Defendant's representations, Plaintiff Sands reasonably believed that the Soul
25 ECO would actually achieve over 30 mpg when driven in the real world. Plaintiff heavily relied on
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1 these representations when she decided to buy the 2012 Kia Soul ECO. It was a material consideration
2 and substantial factor in her decision to buy the Kia vehicle.

3 12. However, after purchasing the vehicle, Plaintiff Sands discovered that it consistently
4 achieved gas mileage far below the advertised mileage under normal, real-world use, both on the
5 highway and in the city.

6 13. Plaintiff Sands did not know when she purchased the vehicle that the EPA estimated
7 mileage for the Soul ECO overstated the vehicle's estimated fuel efficiency and that the advertised mpg
8 was inaccurate as she reasonably expected that Defendant would not falsely advertise the mpg. Plaintiff
9 has been damaged from Defendant's false, misleading, and inadequate representations of mpg ratings.

10 14. Defendant Kia Motors America, Inc. is a California corporation with its national
11 headquarters in Irvine, California. KMA is a subsidiary of Kia Motors Corporation. KMA operates out
12 of its headquarters in Irvine, California and has a design center in California. At all times, KMA was
13 actively involved in designing, manufacturing, marketing, distributing, and selling Kias sold in the
14 United States. Through dealerships, Kia causes its vehicles to be sold in California and throughout the
15 United States. In attempting to capitalize on strong consumer preference for better fuel economy and
16 smaller vehicles, Kia has focused the last couple of years on producing, advertising, and selling fuel-
17 efficient vehicles. However, in the process of promoting sales, Kia engaged in widespread misleading
18 and deceptive advertisements, including throughout California, regarding the real-world gas mileage of
19 these vehicles by promoting grossly inflated gas mileage numbers when the Affected Kia Models, in
20 fact, fall substantially short of attaining such mileage in real-world, normal use.

21 15. Defendant Kia Motors Corporation ("KMC"), a Korean corporation, is not a party to this
22 lawsuit. KMC is the parent of KMA.

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

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

9 III

10 FACTUAL BACKGROUND

11 18. In recent years, Kia concluded that creating highly fuel efficient vehicles would be a
12 means to increasing sales. In order to distinguish itself from competitors, Kia decided to market and
13 advertise certain vehicle models as achieving extraordinarily high miles per gallon ratings.

14 19. The first step to accomplish this was to report EPA estimated mileage that was class
15 leading. Kia did so by reporting to the EPA that the Affected Kia Models coincidentally achieved an
16 EPA estimated miles per gallon rating that was better than many standard models of the vehicles'
17 competitors.

18 20. The purpose of the EPA gas mileage estimate is to provide a consistent way for
19 consumers to be able to compare the fuel efficiency of different vehicles under identical test conditions.

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

22 22. In the case of Kia's 2011-2013 Affected Models, the discrepancy between the EPA
23 estimate mpg ratings and actual fuel economy achievable in the real world was far greater than would be
24 expected because Kia had reported inflated fuel efficiency results to the EPA.

25 23. This was noted by staff at the EPA's vehicle and fuel emission laboratory when they
26 conducted an annual audit that focused on cars that lead the market in fuel efficiency in their segment.
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1 The audit found that Kia inflated estimated miles per gallon on its Sorrento, Rio, Soul, Sportage and
2 Optima Hybrid models. In fact, the audit revealed that the highway mpg rating for the Kia Soul was
3 inflated by as much as 6 mpg.

4 24. On November 2, 2012, Kia admitted that the EPA estimated mileage for the Kia Affected
5 Models was overstated, because of what the company called procedural differences between their
6 mileage tests and those used by the EPA. The Company admitted that none of these vehicles actually
7 achieved the purported miles per gallon, but instead topped out at figures in-line with competitors'
8 estimated MPGs. Kia knew, or through the exercise of reasonable care should have known, that its
9 estimated mileage ratings for the Affected Models were overstated and inflated.

10 25. Specifically, the mileage for both the 2011 and 2012 Optima HEV was reduced from a 35
11 city/40 hwy EPA fuel efficiency rating to 34 city/39 hwy. The fuel efficiency for the 2012 and 2013 Rio
12 was reduced from 30 city/40 hwy to between 28-30 city/36-37 hwy depending on the vehicle features.
13 Similarly, the fuel efficiency for the 2012 and 2013 Sorrento was reduced from approximately 21-22
14 city/28-32 hwy to approximately 20-21 city/26-30 hwy. The fuel efficiency for the 2012 and 2013 Soul
15 was reduced from approximately 26-27 city/34-35 hwy to approximately 23-25 city/28-30 hwy. The
16 fuel efficiency for the 2012 and 2013 Soul ECO was reduced from approximately 27-29 city/35-36 hwy
17 to approximately 24-26 city/29-31 hwy. Additionally, the fuel efficiency for the 2012 and 2013
18 Sportage was reduced from approximately 21-22 city/26-32 hwy to approximately 20-21 city/25-30
19 hwy. (Ranges given vary depending on vehicle features.) Plaintiffs and the members of the class
20 believed Kia's representations regarding fuel efficiency and achievable gas mileage. However, they
21 then discovered that their new cars did not get the gas mileage advertised as set forth in the EPA
22 estimated values for city and highway driving. Purchasers of the Affected Kia Models were dissatisfied
23 with the fuel economy of the vehicles and felt misled by Kia's representations.

24 26. Plaintiffs further challenge Kia's systematic advertising scheme that misleadingly and
25 unfairly uses the existing EPA mileage numbers to represent and imply that the miles-per-gallon
26 highway EPA estimate reflects actual, expected mileage under normal, real-world driving conditions.
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1 Kia accomplishes this scheme in several ways. It advertises mpg ratings that are inaccurate for what
2 customers will experience in normal real-world use. It also provides additional affirmative
3 misrepresentations that indicate that consumers should expect the vehicles to achieve the advertised mpg
4 ratings in normal, real-world use.

5 27. Plaintiffs and the putative class reasonably relied on Kia's material false representations
6 overstating the estimated fuel efficiency of its vehicles to the EPA which were printed on the Monroney
7 window sticker on every vehicle sold or leased during the class period. A reasonable consumer would
8 expect and rely on Kia's representations that the vehicles would achieve certain specific miles per gallon
9 ratings. Furthermore, a reasonable consumer in today's market attaches material importance to
10 advertisements and representations of gas mileage, as fuel efficiency is one of the most, if not *the* most,
11 important considerations in making purchasing decisions for most consumers.
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13 IV

14 CLASS ACTION ALLEGATIONS

15 28. Plaintiffs initially propose a Nationwide class – the “Class” – in litigating this case, as
16 defined as follows:

17 All owners of 2011-2013 Affected Kia Models who purchased or leased their vehicles in
18 the United States.

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

21 29. Alternatively, Plaintiffs propose a California class, as defined as follows:

22 All owners of 2011 -2013 Affected Kia Models who purchased or leased their vehicles in
23 California.

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

26 30. This action is brought as a class action and may properly be so maintained pursuant to the
27 provisions of California Code of Civil Procedure section 382. Plaintiffs reserve the right to amend or
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1 modify the Class description with greater specificity or further division into subclasses or limitation to
2 particular issues, based on the results of discovery.

3 31. **Numerosity of the Class** – The members of the Class are so numerous that their
4 individual joinder is impracticable. Plaintiffs are informed and believe that there are at least thousands
5 of purchasers in the class. Inasmuch as the class members may be identified through business records
6 regularly maintained by Defendant and its employees and agents, and through the media, the number
7 and identities of class members can be ascertained. Members of the Class can be notified of the pending
8 action by e-mail, mail, and supplemented by published notice, if necessary;

9 32. **Existence and Predominance of Common Question of Fact and Law** – There are
10 questions of law and fact common to the Class. These questions predominate over any questions
11 affecting only individual class members. These common legal and factual issues include, but are not
12 limited to:

- 13 a. Whether the subject vehicles achieve gas mileage materially lower than the advertised
14 expected mileage;
- 15 b. Whether the subject vehicles achieve mileage range on a single tank of gas materially
16 less than the advertised expected range;
- 17 c. Whether Kia's overstatement of its vehicle's fuel economy was materially
18 misleading;
- 19 d. Whether Kia's advertisements were false and deceptive in advertising the expected
20 mileage of the subject vehicles in normal, real-world highway usage;
- 21 e. Whether Kia's conduct violates the laws as set forth in the causes of action.

22 33. **Typicality** – The claims of the representative Plaintiffs are typical of the claims of each
23 member of the Class. Plaintiffs, like all other members of the Class, have sustained damages arising
24 from Defendant's violations of the laws, as alleged herein. The representative Plaintiffs and the
25 members of the Class were and are similarly or identically harmed by the same unlawful, deceptive,
26 unfair, systematic, and pervasive pattern of misconduct engaged in by Defendant.
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1 34. **Adequacy** – The representative Plaintiffs will fairly and adequately represent and protect
2 the interests of the Class members and have retained counsel who are experienced and competent trial
3 lawyers in complex litigation and class action litigation. There are no material conflicts between the
4 claims of the representative Plaintiffs and the members of the Class that would make class certification
5 inappropriate. Counsel for the Class will vigorously assert the claims of all Class members.

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

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

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

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

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

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

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

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

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

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

23 iii. The desirability or undesirability of concentrating the litigation
24 of the claims in the particular forum;

25 iv. The difficulties likely to be encountered in the management of a
26 Class Action.
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1 **FIRST CAUSE OF ACTION**
2 **(Violation of California Business & Professions Code Sections 17200, et seq. –**
3 **Unfair Business Practices Act)**

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

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

8 40. Defendant’s unlawful, unfair, and fraudulent business acts and practices are described
9 throughout this Complaint and include, but are not limited to the following: advertising mpg ratings
10 that are inaccurate for what drivers would actually achieve in the real world and providing additional
11 affirmative misrepresentations that indicate that consumers should expect the vehicles to achieve the
12 advertised mpg ratings in normal, real-world use.

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

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

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

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

25 44. Defendant disseminated materially misleading and deceptive information in
26 advertisements in print, online, and television formats, as discussed throughout the Complaint, for
27 purposes of inducing customers to purchase the subject vehicles, in violation of California Business and
28 Professions Code § 17500, *et seq.*

1 45. Plaintiffs and the Class, and each of them, have been damaged by said practice and seek
2 relief as prayed below.

3 **THIRD CAUSE OF ACTION**
4 **(Fraud)**

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

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

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

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

17 **FOURTH CAUSE OF ACTION**
18 **(Negligent Misrepresentation)**

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

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

22 52. Defendant specifically and expressly misrepresented material facts to Plaintiffs and Class
23 members, as discussed above.

24 53. Defendant knew, or in the exercise of reasonable diligence should have known, that the
25 ordinary consumer would be misled by Defendant’s misleading and deceptive advertisements.

26 54. Plaintiffs and the Class members justifiably relied on Defendant’s misrepresentations and
27 have been damaged thereby.
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**FIFTH CAUSE OF ACTION
(California Civil Code § 1710 - Deceit)**

1
2 55. Plaintiffs incorporate by reference and re-allege all paragraphs previously alleged herein.

3 56. Based on Defendant's conduct as discussed above, Defendant has engaged in fraud and
4 deceit as set forth in California Civil Code § 1710. Plaintiffs and the Class members have reasonably
5 relied on the material misrepresentations and omissions made by Defendant and have been damaged
6 thereby.

7
8 **PRAYER FOR RELIEF**

9 WHEREFORE, Plaintiffs, on behalf of themselves and the members of the Class, demand
10 judgment against and general and special relief from Defendant as follows:

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

13 2. An order enjoining Defendant under California Business and Professions Code §§ 17203
14 and 17535:

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

21 b. To disgorge all profits and compensation improperly obtained by Defendant as a result
22 of such acts and practices declared by this Court to be an unlawful, fraudulent, or
23 unfair business act or practice, a violation of laws, statutes, or regulations, or
24 constituting unfair competition; and

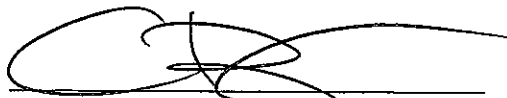
25 c. To cease engaging in false advertising and to disseminate an informational campaign to
26 correct its misrepresentations and material omissions.
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- 1 3. For damages under the causes of action for fraud, negligent misrepresentation and
- 2 statutory Deceit;
- 3 4. For punitive damages, pursuant to California Civil Code § 3294;
- 4 5. For reasonable attorney’s fees and costs, pursuant to California Code of Civil Procedure §
- 5 1021.5 and other statutes as may be applicable;
- 6 6. For prejudgment interest to the extent allowed by law;
- 7 7. For costs of suit incurred herein;
- 8 8. For such other and further relief as the Court deems appropriate.
- 9

10 DATED: December 3, 2012

SIMMONS BROWDER GIANARIS
ANGELIDES & BARNERD LLC

11
12
13 By:



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(*) *Pro Hac Vice* Applications to be submitted

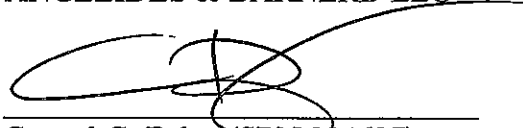
DEMAND FOR JURY TRIAL

Plaintiffs demand a trial by jury.

DATED: December 3, 2012

SIMMONS BROWDER GIANARIS
ANGELIDES & BARNERD LLC

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(*) *Pro Hac Vice* Applications to be submitted

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

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge Josephine Tucker and the assigned discovery Magistrate Judge is Arthur Nakazato.

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

SACV12- 2091 JST (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

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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 St., Rm. G-8
Los Angeles, CA 90012

Southern Division
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

Eastern Division
3470 Twelfth St., Rm. 134
Riverside, CA 92501

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

FILED

12 DEC -3 PM 2:46

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

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

GUILLERMO QUIROZ, ET AL

PLAINTIFF(S)

CASE NUMBER

SACV12- 2091 JST (ANx)

V.

KIA MOTORS AMERICA, INC ET AL

DEFENDANT(S)

**NOTICE TO PARTIES OF
COURT-DIRECTED ADR PROGRAM**

NOTICE TO PARTIES:

It is the policy of this Court to encourage settlement of civil litigation when such is in the best interest of the parties. The Court favors any reasonable means, including alternative dispute resolution (ADR), to accomplish this goal. See Civil L.R. 16-15. Unless exempted by the trial judge, parties in all civil cases must participate in an ADR process before trial. See Civil L.R. 16-15.1.

The district judge to whom the above-referenced case has been assigned is participating in an ADR Program that presumptively directs this case to either the Court Mediation Panel or to private mediation. See General Order No. 11-10, §5. For more information about the Mediation Panel, visit the Court website, www.cacd.uscourts.gov, under "ADR."

Pursuant to Civil L.R. 26-1(c), counsel are directed to furnish and discuss with their clients the attached ADR Notice To Parties before the conference of the parties mandated by Fed.R.Civ.P. 26(f). Based upon the consultation with their clients and discussion with opposing counsel, counsel must indicate the following in their Joint 26(f) Report: 1) whether the case is best suited for mediation with a neutral from the Court Mediation Panel or private mediation; and 2) when the mediation should occur. See Civil L.R. 26-1(c).

At the initial scheduling conference, counsel should be fully prepared to discuss their preference for referral to the Court Mediation Panel or to private mediation and when the mediation should occur. The Court will enter an Order/Referral to ADR at or around the time of the scheduling conference.

Clerk, U.S. District Court

By: JPRADO

Deputy Clerk

Dated: Monday, December 3, 2012

Name & Address:

Crystal G. Foley (SBN 224627)
SIMMONS BROWDER GIANARIS
ANGELIDES & BARNERD LLC
100 N. Sepulveda Blvd., Suite 1350
El Segundo, CA 90245

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

GUILLERMO QUIROZ and LISA SANDS, on behalf
of themselves and all others similarly situated,

PLAINTIFF(S)

v.

KIA MOTORS AMERICA, INC. and DOES 1 through
10, inclusive,

DEFENDANT(S).

CASE NUMBER

SACV12 2091

JST(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, Crystal G. Foley, whose address is 100 N. Sepulveda Blvd., Suite 1350, El Segundo, CA 90245. 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: December 3, 2012

By: _____

Deputy Clerk

(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**

(a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/>) GULLERMO QUIROZ and LISA SANDS, on behalf of themselves and all others similarly situated,	DEFENDANTS KIA MOTORS AMERICA, INC.
(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) Crystal G. Foley (SBN 224627) SIMMONS BROWDER GIANARIS ANGELIDES & BARNERD LLC, 100 N. Sepulveda Blvd., Suite 1350 El Segundo, CA 90245, (310) 322-3555.	Attorneys (If Known)

BASIS OF JURISDICTION (Place an X in one box only.) <input type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 2 U.S. Government Defendant <input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%; border: none;"> <thead> <tr> <th></th> <th>PTF</th> <th>DEF</th> <th></th> <th>PTF</th> <th>DEF</th> </tr> </thead> <tbody> <tr> <td>Citizen of This State</td> <td><input checked="" type="checkbox"/></td> <td><input type="checkbox"/></td> <td>Incorporated or Principal Place of Business in this State</td> <td><input type="checkbox"/></td> <td><input checked="" type="checkbox"/></td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td>Incorporated and Principal Place of Business in Another State</td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td>Foreign Nation</td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> </tbody> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Incorporated or Principal Place of Business in this State	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Citizen of Another State	<input type="checkbox"/>	<input type="checkbox"/>	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/>	<input type="checkbox"/>	Citizen or Subject of a Foreign Country	<input type="checkbox"/>	<input type="checkbox"/>	Foreign Nation	<input type="checkbox"/>	<input type="checkbox"/>
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REQUESTED IN COMPLAINT: **JURY DEMAND:** Yes No (Check 'Yes' only if demanded in complaint.)

CLASS ACTION under F.R.C.P. 23: Yes No **MONEY DEMANDED IN COMPLAINT:** \$ _____

CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

28 U.S.C. §1332(d)(2); Putative class action under the Class Action Fairness Act of 2005 ("CAFA"), alleging false and misleading advertising of EPA gas mileage

NATURE OF SUIT (Place an X in one box only.)

00 State Reapportionment	<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL PROPERTY		
10 Antitrust	<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 710 Fair Labor Standards Act
30 Banks and Banking	<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 530 General	<input type="checkbox"/> 720 Labor/Mgmt. Relations
50 Commerce/ICC Rates/etc.	<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act
60 Deportation	<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Fed. Employers' Liability	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 540 Mandamus/Other	<input type="checkbox"/> 740 Railway Labor Act
70 Racketeer Influenced and Corrupt Organizations	<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 790 Other Labor Litigation
80 Consumer Credit	<input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act
90 Cable/Sat TV	<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 820 Copyrights
10 Selective Service	<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 830 Patent
50 Securities/Commodities/Exchange	<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 840 Trademark
75 Customer Challenge 12 USC 3410	<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 362 Personal Injury-Med Malpractice	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 861 HIA (1395ff)
Other Statutory Actions	<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 365 Personal Injury-Product Liability	<input type="checkbox"/> 445 American with Disabilities - Employment	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 862 Black Lung (923) (405(g))
11 Agricultural Act	<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 446 American with Disabilities - Other	<input type="checkbox"/> 650 Airline Regs	<input type="checkbox"/> 863 DIWC/DIWW (405(g))
12 Economic Stabilization Act	<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 660 Occupational Safety /Health	<input type="checkbox"/> 864 SSID Title XVI
3 Environmental Matters	<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 463 Habeas Corpus-Alien Detainee		<input type="checkbox"/> 690 Other	<input type="checkbox"/> 865 RSI (405(g))
4 Energy Allocation Act	<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 465 Other Immigration Actions			<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
5 Freedom of Info. Act	<input type="checkbox"/> 245 Tort Product Liability				<input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
0 Appeal of Fee Determination Under Equal Access to Justice	<input type="checkbox"/> 290 All Other Real Property				
0 Constitutionalality of State Statutes					

OFFICE USE ONLY: Case Number: _____

SACV12 2091

JSA (ANX)

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

(05/08) CIVIL COVER SHEET

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): See Attached.

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
Guillermo Quiroz - Orange County	Lisa Sands - San Diego County

(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
Kia Motor America, Inc. - 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

* 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 December 3, 2012

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))

ATTACHMENT
CIVIL CASE COVER SHEET
Quiroz, et al. v. Kia Motors America, Inc., et al.

VIII(b). RELATED CASES, cont.:

Espinosa, et al. v. Hyundai Motor America, et al.
(Case No. 2:12-cv-00800 GW)

Krauth, et al. v. Hyundai Motor America, et al.
(Case No. 8:12-cv-01935 GW)

Brady, et al. v. Hyundai Motor America, et al.
(Case No. 8:12-cv-01930 AJG)

Wilton, et al. v. Kia Motors America, Inc., et al.
(Case No.: 8:12-cv-01917 JVS)

Hunter, et al. v. Hyundai Motor America, et al.
(Case No. 8:12-cv-01909 JVS)

Graewingholt, et al. v. Hyundai Motor America, et al.
(Case No. 8:12-cv-01963 CJC)

Thomson, et al. v. Hyundai Motor America, et al.
(Case No.: 8:12-cv-01981 DOC)