

FILED
2016 OCT 28 AM 9:06

IN THE CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE
TWENTIETH JUDICIAL DISTRICT AT NASHVILLE

STATE OF TENNESSEE *ex rel.*
HERBERT H. SLATERY III,
ATTORNEY GENERAL AND REPORTER

Plaintiff,

v.

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

Defendants.

RICHARD R. ROOPER, CLERK

WRH O.C.

CASE NO. ~~16C2881~~
16C2881

COMPLAINT

1. Plaintiff, State of Tennessee, by and through Attorney General Herbert H. Slatery III, 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") for violating provisions of the Tennessee Consumer Protection Act of 1977 ("TCPA"), Tenn. Code Ann. § 47-18-101 *et seq.*

JURISDICTION AND VENUE

2. This action is brought by Herbert H. Slatery III, Attorney General of the State of Tennessee, pursuant to the provisions of the Tenn. Code Ann. § 47-18-108(a)(1).

3. This Court has jurisdiction over Defendants pursuant to Tenn. Code Ann. § 20-2-223(a)(1) because Defendants have transacted business within the State of Tennessee at all times relevant to this complaint.

4. Venue for this action is proper, pursuant to Tenn. Code Ann. § 47-18-108(a)(3) as Defendants transact business in Davidson County, Tennessee, and the transactions out of which this action arose occurred in Davidson County, Tennessee.

5. Defendants agree to waive notice as required by Tenn. Code Ann. § 47-18-108(a)(2).

PARTIES

6. The Plaintiff, the State of Tennessee, by and through Attorney General Herbert H. Slatery III, is charged with the enforcement of the TCPA. The Attorney General brings this action in connection with a multi-state investigation of Defendants conducted by 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, Nebraska, New Jersey, New Mexico, Nevada, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, Tennessee, Texas, Virginia, Washington, and Wisconsin.

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

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

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

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

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

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

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

COMMERCE

14. The TCPA defines “trade” or “commerce” as “the advertising, offering for sale, lease or rental, or distribution of any goods, services, or property, tangible or intangible, real, personal or mixed, and other articles, commodities, or things of value wherever situated.” Tenn. Code Ann. § 47-18-103(19).

15. Defendants have manufactured, assembled, advertised, marketed, promoted, sold, and distributed millions of vehicles in the United States and in the State of Tennessee. For the model years 2011 through 2013, 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 Defendants’ marketing efforts touted the Subject Vehicles’ allegedly superior fuel economy.

16. 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 before they could be offered for sale in the United States.

17. Like other auto manufacturers, Defendants conducted their own testing of the Subject Vehicles and used the results in support of their applications for certificates of conformity from the EPA and CARB.

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

19. In truth and in fact, however, 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.

20. 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.

21. 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;
- 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;
- c. Representing, without limitation or qualification, that five different Hyundai models were rated at 40 mpg. See Exhibit D; 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.

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

23. By engaging in the aforesaid acts, practices, misrepresentations and omissions, 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.

24. Defendants' misrepresentations to regulators enabled them to secure the requisite legal authorizations to sell the Subject Vehicles in the United States and in Tennessee.

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

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

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

28. 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.

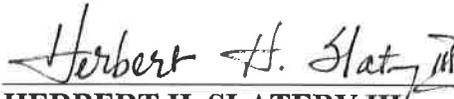
29. Therefore, Defendants' acts or practices, as described herein, constitute unfair or deceptive acts or practices, in violation of Tenn. Code Ann § 47-18-104(a), (b)(5), (b)(7) and (b)(27).

WHEREFORE, the Plaintiff claims the following relief:

1. An order pursuant to Tenn. Code Ann § 47-18-108(a)(4), enjoining Defendants from further violation of the TCPA;
2. An order pursuant to Tenn. Code Ann § 47-18-108(b)(1), directing Defendants to pay restitution;
3. An order pursuant to Tenn. Code Ann § 47-18-108(b)(3), directing Defendants to pay civil penalties for each TCPA violation.
4. An award of attorney's fees, pursuant to Tenn. Code Ann § 47-18-108(b)(4).
5. Such other and further relief as the Court deems appropriate.

Dated October 28, 2016.

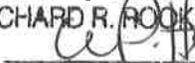
Respectfully submitted,



HERBERT H. SLATERY III
Attorney General and Reporter
B.P.R. No. 009077

CIRCUIT COURT CLERK
1 PUBLIC SQUARE, ROOM 302
P.O. BOX 106308
NASHVILLE, TN 37219-6303

I hereby certify that this is a true copy
of original instrument filed in my office
this 28 day of October 2016

RICHARD R. ROOKER Clerk
By 
Deputy Clerk



NATE CASEY
Assistant Attorney General
B.P.R. No. 031060
Office of the Tennessee Attorney General
Consumer Protection and Advocate Division
Post Office Box 20207
Nashville, Tennessee 37202-0207
Phone: (615) 741-2935
Facsimile: (615) 532-2910

EXHIBIT A

2016 OCT 28 AM 9:07

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)

RICHARD BROOKER, CLERK

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)

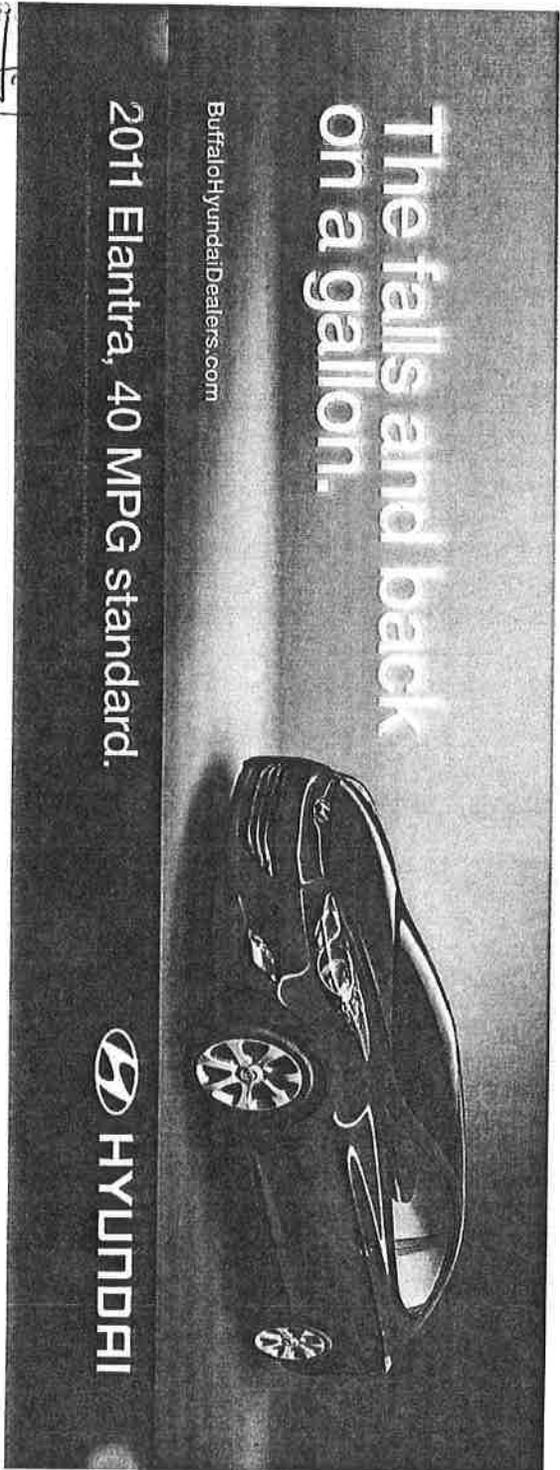
2012 Model Year

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))

EXHIBIT B

EXHIBIT C

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INNOCENT WORLDWIDE

Project Title: Eastern Region Elantra OOH - Buffalo Market 10X30

File Name: H11-MD-2107_H-11-001768Buff10X30 | Date: 5-11-2011 4:37 PM | Pubs: None

Job#: H11-MD-2107 | Ad#: H-11-00176 | Insertion Date: 5/20/2011

Client: HMM
 Region: Eastern
 Dealer Tag: None
 Adsent Code: None
 Advertiser #: None

Product: Elantra
 Element/Msgs: Print OOH
 Material Due Date: 5/13/11
 Vendor: H-RS

Sheet: 5" x 3"
 Trim/Die: 1.75" x 2.75"
 Lwr: 1.25" x 2.25"
 Folded Size: None

Round: **F**

Colors Used: Gen. Magenta Yellow Black

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INDICATES AREA DESIGNATION AND DOES NOT PRINT.

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Placed Images
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 M711_M0_LTD_0057_v2_grad_C01N6_721_041
 30139761_Hyundai Logo_v16161_013116

Fonts Used
 Helvetica Neue (65 Medium, 57 Condensed)

Creative Director: Ed Miller
 Associate CO: Tyson Brown
 Art Director: Tracy Stephens
 Copywriter: Molly McLaughlin
 Proofreader: Chris Richards
 Account Executive: Julie Guertel
 Product: 1st Fashionbe
 Print Production: Patricia Marquez
 Traffic: Suzanne Cheng
 Client: HDA
 Studio: Vanessa Volante

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 Time: 10:39 AM | Date: 5/12/11 | QC: | East Hyundai Elantra 10x30 | LS: 175 | Rnd: 1.0
 PUBLICATION: 00176Buff



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EXHIBIT D

40 NEVER LOOKED SO GOOD 5 MODELS. 40MPG.

7005 8030



- ACCENT 5-DOOR**
- 5 Door Versatility
 - Best-in-Class Cargo Space
 - Up to 456 Miles on a single tank of gas



- ACCENT 4-DOOR**
- Hands Free Bluetooth
 - Best-in-Class Horsepower
 - Up to 456 Miles on a single tank of gas



- ELANTRA**
- 181.4 Cylinder CWT Engine
 - More Interior Space than Civic or Corolla
 - Up to 512 Miles on a single tank of gas



- SONATA HYBRID**
- 5 Star Safety Rated
 - Solar Controlled Glass
 - Up to 668 miles on a single tank of gas



- VELOSTER**
- Standard 7" Touch Screen
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