

IN THE DISTRICT COURT OF LANCASTER COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel.
DOUGLAS J. PETERSON,
ATTORNEY GENERAL,

Plaintiff,

v.

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

Defendants.

CI 16- 3813

COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF

1. Plaintiff, the State of Nebraska by and through Douglas J. Peterson, the Attorney General, and Abigail M. Stempson, Assistant Attorney General, brings this action against Defendants Hyundai Motor Company, Hyundai Motor America, Kia Motors Corporation, Inc., and Kia Motors America, Inc. (hereinafter collectively referred to as "Defendants" or "Hyundai") for violating the Nebraska Consumer Protection Act, Neb. Rev. Stat. § 59-1601 et seq. ("Consumer Protection Act") and the Uniform Deceptive Trade Practices Act, Neb. Rev. Stat. § 87-301 et seq. ("Uniform Deceptive Trade Practices Act"), as follows:

LANCASTER COUNTY
2016 OCT 27 AM 11 30
CLERK OF THE
DISTRICT COURT



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JURISDICTION AND VENUE

2. This action is brought for and on behalf of the people of the State of Nebraska, by Douglas J. Peterson, Attorney General of the State of Nebraska, pursuant to the provisions of the Consumer Protection Act and Uniform Deceptive Trade Practices Act.

3. This Court has jurisdiction over the Defendants pursuant to Neb. Rev. Stat. § 59-1608 and Neb. Rev. Stat. § 87-303.05(1) because the Defendants transacted business within the State of Nebraska at all times relevant to this Complaint.

4. Venue for this action properly lies in this Court pursuant to Neb. Rev. Stat. § 59-1608.01 and Neb. Rev. Stat. § 87-303.05(1) because Defendants transact business in Lancaster County, Nebraska and throughout Nebraska and/or some of the transactions out of which this action arose occurred in Lancaster County, Nebraska and throughout Nebraska.

PARTIES

5. Plaintiff is Douglas J. Peterson, the duly elected, qualified, and acting Attorney General of the State of Nebraska. The Nebraska Attorney General is responsible for the enforcement of Nebraska consumer protection laws, including, but not limited to, the Consumer Protection Act and the Uniform Deceptive Trade Practices Act. The Plaintiff has brought this action in connection with a multi-state investigation of the Defendants conducted by the Plaintiff and the Attorneys General of Alabama, Arizona, Arkansas, California, Colorado, Connecticut, District of Columbia, Delaware, Florida, Georgia, Iowa, Illinois, Indiana, Kansas, Kentucky, Maryland, Maine, Massachusetts, Missouri, New Jersey, New Mexico, Nevada, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, Tennessee, Texas, Virginia, Washington, and Wisconsin (hereinafter collectively referred to as the “Attorneys General”).

6. The Defendants are Hyundai Motor Company, Hyundai Motor America, Kia Motors Corporation, Inc., and Kia Motors America, Inc.

7. The Defendant, Hyundai Motor Company, is a multi-national corporation with its principal corporate headquarters in Seoul, South Korea.

8. The Defendant, Hyundai Motor Company, manufactures, offers, and sells Hyundai vehicles in the United States through its wholly-owned subsidiary, Hyundai Motor America.

9. The Defendant, Hyundai Motor America, is a California corporation with a principal place of business in Fountain Valley, California.

10. The Defendant, Kia Motors Corporation, Inc., is a multi-national corporation with its principal corporate headquarters in Seoul, South Korea.

11. The Defendant, Kia Motors Corporation, Inc., manufactures, offers, and sells Kia vehicles in the United States through its wholly-owned subsidiary, Kia Motors America, Inc.

12. Defendant, Kia Motors America, Inc. is a California corporation with a principal place of business in Irvine, California.

COMMERCE

13. The Consumer Protection Act defines “trade and commerce” as “the sale of assets or services and any commerce directly or indirectly affecting the people of the State of Nebraska.” Neb. Rev. Stat. § 59-1601(2).

14. The Defendants have manufactured, assembled, advertised, marketed, promoted, sold, and distributed millions of vehicles in the United States in general, and in the state of Nebraska in particular. For the model years ("MY") 2011 through 2013, the Defendants offered and sold certain light duty passenger vehicles identified in Exhibit A, attached hereto (the "Subject Vehicles"). The Subject Vehicles were offered and sold during a period of very high gasoline

prices in the United States, and the Defendants' marketing efforts touted, indeed trumpeted, the Subject Vehicles' allegedly superior fuel economy.

15. Before they could be offered for sale in the United States, however, the Subject Vehicles had to be certified by the United States Environmental Protection Agency ("EPA") and the California Air Resources Board ("CARB") as being in compliance with applicable emissions limits set forth in state and federal law.

16. The Defendants, like all other auto manufacturers, conducted their own testing of the Subject Vehicles and used the resulting data to support their applications for certificates of conformity.

17. In filing their applications, the Defendants expressly and impliedly represented that their testing complied in all material respects with the procedures mandated by EPA and CARB.

18. In truth and in fact, however, the Defendants deviated from the mandated testing protocols in numerous respects, thereby producing data that underestimated the road load forces for the Subject Vehicles and overstated the fuel efficiency estimates for the Subject Vehicles.

19. The Defendants thereafter incorporated the inflated and inaccurate data into the estimated mileage ratings displayed on hundreds of thousands of Monroney (or window) stickers affixed to Subject Vehicles in dealerships across the nation.

20. The Defendants further sought to capitalize on the erroneous mileage estimates by placing them front and center in a variety of advertisements and other promotional campaigns, including, but not limited to:

- a. Representing, without limitation or qualification, that the Hyundai Elantra could travel roundtrip between Los Angeles and Las Vegas "WITHOUT STOPPING FOR GAS". (Emphasis in the original). See Exhibit B hereto;

- b. Representing, without limitation or qualification, that the 2011 Hyundai Elantra could travel from Buffalo to Niagara Falls and back, a distance of 40 miles, on a single gallon of fuel. See Exhibit C hereto;
- c. Representing, without limitation or qualification, that five different Hyundai models were rated at 40 mpg. See Exhibit D hereto; and
- d. Utilizing the estimated mileage ratings for the Kia Sorrento EX in advertisements for the Kia Sorrento SX, a different model with a lower fuel economy rating.

21. On November 12, 2012, the Defendants announced that they were adjusting and restating the fuel economy ratings for all of the Subject Vehicles. The Defendants took this action after an investigation by EPA and CARB uncovered the Defendants' deviations from the mandated testing protocols, which deviations resulted in the mileage overstatements.

22. By engaging in the aforesaid acts, practices, representations, and omissions, the Defendants made deceptive or misleading statements to government agencies and to consumers regarding the features, performance, and characteristics of the Subject Vehicles, including but not limited to:

- a. Misrepresenting, falsely certifying, or falsely warranting the Subject Vehicles' compliance with applicable certification or other regulatory requirements;
- b. Failing to state material facts in connection with their sale and marketing of the Subject Vehicles, the omission of which deceived or tended to deceive consumers; and
- c. Misrepresenting or deceptively advertising, promoting, and warranting the Subject Vehicles' fuel economy and performance.

23. The Defendants' misrepresentations to regulators enabled them to secure the requisite legal authorizations to sell the Subject Vehicles in the United States, and more particularly in Nebraska.

24. The Defendants' acts and practices, as described herein, were likely to mislead consumers acting reasonably under the circumstances.

25. The Defendants' acts or practices, as described here, were material to consumers' decisions to purchase the Subject Vehicles during a time of high gasoline prices.

26. By engaging in the aforementioned acts and practices, the Defendants violated the public policy against making misrepresentations or nondisclosures, and against violating the duties of good faith and fair dealing.

27. The Defendants' acts or practices, as described herein, caused substantial injury to consumers in that consumers purchased Subject Vehicles that were improperly certified for sale, and which were offered for sale using inaccurate and deceptive mileage ratings.

28. The Defendants' acts or practices, as described herein, therefore constitute unfair, unconscionable, or deceptive acts or practices, in violation of § 59-1602 of the Consumer Protection Act and §§ 87-302 and 87-303.01 of the Uniform Deceptive Trade Practices Act.

WHEREFORE, the Plaintiff respectfully requests the following relief:

A. An order, pursuant to the Consumer Protection Act and Uniform Deceptive Trade Practices Act, enjoining the Defendants from further violation of § 59-1602 of the Consumer Protection Act and §§ 87-302 and 87-303.01 of the Uniform Deceptive Trade Practices Act.

B. An order, pursuant to the Consumer Protection Act and Uniform Deceptive Trade Practices Act, directing the Defendants to pay restitution.

C. An order, pursuant to the Consumer Protection Act and Uniform Deceptive Trade Practices Act, directing the Defendants to pay civil penalties in the amount of \$2,000 for each every violation of the Consumer Protection Act and Uniform Deceptive Trade Practices Act.

D. An order, pursuant to the Consumer Protection Act and Uniform Deceptive Trade Practices Act, directing the Defendants to disgorge all revenues, profits and gains achieved in whole or in part through the unfair and/or deceptive acts or practices complained of herein.

E. An order, pursuant to the Consumer Protection Act and Uniform Deceptive Trade Practices Act, directing the Defendants to pay all costs and attorneys fees for the prosecution and investigation of this action.

F. Such other and further relief as the Court deems appropriate.

Dated October 27, 2016.

Respectfully submitted,

STATE OF NEBRASKA, ex rel.
DOUGLAS J. PETERSON,
Attorney General

By: Douglas J. Peterson, No. 18146
Attorney General

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Counsel for the State of Nebraska

Exhibit A

HYUNDAI VEHICLES

2013 Model Year

2013 Accent (automatic transmission; 1.6 liter engine)
2013 Accent (manual transmission; 1.6 liter engine)
2013 Azera (automatic transmission; 3.3 liter engine)
2013 Elantra (automatic transmission; 1.8 liter engine)
2013 Elantra (manual transmission; 1.8 liter engine)
2013 Elantra Coupe (automatic transmission; 1.8 liter engine)
2013 Elantra Coupe (manual transmission; 1.8 liter engine)
2013 Elantra GT (automatic transmission; 1.8 liter engine)
2013 Elantra GT (manual transmission; 1.8 liter engine)
2013 Genesis (automatic transmission; 3.8 liter engine)
2013 Genesis R-Spec (automatic transmission; 5.0 liter engine)
2013 Santa Fe Sport 2WD Turbo (automatic transmission; 2.0 liter engine)
2013 Santa Fe Sport 2WD (automatic transmission; 2.4 liter engine)
2013 Santa Fe Sport 4WD Turbo (automatic transmission; 2.0 liter engine)
2013 Santa Fe Sport 4WD (automatic transmission; 2.4 liter engine)
2013 Tucson 2WD (automatic transmission; 2.0 liter engine)
2013 Tucson 2WD (automatic transmission; 2.4 liter engine)
2013 Tucson 2WD (manual transmission; 2.0 liter engine)
2013 Tucson 4WD (automatic transmission; 2.4 liter engine)
2013 Veloster Turbo (automatic transmission; 1.6 liter engine)
2013 Veloster (automatic transmission; 1.6 liter engine)
2013 Veloster (manual transmission; 1.6 liter engine)

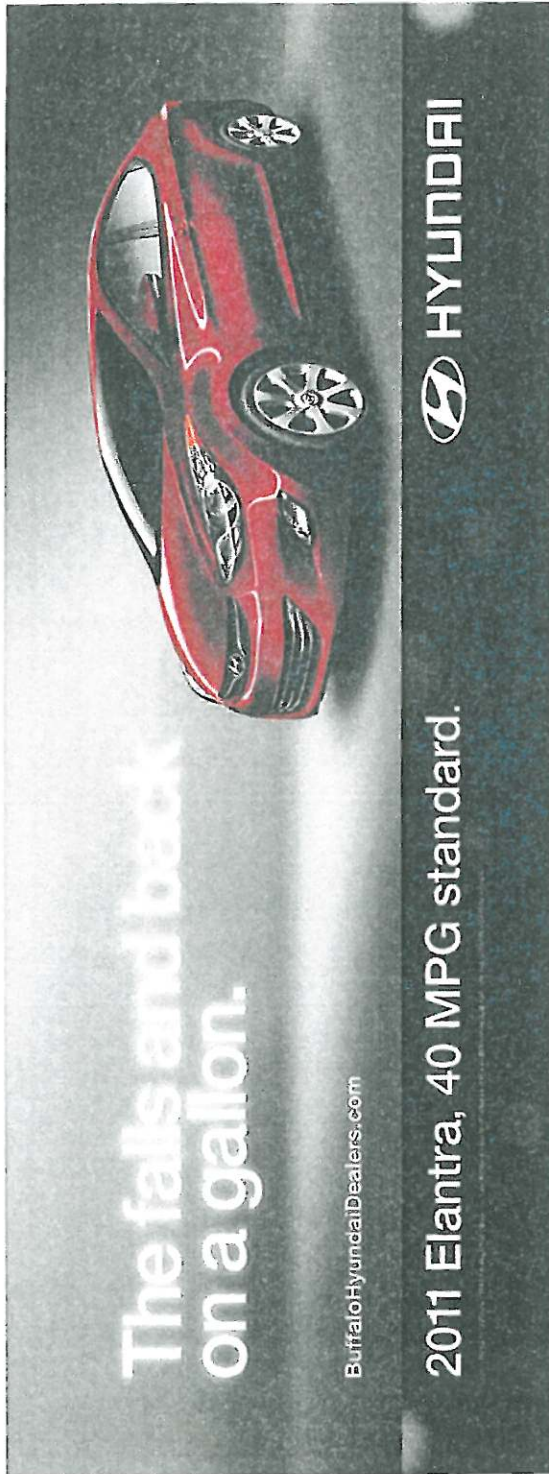
KIA VEHICLES

2013 Model Year

2013 Rio 2WD (automatic transmission; 1.6 liter engine)
2013 Rio 2WD (manual transmission; 1.6 liter engine)
2013 Rio 2WD (automatic (Eco) transmission; 1.6 liter engine)
2013 Sorento 2WD (automatic transmission; 2.4 liter engine (GDI))
2013 Sorento 4WD (automatic transmission; 2.4 liter engine (GDI))
2013 Soul 2WD (automatic transmission; 1.6 liter engine)
2013 Soul 2WD (manual transmission; 1.6 liter engine)
2013 Soul 2WD (automatic transmission; 2.0 liter engine)
2013 Soul 2WD (manual transmission; 2.0 liter engine)
2013 Soul ECO 2WD (automatic transmission; 1.6 liter engine)
2013 Soul ECO 2WD (automatic transmission; 2.0 liter engine)
2013 Sportage 2WD (automatic transmission; 2.0 liter engine)
2013 Sportage 2WD (automatic transmission; 2.4 liter engine)
2013 Sportage 2WD (manual transmission; 2.4 liter engine)
2013 Sportage 4WD (automatic transmission; 2.0 liter engine)
2013 Sportage 4WD (automatic transmission; 2.4 liter engine)
2013 Sportage 4WD (manual transmission; 2.4 liter engine)

2012 Model Year

2012 Rio 2WD (automatic transmission; 1.6 liter engine)
2012 Rio 2WD (manual transmission; 1.6 liter engine)
2012 Sorento 2WD (automatic transmission; 2.4 liter engine (GDI))
2012 Sorento 4WD (automatic transmission; 2.4 liter engine (GDI))



INNOCEAN WORLDWIDE

Project Title: Eastern Region Elantra OOH - Buffalo Market 10x30

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Job #: H11-MD-2107 | Ad#: H-11-00176 | Insertion Date: 5/30/2011

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Region: Eastern
Sales Title: None
Agency Code: None
Advertiser: None

Product: Elantra
Estimate/Order Ref: OOH
Name of Our Date: 5/13/11
Version: 46-Box

Color: Cyan, Magenta, Yellow, Black

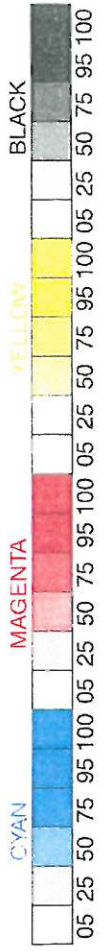
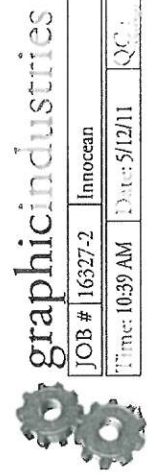
LIVE **GUTTERFOLD** **FRIM** **BLEED** **INDICATES AREA DESIGNATION AND DOES NOT PRINT.**

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