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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

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YVONNE ROBINSON, ROSE CIROS, JESSE R. HOWELL,
CHERYL MOXEY, ROBERT McCONNELL,
individually and/or on behalf of all others similarly situated,
Plaintiffs,
vs.
KIA MOTORS AMERICA INC;
Hyundai Motor Company, XYZ CORP

Defendants. Case No.: 13-00006 ES-MAH

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PLAINTIFFS' AMENDED CLASS ACTION COMPLAINT

DEMAND FOR JURY TRIAL

Plaintiffs Yvonne Robinson, Jesse R. Howell (individually only) and Rose Ciros, Cheryl Moxey, Robert McConnell (collectively "Plaintiffs") bring this amended class action against Defendants Kia Motors America, Corporation (hereinafter "Defendants" or "Kia") and Hyundai Motor Company (hereinafter "Hyundai") on behalf of themselves and all others similarly situated. Plaintiffs allege upon personal knowledge and belief as to their own acts, and upon information and belief (based on the investigation of their counsel) as to all other matters.

INTRODUCTION

1. This class action lawsuit seeks damages, injunctive and declaratory relief, and reasonable attorney fees and costs on behalf of separate state sub-classes of all persons in the United States and its Territories, who purchased as consumers on behalf of themselves and the class(es) defined as current and former owners and lessees of certain Kia Sorento model year first generation 2002–2009 motor vehicles equipped with a Hyundai-manufactured 3.5L 24-valve DOHC V6 engine. It is alleged that these engines were designed with a defective power train engine crankshaft pulley bolt

and balancer. The design of the engine balancer sticks out too far and weighs too much, breaking off the spring guide pin and causing the front pulley bolt to break and the front pulley to eject, which then snaps or shreds critical belts on the power train including the power steering belt, charging belt, and cooling belt which then causes catastrophic engine failure, loss of power steering, loss of the charging system, loss of the cooling system and loss of control of the vehicle. Overall this problem makes the vehicle a hazard to owners and other individuals who may be in harm's way.

2. Through a common and uniform course of conduct, and despite their advertised "best bumper to bumper warranty" which would cover the repairs for the design defect and bolt failure and a longstanding knowledge of the problem, the Defendants' failed to disclose to Plaintiffs and other consumers that Kia Sorento model year First generation 2002–2009 motor vehicles (collectively, the "Class vehicles") are predisposed to have the front pulley balancer bolt snap, (aka crankshaft bolt). The crankshaft pulley bolt problem causes catastrophic engine power train failure, severe heat buildup, loss of steering control, loss of brake control while being driven, loss of power while being driven, hazardous accident potential, and metal debris, resulting in serious and expensive damage to and/or catastrophic failure of the engine power train within the Class vehicles (collectively, the "power train crankshaft pulley bolt problem"). This failure requires costly repairs to remedy which should be covered by the Kia warranty. Not only did Kia actively conceal the design defect to the owners of the Class vehicles, but it also did not reveal that the existence of this problem would pose a serious safety hazard and further diminish the intrinsic resale value of the vehicle. Furthermore, through a common and uniform course of conduct, Defendants have failed to honor both federally mandated and voluntarily offered warranties and extended warranties that would have required them to recall and repair or correct, at no cost to the consuming public, nonconforming and/or defective vehicle(s) and to repair the class vehicles when they did require repair as a result of the bolt failure.

3. Upon information and belief, Defendants have been aware of the true nature and cause of the power train crankshaft pulley bolt problem in class vehicles for years. This knowledge is evidenced by accounts from class members who have complained about this very issue to Defendants, technical service bulletins issued by Defendants for the purpose of attempting to address this problem, and widespread complaints on the internet. There are 64 complaints alone on a single website (www.pissedconsumer.com); another 20 on another website (http://www.my3cents.com/reviews/kia/sorento); a third website presently has 69 complaints graphically detailing how Kia would do nothing for consumers when the bolt fails (http://repairpal.com/revised-crankshaft-pulley-bolt-422); and elsewhere, exceeding over 100 complaints, all about the power train crankshaft pulley bolt problem. Notwithstanding this knowledge, Defendants have intentionally withheld from and/or misrepresented to Plaintiffs and other consumers of Class vehicles this material information. Meanwhile, Defendants made numerous affirmative statements touting the high-quality and reliability of the Class vehicles. Kia states on their website "We have a lot of confidence in the quality and durability of every new Kia that rolls off the assembly line. So much confidence, that we offer an industry-leading Kia 10-year or 100,000-mile warranty program." The website further states "The Kia 10-year/100,000-mile warranty program* covers repairs made to precise Kia standards and requirements. You can rest easy knowing your vehicle is in the skilled hands of Kia trained service technicians at your authorized Kia Dealer." Based on this warranty and the representations of Kia that they would stand behind that warranty, the individuals and Class representatives relied on the representations and purchased the class vehicle and suffered damages when Kia refused to honor the warranty and repair the class vehicle. Kia also deceived the Plaintiffs when it did not tell them of the existence of the technical bulletin(s) concerning the very problem complained of regarding the crank shaft pulley bolt and then refused to repair the class vehicle when it failed stating it either was not covered by the warranty or that they would charge substantial sums of money to make the repairs outside the

warranty. Because of this conduct by Defendants, the Plaintiffs were deceived not only when they purchased the class vehicles but also when they repeatedly brought the class vehicles to Kia for the warranty repairs after the bolt failed.

4. As a result of the power train crankshaft pulley bolt problem and defective design, Defendants have benefited from collecting funds from the Plaintiffs and Classs(es) of Kia Sorento model year First generation 2002–2009 owners for vehicle repairs to the power train crankshaft pulley bolt and troubleshooting and diagnosing power train crankshaft pulley bolt complaints, when in fact, Defendants knew the true cause of such power train crankshaft pulley bolt problems within the Class vehicles. When the bolt failed within the warranty period, Class Plaintiffs y promptly and repeatedly contacted Defendants and requested the repairs be made pursuant to their warranty. Defendants failed to make repairs within a reasonable amount of time after the Plaintiffs presented the defective product to them. Further, Defendants delayed in supplying any remedy which effectively denied the purchaser the product he expected. Woolums v. Nat'l RV, 530 F. Supp. 2d 691, 701 (M.D. Pa. 2008)

5. Many owners and lessees of the Class vehicles had to repair or replace multiple times their entire power train or, less often, just the crankshaft pulley bolt, thereby incorporating costly repairs and/or replacement of the entire engine when it failed in order to return their vehicle to the expected operating condition that Kia represented.

6. The Class vehicles pose significant safety risks as a result of the power train crankshaft pulley bolt problem since this condition causes the Class vehicles' power train crankshaft pulley bolt to snap, ejecting the pulley and shredding critical belts, including belts to the power steering, battery charger, cooling and other critical engine functions, creating a dangerous instrumentality on the road and a real threat to others in proximity to the vehicle. This creates a serious safety concern to occupants of the Class vehicles, the occupants of other vehicles, and the public in general.

7. The power train crankshaft pulley bolts in the Class vehicles are uniformly and inherently defective, and prematurely fail under normal operating conditions well in advance of their expected useful life.

8. When Plaintiff purchased the Class vehicles, they relied on the representations of the said warranty of Defendants. Plaintiffs suffered damages when Defendants refused to honor the warranty and as a result of Defendants' unfair, deceptive and/or fraudulent business practices, as set forth herein, the Class vehicles power train self destructs, have a lower market value, and are inherently worth less than they would be in the absence of the power train crankshaft pulley bolt problem**.**

9. For customers with Class vehicles within the written warranty period, Kia has done no more than issue an internal technical service bulletin to advise its own service departments regarding a temporary repair of the power train crankshaft pulley bolt within the Class vehicles, to replace them with another similarly defective and inherently failure-prone power train crankshaft pulley bolt. Besides this technical bulletin (that was canceled as of March 15, 2012), Kia has refused to take any action to correct this concealed design problem when it manifests in Class vehicles within or outside the warranty period. To make matters worse, when Plaintiffs came to Kia service departments for the promised warranty repairs, the service departments feigned ignorance of the problem and routinely represented to the Plaintiffs that the bolt was not under warranty when in fact it was. Defendants also feigned ignorance of the existence of the bolt problem despite their creation and dissemination of the "technical bulletin".

10. Given Defendants' knowledge of this concealed design problem and failure to disclose it and adding the fact that the power train crankshaft pulley bolt problem typically manifests shortly before or just outside of the warranty period for the Class vehicles, Kia's attempt to limit the warranty with respect to the power train crankshaft pulley bolt problem is unconscionable.

11. As a result of Defendants' unfair, deceptive and/or fraudulent business practices, first in duping Plaintiffs to purchase the Class vehicle based on "the best warranty" coverage and then after the bolt snaps, misrepresenting the existence and knowledge of the technical bulletin exactly describing the defect, and then refusing to repair the affected vehicles, owners and/or lessees of Class vehicles, including Plaintiffs, and the sub-classess have suffered an ascertainable loss of money and/or property and/or value in having to pay for the reapris themselves in addition to having a car worth far less than what was represented to them when they purchased it.

12. Plaintiffs bring this action to redress Defendants' misconduct and seek recovery under state consumer protection statutes, and for breach of express warranty, breach of implied warranty, and unjust enrichment. The purpose of this action is to hold Defendants accountable, and to obtain maximum legal and equitable relief from Defendants for producing the Class vehicles and placing them into the stream of commerce. These vehicles do not conform to the durability and longevity of vehicles reasonably expected by retail consumers or to the statements and affirmations made by Defendants in connection with the sale and delivery of the vehicles to retail consumers.

JURISDICTION AND VENUE

13. This Court has subject matter jurisdiction of this action pursuant to the Class Action Fairness Act of 2005 ("CAFA"), 28 U.S.C. §§1332(d)(2) and (6) because: (i) there are 100 or more class members, (ii) there is an aggregate amount in controversy exceeding $5,000,000.00 exclusive of interest and costs, and (iii) there is minimal diversity because at least one plaintiff and one defendant are citizens of different states. This Court also has supplemental jurisdiction over the state law claims pursuant to 28 U.S.C. § 1367.

14. Venue is proper in this judicial district pursuant to 28 U.S.C. §1391 because Defendants transact substantial business in this district through their numerous dealers. Defendants have advertised in this district and have received substantial revenue and profits from sales and/or leases

of the Class vehicles in this district; therefore, a substantial part of the events and/or omissions giving rise to the claims occurred, in part, within this district.

15. This Court has personal jurisdiction over the Defendants. According to the Defendants' website, there are multiple Kia and Hyundai dealers located in New Jersey, Ohio, Florida, Pennsylvania and other states. Additionally, Kia Motors America, Corp. maintains one of its regional Market Representation Offices at One Tower Center in East Brunswick, New Jersey. *See http://www.kia.com/#/dealerlocator/dealerResult/zipcode/07017.* As such, Defendants have conducted substantial business in this judicial district, and intentionally and purposefully place Class vehicles into the stream of commerce within the districts of New Jersey and throughout the United States.

THE PARTIES

16. Plaintiff Yvonne Robinson is a resident and citizen of the State of New Jersey, residing at 34 Barbara Street, Bloomfield, NJ.

17. Plaintiff Rose Ciros is a resident and citizen of the State of New Jersey, residing at 1 Tiros Ave., Sewell, NJ.

18. Plaintiff Jesse R. Howell is a resident and citizen of the State of Ohio, residing at 238 Kinkle Ave, Mansfield, Ohio.

19. Plaintiff Cheryl Moxey is a resident and citizen of the State of Florida, residing in West Palm Beach, Florida.

20. Plaintiff Robert McConnnell is a resident and citizen of the State of Pennsylvania, residing in Philadelphia, Pennsylvania.

21. Defendant Kia Motors America, Corp. ("KMC") is a California corporation which is qualified to do, and does, business in the State of California and in this judicial district. Upon information and belief, Defendant KMC can be served through its registered agent for service in California at 111 Peters Canyon Road, Irvine, CA 92606.

22. Hyundai Motor Company is a South Korean multinational automaker headquartered in Seoul, South Korea. Hyundai was founded in 1967 and it, along with Kia, together comprise the Hyundai Motor Group, which is the world's fourth largest automobile manufacturer based on annual vehicle sales in 2010 which manufactures the 3.5L 24-valve DOHC V6 engine at issue in this complaint.

23. Upon information and belief, the design, modification, installation and decisions regarding the power train crankshaft pulley bolt within the Class vehicles were performed exclusively by Defendant KMC and Hyundai.

FACTUAL ALLEGATIONS

24. Defendant Kia designed, manufactured, marketed, advertised, warranted, sold and leased the Class vehicle at issue in this case within this district, and throughout the United States and its Territories, to the Plaintiffs and members of the Classes. Defendant Hyundai manufactured the engine for the Plaintiffs and Class vehicles.

25. The experiences of Plaintiffs and the Class members, mirroring those of thousands of other Class vehicle purchasers, reported the power train crank shaft pulley bolt problem to their local dealer as well as the National Kia and Hyundai headquarters. Further, they have also posted messages on the Internet documenting their experiences with the power train crankshaft pulley bolt problem, which demonstrates that Kia's representations to Plaintiffs and Class members were false and misleading regarding, 1) the existence of the design defective power train crankshaft pulley bolt problem, 2) that the power train crankshaft pulley bolt problem was not covered by the warranty and 3) misleading the Plaintiffs and Class members of the diagnosis and costs of the repair of the power train crankshaft pulley bolt problem.

26. In 1986, Kia originally partnered with Ford Motor Company in manufacturing Mazdas (a Ford subsidiary). In 1992, Kia Motors America (KMA) was incorporated in the United States. It

was created to coordinate Kia's push to enhance the design, development, manufacturing, and marketing of Kia vehicles in North America.

27. Kia began manufacturing Sorentos beginning in 2002, which were equipped with a Hyundai-manufactured 3.5L 24-valve DOHC V6 engine producing 192 hp (143 kW) at 5500 rpm, and 217 lb·ft (294 N·m) of torque at 3,000 rpm.

28. The Class vehicle is equipped with a Hyundai-manufactured 3.5L 24-valve DOHC V6 engine power train. At the front of the engine power train is a pulley which is part of and driven by the engine. The pulley is attached to the power train engine by a bolt and single pin about the thickness of a sewing needle. When that pin fails, it sets off a chain reaction starting with the pulley moving forward, snapping the bolt that holds it on. All the belts attached to the pulley are then shredded, including the power steering belt, battery charging belt, the cooling system belt, and the power brakes belt. This causes a severe driving hazard, loss of steering control and power while being driven, hazardous accident potential, and engine failure. The end result is serious, extensive, and expensive damage to, and/or catastrophic failure of the engine power train within the Class vehicles. Collectively, this problem is referred to as the “power train crankshaft pulley bolt problem” or “crankshaft bolt”.

29. The power train crankshaft bolt design problem creates a serious safety concerns to occupants of the Class vehicles, the occupants of other vehicles, and/or the public in general as described above.

30. This problem may be remedied by a relatively simple repair which can be performed as a preventive measure at Kia dealerships. This repair would not only save the Plaintiffs and the Class members thousands of dollars in repairs, but would also insure the safety of the general public. In fact, Kia issued a technical service bulletin, dated "June 2007" regarding "2003-2004 MY Sorento models produced from 6/30/2002 - 1/28/2004”. The bulletin identified the problem discussed in this complaint stating: "The Crankshaft Pulley bolt may become loose, especially if it was

improperly torqued during routine service." The "campaign" was "cancelled as of 3/5/2012". According to the bulletin, it was distributed to Kia dealerships General Managers, Service Managers, Parts, Managers, Service Advisors, Technicians, Body Shop Managers and Fleet repair.

31. Upon information and belief, the Technical Service Bulletin was not distributed to the public, nor to owners of the vehicles for the specified two years identified in the technical service bulletin, nor the owners of the Class vehicles, and most egregious, when the Plaintiffs brought the class vehicle in after the bolt snapped and the power-train self destructed, Defendants hid the existence of the bulletin misrepresenting their actual knowledge of the defect. Plaintiffs relied on the Defendants to be upfront and honest about the integrity of the class vehicle and suffered damages when they continued to invest their hard earned money for repairs when the bolt design was inherently defective and would and did fail again and again. The bulletin was inadequate and was nothing more than a "band-aid for a broken arm". The bulletin's suggested fix did not address the inherent problem or design flaw, but instead shifted blame to a supposed improper torque of the bolt from a supposed prior maintenance procedure. Further, the bulletin did not address the Class of vehicles affected by the problem or design flaw of nearly a decade rather than just the two years stated in the bulletin.

32. Upon information and belief, Defendants' maintenance schedules for the Class vehicles did not require having the power train crankshaft pulley bolt torqued or to be changed during the life of the vehicle.

33. Upon information and belief, Defendants' faulty design and/or modifications of the power train crankshaft pulley bolt specifically tailored to the Class vehicles, included, but were not limited to, replacing the bolt instead of simply adding additional pins to the pulley or a re-design of the crankshaft pulley bolt. It is the faulty design that is the cause of the power train crankshaft pulley bolt problem for the Class vehicles, the same problem which results in a chain reaction of shredding all the belts attached to the pulley, including the power steering belt, power brake belt,

battery charging system belt, and cooling system belt, all resulting in catastrophic failure of the engine power train, severe heat buildup, loss of steering and brake control while being driven, loss of power while being driven, hazardous accident potential and metal debris, resulting in serious and expensive damage to, and/or catastrophic failure of the engine power train within the Class vehicles.

34. The power train crankshaft pulley bolt, part of the engine power train, was designed to function for periods (and mileages) substantially in excess of those specified in Defendant Kia's warranties. Given past experiences with other vehicles, consumers of the Class vehicles legitimately expected to enjoy the use of an automobile for significantly longer than the limited times and mileages identified in Defendant Kia's warranties, without the worry that the power train crankshaft pulley bolt would fail.

35. Upon information and belief, Defendant Kia, through (1) its own records of customer complaints, (2) dealership repair records, (3) records from the National Highway Traffic Safety Administration (NHTSA), and other various sources, was well aware of the alarming failure rate of the power train crankshaft pulley bolt within the Class vehicles.

36. Regardless, Kia failed to notify consumers of the nature and extent of the problems with the power train crankshaft pulley bolt in the Class vehicles and also failed to provide any adequate remedy for the problem. Despite such knowledge, Kia and Hyundai continued to manufacture and market the Class vehicles and represent that its warranty would cover the repairs of the power train crankshaft pulley bolt problem and ultimate self destruction of the entire power train after the bolt fails in the Class vehicles.

37. Members of the Classes could not have discovered the latent problems with the power train crankshaft pulley bolt through any reasonable inspection of their vehicles prior to purchase.

38. Defendant Kia was under a duty to Plaintiffs and the Class members to disclose the power train crankshaft pulley bolt problem within the Class vehicles because: (a) Defendants were in a superior position to know the true state of facts about the power train crankshaft pulley bolt; (b)

Plaintiffs and Class members could not reasonably have been expected to learn or discover that the Class vehicles had a problem until manifestation of the failure; (c) Defendant Kia knew that Plaintiffs and Class members could not reasonably have been expected to learn or discover the power train crankshaft pulley bolt problem; and (d) the problem caused major safety problems in driving and operating the vehicle.

39. The existence of the power train crankshaft pulley bolt problem or design problem was within Defendants Hyundai and Kia's exclusive knowledge and control. Defendant Kia actively concealed the material defect or problem from Plaintiffs and the Class members, and Defendants' partial representations about the Class vehicles' quality – made without revealing the power train crankshaft pulley bolt problem - gave rise to a duty to disclose.

40. Defendant Kia expressly warranted the affected vehicles to be free from power train defects – which include the engine and the crankshaft pulley bolt - with a New Vehicle Limited Warranty consisting of two primary warranty periods: a 5- year/60,000-mile transferable warranty covering, with some exceptions, all components of the vehicle (the "Basic Warranty"), and a 10-year/100,000-mile non-transferable extended warranty covering the components of the power train (the "Power Train Warranty").

41. When the power train crank shaft pulley bolt failure occurs near or after the expiration of the warranty period, Defendant Kia consistently tells the Plaintiffs and Class individuals that the failure is not covered by the warranty. Kia then charges Class members to diagnose and/or repair the power train crankshaft pulley bolt and, more often, the entire engine, when in fact Defendants are aware of the problem as well as the technical service bulletin regarding the crank shaft bolt's design, and the self-destruction of the entire engine power-train.

42. When the crank shaft pulley bolt failure occurs during the warranty period, Defendant Kia discloses neither the power train crankshaft pulley bolt design problem nor the existence of the

technical service bulletin, in order to avoid having to provide a no-cost repair and state that the failure is covered by the warranty.

43. Defendant Kia collects the funds for repairs related to the power train crankshaft pulley bolt problem. In addition, many Class members have paid monies to third-party repair shops for services relating to the diagnosis and/or repair of the power train crankshaft pulley bolt problem and engine failure. Many Class members have also had to purchase rental cars for use while their Class vehicles were being repaired. Class members have not received reimbursement for these expenses despite Defendant Kia's knowledge of the power train crankshaft pulley bolt problem and its coverage under warranty(ies).

44. Buyers, lessees, and other owners of the affected class vehicles were without access to the information concealed by Defendants as described herein, and therefore, reasonably relied on Defendant Kia's representations and warranties regarding the quality, durability, and other material characteristics of their vehicles. Had these buyers and lessees known of the power train crankshaft pulley bolt problem and the potential danger, they would have taken steps to avoid that danger and/or would have paid less for their vehicles than the amounts they actually paid, or would not have purchased the vehicles.

45. Defendant Kia’s deceptive marketing and sales practices regarding the integrity of the class vehicle and its warranty, including affirmative misrepresentations and omissions of the power train crankshaft pulley bolt's design, and disclosure that it was prone to result in the self-destruction of the entire engine power-train, were material and substantial and were made in the form of common misrepresentations of material facts upon which persons, including Plaintiffs and Class members, could be expected to, and did, rely.

46. As alleged in this Complaint, Defendant Kia's advertisements and representations constitute deceptive and untruthful advertising and marketing regarding the reliability of the Class vehicle and the value of the Kia warranty of the power train. Defendant Kia's scheme of false and misleading

advertising and marketing has resulted in tens of thousands of consumers purchasing the Class vehicles, based upon the expectation that the Class vehicles have the qualities that are advertised and will function as represented and be repaired if they fail.

47. Defendant Kia's unfair and deceptive course of conduct is common to all purchasers of the Class vehicles. Each putative Class member was injured by purchasing a defective product at an excessive price because it contained a defective design that did not become apparent, within or until shortly after expiration of the warranty period, and the cost to correct the problem was, and is, substantial.

48. As a result of Defendant Kia's unfair, deceptive and/or fraudulent business practices, owners and/or lessees of Class vehicles, including Plaintiffs and Class members, have suffered an ascertainable loss of money and/or property and/or value in costly repairs of the Class vehicles.

49. Plaintiffs and Class members bring this action to redress Defendant Kia's violations of the New Jersey Consumer Fraud Act, Ohio Consumer Sales Practices Act, Florida Deceptive and Unfair Trace Practices Act, Arizona Consumer Protection Code, Pennsylvania Unfair Trade Practices and Consumer Protection Law, Illinois Consumer Protection Act, and other consumer protection statutes, and seek recovery for Defendant Kia's negligent misrepresentations, breach of express warranty, breach of implied warranty, unjust enrichment, breach of contract, and negligence.

CLASS ALLEGATIONS

50. Plaintiffs bring this action pursuant to Federal Rules of Civil Procedure (FRCP) 23 on behalf of themselves and all others similarly situated, comprising a class for the causes of action pled below consisting of all persons in the United States and its Territories as state sub-class representatives, who purchased (or received as part of an automobile purchase or lease transaction) the Class vehicle, including current and former owners and lessees of certain Kia Sorrento model year First generation 2002–2009 motor vehicles equipped with a Hyundai-manufactured 3.5L 24-

valve DOHC V6 engine through the present. It is proposed that there be separate sub-classes consisting of members by each State and its Territories of the United States of America for the State law claims.

51. There are numerous questions of law or fact common to the members of the Class which predominate over any questions affecting only individual members and which make class certification appropriate in this case, including:

a. whether Defendants Kia and Hyundai, acting individually or collectively with their agents, failed to conduct appropriate, reasonable and adequate testing of the vehicle to determine the durability and longevity of the vehicle and their conformity to the reasonable expectations of consumers in the United States and states of New Jersey, Florida, Pennsylvania, and other states;

b. whether Defendants, acting individually or collectively with their agents, failed to warn or otherwise inform Plaintiff and other members of the Class of the premature and abnormal failure of the pin and bolt holding the crankshaft pulley on the engine;

c. whether Defendants failed to adequately disclose, and/or affirmatively concealed, in their affirmations and promotional materials, among other things, the premature and/or abnormal wear associated with the failure of the pin and bolt holding the pulley on the engine;

d. whether Defendants violated the Magnuson-Moss Warranty Act, 15 U.S.C. §2301 et seq., the Uniform Commercial Code and common law; and

e. whether Defendants engaged in unconscionable commercial practices, including the failure to abide by the terms of a written warranty and/or bait and switch tactics, in connection with warranty assertions, interpretations, claims and denials, in violation of the New Jersey Consumer Fraud Act, Ohio Consumer Sales Practices Act, Florida Deceptive and Unfair Trace Practices Act, Pennsylvania Unfair Trade Practices and Consumer Protection Law.

52. The claims asserted by the named Plaintiffs are typical of claims of members of the Class.

53. This class action satisfies the criteria set forth in FRCP 23(a) and 23(b)(3) in that Plaintiffs are members of the Class and Subclasses by State and Territory; Plaintiffs will fairly and adequately protect the interests of the members of the Class and Subclasses; Plaintiffs' interests are coincident with, and not antagonistic to, those of the Class; Plaintiffs have retained attorneys experienced in class and complex litigation; and Plaintiffs have, through their counsel, access to adequate financial resources to assure that the interests of the Class and Subclass are adequately protected.

54. A class action is superior to other available methods for the fair and efficient adjudication of this controversy for at least the following reasons:

a. it is economically impractical for most members of the Class to prosecute separate, individual actions; and

b. after the liability of Defendants has been adjudicated, the individual and aggregate claims of all members of the class can be determined readily by the Court.

55. Litigation of separate actions by individual Class members would create the risk of inconsistent or varying adjudications with respect to the individual Class members which would substantially impair or impede the ability of other Class members to protect their interests.

56. Class certification is also appropriate because Defendants have acted or refused to act on grounds generally applicable to the Class, thereby making appropriate declaratory and/or injunctive relief with respect to the claims of Plaintiffs and the Class members.

57. Numerosity: Upon information and belief, each of the Classes is so numerous that joining of all members is impracticable. While the exact number and identities of individual members of the Classes are unknown at this time, such information being in the sole possession of Defendants and obtainable by Plaintiffs only through the discovery process, Plaintiffs believe that tens of thousands of Class vehicles have been sold and leased in the United States of America, and thousands of Class vehicles have been sold or leased in each of the states that are the subject of the State Sub-Classes.

58. Existence and Predominance of Common Allegations of Fact and Law: Common allegations of law and fact exist as to all members of the Classes. These allegations predominate over the allegations affecting individual Class members. These common legal and factual actions include, but are not limited to:

a. whether the power train crankshaft pulley bolt within the Class vehicles are predisposed to fail prematurely;

b. whether the power train crankshaft pulley bolt in the Class vehicles contain a design defect;

c. whether the defective power train crank pulley bolt vehicle design is common to all Class vehicles;

d. whether the power train crankshaft pulley bolt problem is common to all Class vehicles;

e. if so, whether the defective power train crankshaft pulley bolt design causes the power train crankshaft pulley bolt problem in Class vehicles;

f. whether Defendants knowingly failed to disclose the existence and cause of the power train crankshaft pulley bolt problem in Class vehicles;

g. whether Defendants' conduct violates the New Jersey Consumer Fraud Act, Florida Deceptive and Unfair Trace Practices Act, Pennsylvania Unfair Trade Practices and Consumer Protection Law;

h. whether, as a result of Defendants' omissions and/or misrepresentations of material facts related to the power train crankshaft pulley bolt problem and defective power train crankshaft pulley bolt design, Plaintiffs and members of the Classes have suffered ascertainable loss of moneys and/or property and/or value;

i. whether Plaintiffs and Class members are entitled to monetary damages and/or other remedies, and if so the nature of any such relief; and

j. whether Defendants have been unjustly enriched at the expense of Plaintiffs and Class members.

59. Typicality: Plaintiffs' claims are typical of the claims of the Classes since they purchased Class vehicles with a power train crankshaft pulley bolt problem, defective vehicle design, and defective power train crankshaft pulley bolt design, as did each member of the Classes. Furthermore, Plaintiffs and all members of the Classes sustained monetary and economic injuries including, but not limited to, ascertainable loss arising out of Defendants' wrongful conduct. Plaintiffs are advancing the same claims and legal theories on behalf of themselves and all absent Class members.

60. Adequacy: Plaintiffs are adequate representatives because their interests do not conflict with the interests of the Classes that they seek to represent, they have retained counsel competent and highly experienced in complex class action litigation, and they intend to prosecute this action vigorously. The interests of the Classes will be fairly and adequately protected by Plaintiffs and their counsel.

61. Superiority: A class action is superior to all other available means of fair and efficient adjudication of the claims of Plaintiffs and members of the Classes. The injury suffered by each individual Class member is relatively small in comparison to the burden and expense of individual prosecution of the complex and extensive litigation necessitated by Defendants' conduct. It would be virtually impossible for members of the Classes individually to redress effectively the wrongs done to them. Even if the members of the Classes could afford such individual litigation, the court system could not. Individualized litigation presents a potential for inconsistent or contradictory judgments. Individualized litigation increases the delay and expense to all parties, and to the court system, presented by the complex legal and factual issues of the case. By contrast, the class action device presents far fewer management difficulties, and provides the benefits of single adjudication, economy of scale, and comprehensive supervision by a single court. Upon information and belief,

members of the Classes can be readily identified and notified based on, *inter alia*, Defendants' vehicle identification numbers, warranty claims and registration records, and a database of complaints.

62. Defendants have acted, and refused to act, on grounds generally applicable to the Class, thereby making appropriate final equitable relief with respect to the Class as a whole.

FACTUAL BACKGROUND

63. Plaintiffs repeat and restate each of the foregoing paragraphs above and they are incorporated herein by reference as though the same were set forth below at length.

Plaintiff Yvonne Robinson

64. Plaintiff Yvonne Robinson ("Robinson") is a consumer and purchased a pre-owned 2005 Kia Sorento in or around October 2011 from Brick City Motors Inc. located in Newark, New Jersey with a Kia Power Train Warranty.

65. Plaintiff Robinson is a veteran who purchased and still owns this vehicle for personal, family, and/or household uses. Plaintiff Robinson's vehicle bears Vehicle Identification Number ("VIN"): KNDJD733455406087.

66. Suddenly on or about January 2012, Robinson experienced total engine failure and nearly got into a serious accident when she heard a boom and lost power steering, a flurry of red lights lighting up her dash board. She muscled the vehicle to the side of the road, avoiding serious injury to herself and other drivers.

67. Robinson experienced catastrophic power train crankshaft pulley bolt failure, requiring her vehicle – which was completely inoperable on the side of the road – to be towed to a Kia dealership for diagnosis. Kia thereafter informed Robinson that the power train crankshaft pulley bolt in her vehicle could not be repaired and instead required the installation of a new power train crankshaft pulley bolt at an estimated cost of $826.58. Plaintiff Robinson declined this costly repair. At no time

was she told of any Kia technical service bulletin regarding the crank shaft pulley bolt for her vehicle.

68. Plaintiff Robinson then had her vehicle towed to a specialty service center that performed the required power train crankshaft pulley bolt repairs. In total, she incurred charges of approximately $722.50 to repair the power train crankshaft pulley bolt.

69. Plaintiff Robinson has suffered an ascertainable loss as a result of Defendants' omissions and/or misrepresentations associated with the power train crankshaft pulley bolt problem including, but not limited to, actual damages for the cost of the repair and diminished value of the vehicle, all associated with the catastrophic power train crankshaft pulley bolt failure in her class vehicle.

70. At no time did Defendants or any of its agents, dealers or other representatives inform Plaintiff Robinson of Defendants' omissions and/or misrepresentations related to the power train crankshaft pulley bolt problem and/or defective vehicle design.

Plaintiff Jesse R. Howell

71. Plaintiff, Jesse R. Howell ("Howell") purchased a new 2005 Kia Sorento in or around December 2005 from Courtesy Kia, a recognized Kia dealer located in Shelby, Ohio.

72. Plaintiff Howell is a consumer who purchased (and still owns) this vehicle for personal, family, and/or household uses. Plaintiff Howell's vehicle bears VIN: KNDJC733555428280.

73. Howell strictly followed the maintenance schedule as recommended by the Defendant Kia. At 60,000 miles Howell had the timing belt, power steering belts, water pump, and idler tension pulley all replaced, all pursuant to Defendant Kia's specifications.

74. On or about October 31, 2012 Howell heard a ticking noise, then noticed that he had no power steering and noticed that the alternator light was on. He took it to a qualified repair shop and the vehicle was diagnosed with a broken power train crankshaft pulley bolt as described previously in this law suit.

75. On or about November 2, 2012 Howell towed the vehicle to Spitzer of Mansfield Inc., 744 Park Ave West, Mansfield, Ohio, a recognized Kia Dealer, for repair. Paul, the service manager, told Howell that he would call Kia and ask them what they could do regarding the repair. On or about November 5, 2012, Howell received a call from the said Kia dealer and was told they would not honor the warranty or do any repair. At no time was he told of any technical service bulletin regarding the power train crankshaft pulley bolt for his vehicle.

76. Howell protested to no avail, then towed the vehicle to another shop for a repair estimated to be close to $4,500.00 because the entire engine and power train had failed.

77. Plaintiff Howell has suffered an ascertainable loss as a result of Defendants' omissions and/or misrepresentations associated with the power train crankshaft pulley bolt problem, including, but not limited to, actual damages for the cost of the repair, diminished value of the vehicle all associated with the catastrophic power train crankshaft pulley bolt failure in her class vehicle.

78. At no time did Defendants or any of its agents, dealers or other representatives inform Plaintiff Howell of Defendants' omissions and/or misrepresentations related to the power train crankshaft pulley bolt problem and/or defective vehicle design.

Plaintiff Rose Ciros

79. Plaintiff Rose Ciros ("Ciros") purchased a new 2005 Kia Sorento on August 30, 2006 from Turnersville Kia located in Sicklerville, NJ.

80. Plaintiff Ciros is a consumer who purchased and still owns this vehicle for personal, family, and/or household uses. Plaintiff Ciros's vehicle bears VIN: KNDJC733155375075.

81. Beginning in May of 2010, Plaintiff Ciros began experiencing the same power train crankshaft pulley bolt problems that were experienced by all Class members, which resulted in total engine failure, as diagnosed by the Kia service department.

82. On or about May 2010, Plaintiff Ciros brought her vehicle while under warranty with 93,664 miles on it to Turnersville Kia seeking repairs to fix the engine problems. Plaintiff Ciros was told by

Turnersville Kia that the vehicle engine was tapping and misfiring which was caused by a damaged valve seat as a result of the power train crankshaft pulley bolt snapping, resulting in the pulley and belts being ejected, and causing the same catastrophic engine failure experienced by the other class members.

83. Plaintiff Ciros was told that she needed a new engine and that the repair would not be covered by the Kia Power Train Warranty. At no time was she told of any Kia technical service bulletin regarding the power train crankshaft pulley bolt for her vehicle.

84. Plaintiff Ciros rejected Kia Motors America's offer, which would have left her with over $3,800 in out-of-pocket costs and instead took the vehicle to an independent shop, which was able to repair the bolt and engine power train.

85. Plaintiff Ciros incurred charges of approximately $1,546.30 for the repair of her vehicle as a result of the power train crankshaft pulley bolt snapping.

86. Plaintiff Ciros has suffered an ascertainable loss as a result of Defendants' omissions and/or misrepresentations associated with the power train crankshaft pulley bolt problem, including, but not limited to, out-of-pocket loss associated with a diagnosis and repair of the power train crankshaft pulley bolt, and the inherently diminished value of the vehicle.

87. At no time did Defendants or any of its agents, dealers or other representatives inform Plaintiff Ciros of Defendants' omissions and/or misrepresentations related to the power train crankshaft pulley bolt problem and/or defective vehicle design bolt problem and/or defective vehicle design or the technical bulletin.

Plaintiff Robert McConnell

88. Plaintiff Robert McConnell ("McConnell") purchased a 2004 Kia Sorento on or about June of 2004 from Northeast Chevrolet, Philadelphia, PA. At the time of purchase the vehicle had 45 miles on the odometer and Plaintiff McConnell was promised by Kia that he had a special 10-year/100,0000-mile warranty on the vehicle power train.

89. Plaintiff McConnell is a consumer who purchased this vehicle for personal, family, and/or household uses.

90. From July 2004 through September 2011, Plaintiff McConnell brought the vehicle to Kia authorized Kia service department eighteen (18) times for service and repairs.

91. On April 15, 2009, Plaintiff McConnell brought the vehicle in for service, when the vehicle had 47,514 miles on it. The vehicle had the drive belts replaced, the oil and filter changed, and state emissions and safety inspections completed.

92. Then on June 6, 2009, when the vehicle had 49,668 miles on it, Plaintiff McConnell brought it in for service again, this time to get the water pump replaced.

93. On September 23, 2011 Plaintiff McConnell experienced catastrophic power train crankshaft pulley bolt failure, requiring the vehicle – which was completely inoperable on the side of the road – to be towed to a McCafferty Ford- Kia, an authorized Kia dealership for diagnosis. At the time of the power train failure, the vehicle had 81,245 miles on the odometer and was under the Kia warranty. The Kia service manager first informed McConnell that the power train crankshaft pulley bolt in the vehicle broke. Then they told him that the crankshaft had to be replaced. Then they told him it was the bolt holding on the pulley and it could not be repaired and instead required the installation of a new power train crankshaft pulley bolt. At no time was he told of any technical service bulletin regarding the power train crankshaft pulley bolt for his vehicle. After nearly two months parked at the Kia dealer, Plaintiff McConnell finally received the vehicle back. However, as a result of the substantial delay in the repair, Plaintiff McConnell had to rent a vehicle in the approximate cost of $200.00.

94. Then on March 11, 2013, Plaintiff McConnell was driving the vehicle with his wife and heard a loud tapping noise coming from the engine, before the car lost all power. McConnell had the vehicle towed to a different Kia dealership further away than the previous dealership due to all the problems he experienced with that dealership in September. This new dealer reported that the

engine had failed because the timing belt had broken. Plaintiff McConnell told the dealer that he had had the timing belt changed at 34,000 miles. The dealer reported this to Kia, but Kia responded that the tech notes did not match what Plaintiff McConnell was saying. Kia requested all maintenance records, which McConnell supplied, but Kia Corporate still reported that these records were not satisfactory. Yet again, Plaintiff McConnell was never told of any technical service bulletins regarding the power train crankshaft pulley bolt for his vehicle. After leaving the vehicle at the dealership for three weeks, Defendant Kia dealer did nothing and Plaintiff McConnell towed the vehicle from the dealership to his home. When he did so, the Kia dealership charged him a $365.00 "diagnostic fee". Once home, Plaintiff McConnell observed that the crankshaft bolt was missing from the engine and half the parts to the engine were thrown onto the back seat and back of the vehicle.

95. Plaintiff McConnell did not feel safe driving the vehicle. He got a lien on his house to purchase another vehicle to drive instead of his 2004 Kia Sorento.

96. Plaintiff McConnell has suffered an ascertainable loss as a result of Defendants' omissions and/or misrepresentations associated with the power train crankshaft pulley bolt problem, including, but not limited to, out-of-pocket loss associated with a diagnosis and repair of the power train crankshaft pulley bolt, and the inherently diminished value of the vehicle.

97. At no time did Defendants or any of its agents, dealers or other representatives inform Plaintiff McConnell of Defendants' omissions and/or misrepresentations related to the power train crankshaft pulley bolt problem and/or defective vehicle design.

Plaintiff Cheryl Moxey

98. Plaintiff Cheryl Moxey ("Moxey") purchased a used 2004 Kia Sorento on or around May 2008. At the time of purchase the vehicle had 42,937 miles on the odometer. She bought an extended warranty when she purchased the vehicle. She was told that she was covered bumper to bumper with "the best car warranty".

99. On or about January 22, 2010, Plaintiff Moxey was driving her 2004 Kia Sorento when the vehicle suddenly had total engine failure and she nearly got into a serious accident when she heard a boom and lost power steering as a flurry of red lights lit up her dash board. She muscled the vehicle to the side of the road, avoiding serious injury to herself and other drivers.

100. Moxey later learned that her power train crankshaft pulley bolt snapped resulting in total power train failure, requiring her vehicle – which was completely inoperable on the side of the road – to be towed to a Kia dealership for diagnosis. At the time of the Kia power train pulley bolt failure, the vehicle had approximately 62,894 miles on it. At no time was she told of any Kia technical service bulletin regarding the power train crankshaft pulley bolt for her vehicle. Kia thereafter informed Moxey that her vehicle repair would require a rebuild of her entire power train including the crankshaft and the pulley bolt at an estimated cost of $3000.00. Plaintiff Moxey declined this costly repair.

101. Plaintiff Moxey then had her vehicle towed to a specialty service center that performed the required power train crankshaft pulley bolt repairs. In total, she incurred charges of approximately $1892.67 to rebuild the power train which used all Kia parts including the "crankshaft kit". Moxey's warranty covered this expense.

102. Then on January 28, 2010, not even a week later, Plaintiff Moxey again had to tow her vehicle to the specialty service center for replacement of the vehicle's timing belt tensioner and timing belt tensioner pulleys. The vehicle had approximately 63,137 miles on it at this time. This repair cost $397.31 and was again covered by Moxey's warranty.

103. In June of 2013 the vehicle broke down again. The mileage at the time was 104,595 (less than 42,000 miles from the first repair). The diagnosis was that the crankshaft sprocket had come loose and sheared off the locking pin. The crankshaft bolt snapped and the sprocket was replaced. The total for this repair was $895.30, and this time Moxey's warranty did not cover this expense.

104. Plaintiff Moxey has suffered an ascertainable loss as a result of Defendants' omissions and/or misrepresentations associated with the power train crankshaft pulley bolt problem, including, but not limited to, actual damages for the cost of the repair and diminished value of the vehicle, all associated with the catastrophic power train crankshaft pulley bolt failure in her Class vehicle.

105. At no time did Defendants or any of its agents, dealers or other representatives inform Plaintiff Moxey of Defendants' omissions and/or misrepresentations related to the power train crankshaft pulley bolt problem and/or defective vehicle design.

TOLLING OF STATUTES OF LIMITATIONS

106. Any applicable statute/s of limitations are tolled by Defendants' knowing and active concealment and denial of the facts alleged herein. Plaintiffs and members of the Classes could not have reasonably discovered the true, latent, and widespread defective nature of the Class vehicles and the power train crankshaft pulley bolt until shortly before this class action litigation was commenced.

107. Defendants were and remain under a continuing duty to disclose to Plaintiffs and members of the Classes: the true character, quality and nature of the Class vehicles equipped with the power train crankshaft pulley bolt; that this problem is based on a poor design; that it will inevitably require costly repairs to fix in or shortly after the warranty period expires (but well before the end of the useful life of the vehicle); and that this diminishes the resale value of the Class vehicles. As a result of the active concealment by Defendants, any and all applicable statutes of limitations otherwise applicable to the allegations herein have been tolled.

VIOLATIONS ALLEGED
COUNT I
VIOLATION OF THE NJCFA
(On Behalf of the New Jersey Class)

108. Plaintiffs Robinson, Ciros and other New Jersey Class Plaintiffs incorporate by reference each preceding and succeeding paragraph as though fully set forth at length herein.

109. The New Jersey Consumer Fraud Act ("NJCFA") protects New Jersey consumers against "any unconscionable commercial practice, deception, fraud, false pretense, false promise, misrepresentation, or the knowing, concealment, suppression, or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale or advertisement of any merchandise…" N.J.S.A. 56:8-2.

110. Plaintiffs Robinson, Ciros and other New Jersey Class Plaintiffs purchased and/or leased Class vehicles for personal, family or household use.

111. Defendant Kia engaged in unlawful conduct, made affirmative misrepresentations, or otherwise violated the NJCFA. The circumstances constituting fraud or mistake, malice, intent, knowledge, and other conditions by Defendant Kia created in the Plaintiffs Robinson, Ciros and other New Jersey Class Plaintiffs' mind, alleged generally, is that Kia represented to the Plaintiffs Robinson, Ciros and other New Jersey Class Plaintiffs that it had the best warranty for its vehicles and that Kia would stand behind its warranty. Kia also represented that the engine power train in the Class vehicles would last 100,000 miles. Specifically, Defendants Kia and Hyundai each had knowledge and were each aware that the Class vehicles suffered a common design defect regarding the power train crankshaft pulley bolt snapping, but failed to disclose this to Plaintiffs Robinson, Ciros and other New Jersey Class Plaintiffs. Defendant Kia also marketed these vehicles as being of superior quality when Kia had actual knowledge that the Class vehicles contained a known problem. These affirmative misrepresentations by Kia were material to the vehicle purchases, and were false statements of fact by Kia. Plaintiffs Robinson, Ciros and other New Jersey Class Plaintiffs relied upon Kia's representations regarding the reliability of the Class vehicles and that if the vehicle would fail, then Kia represented it would remedy the vehicle malfunction through its 100,000 mile warranty on the Class vehicles. Kia knew its representations were false regarding the reliability and integrity of the crank shaft bolt and of its engine power train. Kia knew that the Plaintiffs Robinson, Ciros and other New Jersey Class Plaintiffs relied on its representations regarding the

reliability and integrity of its warranty in purchasing the vehicle in the first place and the integrity of the power train and crank shaft bolt and of its engine power train to the Plaintiffs Robinson, Ciros and other New Jersey Class Plaintiffs detriment. Plaintiffs Robinson, Ciros and other New Jersey Class Plaintiffs suffered damages when Kia would not honor its warranty when the crank shaft bolt snapped and resulted in the pulley being ejected with critical belts being shredded and in many Class vehicles, the destruction of the engine power train, which required the payment of a substantial expense by Class Plaintiffs for repairs.

112. Defendant Kia also engaged in unlawful conduct in violation of the NJCFA by making knowing and intentional omissions of the design defect and repair of the crank shaft bolt in the Class vehicles in order to secure the sale of these vehicles, and to offer them at a premium price or costly repairs suddenly outside the warranty.

113. Defendant Kia did not fully and truthfully disclose to Plaintiffs Robinson, Ciros and other New Jersey Class Plaintiffs the true nature of the inherent design defect with the power train crankshaft pulley bolt, which was not readily discoverable by customers until years later. As a result, Plaintiffs Robinson, Ciros and other New Jersey Class Plaintiffs were fraudulently induced to lease and/or purchase the Class vehicles with the said design defects and all of the resultant problems that occur when the bolt snaps and leads to the ejection of the pulley, shredding of the belt, and self destruction of the engine. These facts that Defendants Kia and Hyundai concealed were solely within their possession. Further, when Plaintiffs Robinson, Ciros and other New Jersey Class Plaintiffs did purchase their vehicle and bring said vehicle to a Kia authorized dealer for service, each Kia dealership misrepresented the fact that the problem was not covered under the warranty, misrepresented the fact that there was a technical bulletin regarding the problem, and misrepresented the fact that the vehicle needed extensive and expensive repairs.

114. Defendants Kia and Hyundai intended that Plaintiffs Robinson, Ciros and other New Jersey Class Plaintiffs rely on the misrepresentations stated above as well as the acts of concealment of the

design defect of the crankshaft bolt and omissions in disclosing the problem of the crankshaft bolt design, to the Plaintiffs' and the Class members' detriment in either purchasing the defective the class vehicles or in the repair and service of the Class vehicles.

115. Defendants Kia and Hyundai conduct caused Plaintiffs Robinson, Ciros and other New Jersey Class Plaintiffs to suffer an ascertainable loss in the form of increased initial purchase price for the defective vehicle and then costly repairs to their vehicles when the problem manifested itself and caused failure and necessary repairs to the class vehicles. In addition to direct monetary losses, Plaintiffs Robinson, Ciros and other New Jersey Class Plaintiffs have suffered an ascertainable loss by total loss of the vehicle because the repair costs more than what the vehicle is worth. Further, Plaintiffs Robinson, Ciros and other New Jersey Class Plaintiffs have suffered an ascertainable loss in that the vehicle is unusable as a vehicle and its only value is its weight in scrap metal and useless plastic.

116. A causal relationship exists between Defendant Kia, as seller, warrantor, manufacturer and servicer of the Plaintiffs Robinson, Ciros and other New Jersey Class Plaintiffs and the Class vehicle and for its unlawful conduct and the ascertainable losses suffered by Plaintiffs Robinson, Ciros and other New Jersey Class Plaintiffs as purchasers of the Class vehicles. Had the defective design in the Class vehicles been disclosed, Plaintiffs Robinson, Ciros and other New Jersey Class Plaintiffs either would not have purchased the Plaintiffs and the Class vehicle or would have paid less for the Plaintiffs Robinson, Ciros and other New Jersey Class Plaintiffs and the Class vehicles. Further, these Plaintiffs suffered additional damages when the bolt snapped and Defendants refused to honor the warranty upon which the Plaintiffs relied when the purchased the vehicle. Further, these Plaintiffs suffered additional damages for the repeated repair of the defective bolt and resulting self-destruction of the power train when Defendants misrepresented the fact that the repairs were not covered by the warranty or that there was no technical bulletin exactly identifying the defect.

WHEREFORE, Plaintiffs Robinson, Ciros and other New Jersey Class Plaintiffs, respectfully request that this Court grant judgment against Defendant Kia and Hyundai as follows:

A. determine that the claims alleged herein may be maintained as a class action under Rule 23 of the Federal Rules of Civil Procedure, and issue an order certifying the Class as defined above;

B. appoint Plaintiffs Robinson, Ciros as New Jersey representatives of the Classes and their counsel as Class counsel;

C. award all actual, compensatory, general, special, incidental, statutory, punitive, and consequential damages to which Plaintiffs and Class members are entitled;

D. award pre-judgment and post-judgment interest on such monetary relief against Defendant Kia;

E. grant appropriate injunctive and/or declaratory relief, including, without limitation, an order that requires Defendants to repair, recall, and/or replace the Class vehicles or, at a minimum, to provide Plaintiffs and Class members with appropriate curative notice regarding the existence and cause of the design defect;

F. award reasonable attorney's fees and costs; and

G. grant such further relief that this Court deems appropriate.

COUNT II

117. Plaintiff Howell individually incorporates by reference each preceding and succeeding paragraph as though fully set forth at length herein.

118. Plaintiff Howell purchased and/or leased Class vehicles for personal, family or household use.

119. Defendants Kia and Hyundai engaged in unlawful conduct, made affirmative misrepresentations, concerning the class vehicles. The circumstances constituting fraud or mistake, malice, intent, knowledge, and other conditions by Defendant Kia created in the Plaintiff Howell's mind, alleged generally, is that Kia represented to the Plaintiff Howell that it had the best warranty

for its vehicles and that Kia would stand behind its warranty. Kia also represented that the engine power train in the Class vehicles would last 100,000 miles. Specifically, Defendants Kia and Hyundai each had knowledge and were each aware that the Class vehicles suffered a common design defect regarding the power train crankshaft pulley bolt snapping, but failed to disclose this to Plaintiff Howell . Defendant Kia also marketed these vehicles as being of superior quality when Kia had actual knowledge that the Class vehicles contained a known problem. These affirmative misrepresentations by Kia were material to the vehicle purchases, and were false statements of fact by Kia. Plaintiff Howell relied upon Kia's representations regarding the reliability of the Class vehicles and that if the vehicle would fail, then Kia represented it would remedy the vehicle malfunction through its various warranties on the Class vehicles. Kia knew its representations were false regarding the reliability and integrity of the crank shaft bolt and of its engine power train. Kia knew that the Plaintiff Howell relied on its representations regarding the reliability and integrity of its warranty in purchasing the vehicle in the first place and the integrity of the power train and crank shaft bolt and of its engine power train to the Plaintiff Howell ' detriment. Plaintiff Howell suffered damages when Kia would not honor its warranty when the power train crankshaft pulley bolt snapped and resulted in the pulley being ejected with critical belts being shredded and in many Class vehicles, the destruction of the engine power train, which required the payment of a substantial expense by Class Plaintiffs for repairs.

120. Further, Kia misrepresented the diagnosis and repair of the vehicles specifically, Kia feigned knowledge of the crankshaft bolt problem notwithstanding actual knowledge of the technical bulletin exactly identifying the defect.

121. Defendant Kia also engaged willful misrepresentations when it disguised the defect as a repair rather than the design defect and repair of the power train crankshaft pulley bolt in the Class vehicles in order to secure the sale of these vehicles, and to offer them at a premium price or costly repairs suddenly outside the warranty.

122. Defendant Kia did not fully and truthfully disclose to Plaintiff Howell the true nature of the inherent design defect with the power train crankshaft pulley bolt, which was not readily discoverable by customers until years later. As a result, Plaintiff Howell were fraudulently induced to lease and/or purchase the Class vehicles with the said design defects and all of the resultant problems that occur when the bolt snaps and leads to the ejection of the pulley, shredding of the belt, and self destruction of the engine. These facts that Defendants Kia and Hyundai concealed were solely within their possession. Further, when Plaintiff Howell did purchase the vehicle and bring said vehicle to a Kia authorized dealer for service, each Kia dealership misrepresented the fact that the problem was not covered under the warranty, misrepresented the fact that there was a technical service bulletin regarding the problem, and misrepresented the fact that the vehicle needed extensive and expensive repairs.

123. Defendants Kia and Hyundai intended that Plaintiff Howell rely on the misrepresentations stated above as well as the acts of concealment of the design defect of the crankshaft bolt and omissions in disclosing the problem of the crankshaft bolt design, to the Plaintiffs' and the Class members' detriment in either purchasing the defective the class vehicles or in the repair and service of the Class vehicles.

124. The conduct of Defendants Kia and Hyundai caused Plaintiff Howell to suffer an ascertainable loss in the form of increased initial purchase price for the defective vehicle and then costly repairs to their vehicles when the problem manifested itself and caused failure. In addition to direct monetary losses, Plaintiff Howell has suffered an ascertainable loss by total loss of the vehicle because the repair costs more than what the vehicle is worth. Further, Plaintiff Howell have suffered an ascertainable loss in that the vehicle is unusable as a vehicle and its only value is its weight in scrap metal and useless plastic.

125. A causal relationship exists between Defendant Kia, as seller, warrantor and manufacturer of the Plaintiff Howell and the Class vehicle and for its unlawful conduct and the ascertainable losses

suffered by Plaintiff Howell as purchasers of the Class vehicles. Had the defective design and the true diagnosis and repair of the Class vehicles been disclosed, Plaintiff Howell either would not have purchased the Plaintiffs and the Class vehicle or would have paid less for the Plaintiff Howell and the Class vehicles or not repaired the vehicle at all.

WHEREFORE, Plaintiff Howell , respectfully request that this Court grant judgment against Defendant Kia and Hyundai as follows:

A. determine that the claims alleged herein may be maintained as a class action under Rule 23 of the Federal Rules of Civil Procedure, and issue an order certifying the Class as defined above;

B. award all actual, compensatory, general, special, incidental, statutory, punitive, and consequential damages to which Plaintiffs and Class members are entitled;

C. award pre-judgment and post-judgment interest on such monetary relief against Defendant Kia;

D. grant appropriate injunctive and/or declaratory relief, including, without limitation, an order that requires Defendants to repair, recall, and/or replace the Class vehicles or, at a minimum, to provide Plaintiffs and Class members with appropriate curative notice regarding the existence and cause of the design defect;

E. award reasonable attorney's fees and costs; and

F. grant such further relief that this Court deems appropriate.

COUNT III
VIOLATION OF THE FLORIDA DUPTA
(On Behalf of the Florida Class)

126. Plaintiff Moxey and other Florida Class Plaintiffs incorporate by reference each preceding and succeeding paragraph as though fully set forth at length herein.

127. The Florida Deceptive and Unfair Trade Practices Act ("DUTPA") states that "Unfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce are hereby declared unlawful" Florida Statutes, Title XXXIII, Chapter 501.204.

128. Plaintiff Moxey and other Florida Class Plaintiffs purchased and/or leased Class vehicles for personal, family or household use.

129. Defendant Kia engaged in unlawful conduct, made affirmative misrepresentations, or otherwise violated Florida's DUPTA. The circumstances constituting fraud or mistake, malice, intent, knowledge, and other conditions by Defendant Kia created in the Plaintiff Moxey and other Florida Class Plaintiffs' mind, alleged generally, is that Kia represented to the Plaintiff Moxey and other Florida Class Plaintiffs that it had the best warranty for its vehicles and that Kia would stand behind its warranty. Kia also represented that the engine power train in the Class vehicles would last 100,000 miles. Specifically, Defendants Kia and Hyundai each had knowledge and were each aware that the Class vehicles suffered a common design defect regarding the power train crankshaft pulley bolt snapping, but failed to disclose this to Plaintiff Moxey and other Florida Class Plaintiffs. Defendant Kia also marketed these vehicles as being of superior quality when Kia had actual knowledge that the Class vehicles contained a known problem. These affirmative misrepresentations by Kia were material to the vehicle purchases, and were false statements of fact by Kia. Plaintiff Moxey and other Florida Class Plaintiffs relied upon Kia's representations regarding the reliability of the Class vehicles and that if the vehicle would fail, then Kia represented it would remedy the vehicle malfunction through its 100,000 mile warranty on the Class vehicles. Kia knew its representations were false regarding the reliability and integrity of the crank shaft bolt and of its engine power train. Kia knew that the Plaintiff Moxey and other Florida Class Plaintiffs relied on its representations regarding the reliability and integrity of its warranty in purchasing the vehicle in the first place and the integrity of the power train and crank shaft bolt and of its engine power train to the Plaintiff Moxey and other Florida Class Plaintiffs' detriment. Plaintiff Moxey and other Florida Class Plaintiffs suffered damages when Kia would not honor its warranty when the power train crankshaft pulley bolt snapped and resulted in the pulley being ejected with critical

belts being shredded and in many Class vehicles, the destruction of the engine power train, which required the payment of a substantial expense by Class Plaintiffs for repairs.

130. Defendant Kia also engaged in unlawful conduct in violation of the Florida DUTPA by making knowing and intentional omissions of the design defect and repair of the power train crankshaft pulley bolt in the Class vehicles in order to secure the sale of these vehicles, and to offer them at a premium price or costly repairs suddenly outside the warranty.

131. Defendant Kia did not fully and truthfully disclose to Plaintiff Moxey and other Florida Class Plaintiffs the true nature of the inherent design defect with the power train crankshaft pulley bolt, which was not readily discoverable by customers until years later. As a result, Plaintiff Moxey and other Florida Class Plaintiffs were fraudulently induced to lease and/or purchase the Class vehicles with the said design defects and all of the resultant problems that occur when the bolt snaps and leads to the ejection of the pulley, shredding of the belt, and self destruction of the engine. These facts that Defendants Kia and Hyundai concealed were solely within their possession. Further, when Plaintiff Moxey and other Florida Class Plaintiffs did purchase their vehicle and bring said vehicle to a Kia authorized dealer for service, each Kia dealership misrepresented the fact that the problem was not covered under the warranty, misrepresented the fact that there was a technical service bulletin regarding the problem, and misrepresented the fact that the vehicle needed extensive and expensive repairs.

132. Defendants Kia and Hyundai intended that Plaintiff Moxey and other Florida Class Plaintiffs rely on the misrepresentations stated above as well as the acts of concealment of the design defect of the crankshaft bolt and omissions in disclosing the defect of the crankshaft bolt design, to the Plaintiffs' and the Class members' detriment in either purchasing the defective the class vehicles or in the repair and service of the Class vehicles.

133. The conduct of Defendants Kia and Hyundai caused Plaintiff Moxey and other Florida Class Plaintiffs to suffer an ascertainable loss in the form of increased initial purchase price for the

defective vehicle and then costly repairs to their vehicles when the problem manifested itself and caused failure. In addition to direct monetary losses, Plaintiff Moxey and other Florida Class Plaintiffs have suffered an ascertainable loss by total loss of the vehicle because the repair costs more than what the vehicle is worth. Further, Plaintiff Moxey and other Florida Class Plaintiffs have suffered an ascertainable loss in that the vehicle is unusable as a vehicle and its only value is its weight in scrap metal and useless plastic.

134. A causal relationship exists between Defendant Kia, as seller, warrantor and manufacturer of the Plaintiff Moxey and other Florida Class Plaintiffs and the Class vehicle and for its unlawful conduct and the ascertainable losses suffered by Plaintiff Moxey and other Florida Class Plaintiffs as purchasers of the Class vehicles. Had the defective design in the Class vehicles been disclosed, Plaintiff Moxey and other Florida Class Plaintiffs either would not have purchased the Plaintiffs and the Class vehicle or would have paid less for the Plaintiff Moxey and other Florida Class Plaintiffs and the Class vehicles.

WHEREFORE, Plaintiff Moxey and other Florida Class Plaintiffs, respectfully request that this Court grant judgment against Defendant Kia and Hyundai as follows:

A. determine that the claims alleged herein may be maintained as a class action under Rule 23 of the Federal Rules of Civil Procedure, and issue an order certifying the Class as defined above;

B. appoint Plaintiff Moxey as Florida representative of the Classes and her counsel as Class counsel;

C. award all actual, compensatory, general, special, incidental, statutory, punitive, and consequential damages to which Plaintiffs and Class members are entitled;

D. award pre-judgment and post-judgment interest on such monetary relief against Defendant Kia;

E. grant appropriate injunctive and/or declaratory relief, Including, without limitation, an order that requires Defendants to repair, recall, and/or replace the Class vehicles or, at a minimum, to provide

Plaintiffs and Class members with appropriate curative notice regarding the existence and cause of the design defect;

F. award reasonable attorney's fees and costs; and

G. grant such further relief that this Court deems appropriate.

COUNT IV
VIOLATION OF THE PENNSYLVANIA UTPCPL
(On Behalf of the Pennsylvania Class)

135. Plaintiff McConnell and other Pennsylvania Class Plaintiffs incorporate by reference each preceding and succeeding paragraph as though fully set forth at length herein.

136. The Pennsylvania Unfair Trade Practices and Consumer Protection Law ("UTPCPL") protects consumers against unfair or deceptive acts or practices such as "(vii) Representing that goods or services are of a particular standard, quality or grade, or that goods are of a particular style or model, if they are of another"; "(xiv) Failing to comply with the terms of any written guarantee or warranty given to the buyer at, prior to or after a contract for the purchase of goods or services is made"; and "(xxi) Engaging in any other fraudulent or deceptive conduct which creates a likelihood of confusion or of misunderstanding." 73 P.S., Section 201-2 (4).

137. Plaintiff McConnell and other Pennsylvania Class Plaintiffs purchased and/or leased Class vehicles for personal, family or household use.

138. Defendant Kia engaged in unlawful conduct, made affirmative misrepresentations, or otherwise violated Pennsylvania's UTPCPL. The circumstances constituting fraud or mistake, malice, intent, knowledge, and other conditions by Defendant Kia created in the Plaintiff McConnell and other Pennsylvania Class Plaintiffs' mind, alleged generally, is that Kia represented to the Plaintiff McConnell and other Pennsylvania Class Plaintiffs that it had the best warranty for its vehicles and that Kia would stand behind its warranty. Kia also represented that the engine power train in the Class vehicles would last 100,000 miles. Specifically, Defendants Kia and Hyundai each had knowledge and were each aware that the Class vehicles suffered a common

design defect regarding the power train crankshaft pulley bolt snapping, but failed to disclose this to Plaintiff McConnell and other Pennsylvania Class Plaintiffs. Defendant Kia also marketed these vehicles as being of superior quality when Kia had actual knowledge that the Class vehicles contained a known problem. These affirmative misrepresentations by Kia were material to the vehicle purchases, and were false statements of fact by Kia. Plaintiff McConnell and other Pennsylvania Class Plaintiffs relied upon Kia's representations regarding the reliability of the Class vehicles and that if the vehicle would fail, then Kia represented it would remedy the vehicle malfunction through its 100,000 mile warranty on the Class vehicles. Kia knew its representations were false regarding the reliability and integrity of the crank shaft bolt and of its engine power train. Kia knew that the Plaintiff McConnell and other Pennsylvania Class Plaintiffs relied on its representations regarding the reliability and integrity of its warranty in purchasing the vehicle in the first place and the integrity of the power train and crank shaft bolt and of its engine power train to the Plaintiff McConnell and other Pennsylvania Class Plaintiffs' detriment. Plaintiff McConnell and other Pennsylvania Class Plaintiffs suffered damages when Kia would not honor its warranty when the power train crankshaft pulley bolt snapped and resulted in the pulley being ejected with critical belts being shredded and in many Class vehicles, the destruction of the engine power train, which required the payment of a substantial expense by Class Plaintiffs for repairs.

139. Defendant Kia also engaged in unlawful conduct in violation of the Pennsylvania UTPCPL by making knowing and intentional omissions of the design defect and repair of the power train crankshaft pulley bolt in the Class vehicles in order to secure the sale of these vehicles, and to offer them at a premium price or costly repairs suddenly outside the warranty.

140. Defendant Kia did not fully and truthfully disclose to Plaintiff McConnell and other Pennsylvania Class Plaintiffs the true nature of the inherent design defect with the power train crankshaft pulley bolt, which was not readily discoverable by customers until years later. As a result, Plaintiff McConnell and other Pennsylvania Class Plaintiffs were fraudulently induced to

lease and/or purchase the Class vehicles with the said design defects and all of the resultant problems that occur when the bolt snaps and leads to the ejection of the pulley, shredding of the belt, and self destruction of the engine. These facts that Defendants Kia and Hyundai concealed were solely within their possession. Further, when Plaintiff McConnell and other Pennsylvania Class Plaintiffs did purchase their vehicle and bring said vehicle to a Kia authorized dealer for service, each Kia dealership misrepresented the fact that the problem was not covered under the warranty, misrepresented the fact that there was a technical service bulletin regarding the problem, and misrepresented the fact that the vehicle needed extensive and expensive repairs.

141. Defendants Kia and Hyundai intended that Plaintiff McConnell and other Pennsylvania Class Plaintiffs rely on the misrepresentations stated above as well as the acts of concealment of the design defect of the crankshaft bolt and omissions in disclosing the problem of the crankshaft bolt design, to the Plaintiffs' and the Class members' detriment in either purchasing the defective the class vehicles or in the repair and service of the Class vehicles.

142. The conduct of Defendants Kia and Hyundai caused Plaintiff McConnell and other Pennsylvania Class Plaintiffs to suffer an ascertainable loss in the form of increased initial purchase price for the defective vehicle and then costly repairs to their vehicles when the problem manifested itself and caused failure. In addition to direct monetary losses, Plaintiff McConnell and other Pennsylvania Class Plaintiffs have suffered an ascertainable loss by total loss of the vehicle because the repair costs more than what the vehicle is worth. Further, Plaintiff McConnell and other Pennsylvania Class Plaintiffs have suffered an ascertainable loss in that the vehicle is unusable as a vehicle and its only value is its weight in scrap metal and useless plastic.

143. A causal relationship exists between Defendant Kia, as seller, warrantor and manufacturer of the Plaintiff McConnell and other Pennsylvania Class Plaintiffs and the Class vehicle and for its unlawful conduct and the ascertainable losses suffered by Plaintiff McConnell and other Pennsylvania Class Plaintiffs as purchasers of the Class vehicles. Had the defective design in the

Class vehicles been disclosed, Plaintiff McConnell and other Pennsylvania Class Plaintiffs either would not have purchased the Plaintiffs and the Class vehicle or would have paid less for the Plaintiff McConnell and other Pennsylvania Class Plaintiffs and the Class vehicles.

WHEREFORE, Plaintiff McConnell and other Pennsylvania Class Plaintiffs, respectfully request that this Court grant judgment against Defendant Kia and Hyundai as follows:

A. determine that the claims alleged herein may be maintained as a class action under Rule 23 of the Federal Rules of Civil Procedure, and issue an order certifying the Class as defined above;

B. appoint Plaintiff McConnell as Pennsylvania representative of the Classes and his counsel as Class counsel;

C. award all actual, compensatory, general, special, incidental, statutory, punitive, and consequential damages to which Plaintiffs and Class members are entitled;

D. award pre-judgment and post-judgment interest on such monetary relief against Defendant Kia;

E. grant appropriate injunctive and/or declaratory relief, Including, without limitation, an order that requires Defendants to repair, recall, and/or replace the Class vehicles or, at a minimum, to provide Plaintiffs and Class members with appropriate curative notice regarding the existence and cause of the design defect;

F. award reasonable attorney's fees and costs; and

G. grant such further relief that this Court deems appropriate.

COUNT V
BREACH OF EXPRESS WARRANTY AGAINST KIA
(On Behalf of each of the State Sub-Classes)

144. Plaintiffs and the Classes repeat and incorporate herein by reference each and every paragraph of this complaint as though set forth in full in this cause of action.

145. Defendant Kia expressly warranted that the Class vehicles were of high quality, free of design defects and, at a minimum, would actually function properly. According to Defendant's counsel, Kia sold the 2004 and 2005 (and other MY for the class members) Sorento with a New

Vehicle Limited Warranty consisting of two primary warranty periods : a 5- year/60,000-mile transferable warranty covering, with some exceptions, all components of the vehicle (the "Basic Warranty"), and a 10-year/100,000-mile non-transferable extended warranty and other extended warranties covering the components of the power train (the "Power Train Warranty") . The power train crankshaft pulley bolt is covered under both the Basic Warranty and the Power Train Warranty, as it is a component of the car and an internal part of the engine power train.

146. Defendant Kia breached these warranty(ies) by not honoring the warranty that Plaintiffs' Class vehicles were still under. Plaintiffs Ciros, Howell, McConnell, and Paccione and other Class members were the Original Owners of their respective Class vehicles, as per the definition found in Kia's "Warranty and Consumer Information Manual", meaning they were entitled to both the Basic Warranty and the Power Train Warranty. At the time of the defective power train crankshaft pulley bolt's failure, of their Class Vehicles were still under the Power Train Warranty, yet Kia dealerships reported that their warranties would not be honored and they each would have to pay for costly repairs.

147. Defendant Kia breached this warranty by selling to Plaintiffs and Class members the Class vehicles which contained the known defective power train crankshaft pulley bolt, and which would inevitably and prematurely fail well before the expiration of their useful life, causing catastrophic self-destruction to the Class vehicle and creating a serious driving hazard.

148. Defendant Kia's breach of this warranty caused damages to Plaintiffs and Class members.

149. Defendant Kia's attempt to disclaim or limit these express warranties vis-à-vis consumers is unconscionable and unenforceable under the circumstances here. Specifically, Defendant Kia's warranty limitation is unenforceable because they knowingly sold a defective product without informing consumers about the problem.

150. The time and mileage limitations contained in Defendant Kia's warranty period were also unconscionable and inadequate to protect the Plaintiffs and members of the Classes. Among other

things, the Plaintiffs and members of the Classes had no meaningful choice in determining these time limitations, the terms of which unreasonably favored Defendants. A gross disparity in bargaining power existed between Kia and Class members, and Kia knew or should have known that the Class vehicles were defective at the time of sale and would fail well before their useful lives.

151. Defendant Kia concealed material information of the defective power train crank shaft pulley bolt that would prematurely fail from Plaintiffs and Class members. Defendants acted intentionally with the purpose of maximizing their own profit.

152. Plaintiffs and Class members have complied with all obligations under the warranty, or otherwise have been excused from performance of said obligations as a result of Defendant Kia's conduct described herein. In addition, Kia was put on notice of the problem because they had actual knowledge of the existence of this design defect at all relevant times.

WHEREFORE, Plaintiffs, on behalf of themselves and members of the Classes, respectfully request that this Court grant judgment against Kia as follows:

A. determine that the claims alleged herein may be maintained as a class action under Rule 23 of the Federal Rules of Civil Procedure, and issue an order certifying the Class as defined above;

B. appoint Plaintiffs as representatives of the Classes and their counsel as Class counsel;

C. award all actual, general, special, incidental, statutory, punitive, and consequential damages to which Plaintiffs and Class members are entitled;

D. award pre-judgment and post-judgment interest on such monetary relief;

E. grant appropriate injunctive and/or declaratory relief, including, without limitation, an order that requires Defendants to repair, recall, and/or replace the Class vehicles or, at a minimum, to provide Plaintiffs and Class members with appropriate curative notice regarding the existence and cause of the design defect;

F. award reasonable attorney’s fees and costs; and

G. grant such further relief that this Court deems appropriate.

COUNT VI
BREACH OF THE IMPLIED
WARRANTY OF MERCHANTABILITY
(On Behalf of each of the State Sub-Classes)

153. Plaintiffs and the Class members repeat and incorporate herein by reference each and every paragraph of this complaint as though set forth in full in this cause of action.

154. Defendant Kia impliedly warranted that the Class vehicles were of a merchantable quality and breached the implied warranty of merchantability, as the Class vehicles were not of a merchantable quality due to the power train crankshaft pulley bolt problem.

155. As a direct and proximate result of the breach of said warranties, Plaintiffs and Class members were injured, and are entitled to damages.

156. Defendant Kia's attempt to disclaim or limit the implied warranty of merchantability vis-à-vis consumers is unconscionable and unenforceable here. Specifically, Defendant Kia's warranty limitation is unenforceable here because they knowingly sold a defective product without informing consumers about the problem.

157. The time and mileage limitations contained in Defendant Kia's warranty period are also unconscionable and inadequate to protect Plaintiffs and members of the Classes. Among other things, Plaintiffs and members of the Classes had no meaningful choice in determining these time limitations, the terms of which unreasonably favored Defendant Kia. A gross disparity in bargaining power existed between Kia and Class members, and Kia knew or should have known that the Class vehicles were defective at the time of sale and would fail well before normal use of the vehicle.

WHEREFORE, Plaintiffs, on behalf of themselves and members of the Classes, respectfully request that this Court grant judgment against Kia as follows:

A. determine that the claims alleged herein may be maintained as a class action under Rule 23 of the Federal Rules of Civil Procedure, and issue an order certifying the Class as defined above;

B. appoint Plaintiffs as representatives of the Classes and their counsel as Class counsel;

C. award all actual, general, special, incidental, statutory, punitive, and consequential damages to which Plaintiffs and Class members are entitled;

D. award pre-judgment and post-judgment interest on such monetary relief;

E. grant appropriate injunctive and/or declaratory relief, including, without limitation, an order that requires Defendants to repair, recall, and/or replace the Class vehicles or, at a minimum, to provide Plaintiffs and Class members with appropriate curative notice regarding the existence and cause of the design defect;

F. award reasonable attorney's fees and costs; and

G. grant such further relief that this Court deems appropriate.

COUNT VII
Violation of Magnuson-Moss Warranty Act, 15 U.S.C. § 2310(d)(1)
(On Behalf of each of the State Sub-Classes)

158. Each and every one of the preceding paragraphs are incorporated herein by reference as though the same were set forth herein at length.

159. Congress enacted the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301 et seq. (the "Act") in 1975 in response to widespread complaints from consumers that many warranties were misleading and deceptive, and were not being honored. To remedy this problem of deception and failure to honor warranties, the Act imposed civil liability on any "warrantor" for, inter alia, failing to comply with any obligation under a written warranty and/or implied warranty [see 15 U.S.C. § 2310(d)(1)]. The Act authorizes a "suit for damages and other legal and equitable relief." Id. The Act authorizes the award of attorneys' fees (id.), and expressly authorizes class actions [15 U.S.C. § 2310(e)].

160. Defendant Kia is a "warrantor[s]" within the meaning of Section 2301(5) of the Act. Plaintiffs and other members of the Class are "consumers" within the meaning of Section 2301(3) of the Act.

161. As set forth in the paragraphs below, the allegations of which are incorporated herein by reference, Defendant Kia expressly warranted the power train of the Kia Sorento, which includes the crankshaft pulley bolt. The Kia warranty is a "written warranty" within the meaning of Section 2301(6) of the Act and the Uniform Commercial Code. Defendant Kia breached its express warranties in the manner described above and below.

162. Defendant Kia impliedly warranted the Kia Sorento as being merchantable and fit for a particular purpose, which warranties are implied warranties within the meaning of Section 2301(7) of the Act, and Sections 2-314 and 2-315 of the Uniform Commercial Code. Defendants breached these implied warranties in the manner described above and below. Any limitation period, limitation on recovery or exclusions of implied warranties are unconscionable within the meaning of Section 2-302 of the Uniform Commercial Code and, therefore, are unenforceable, in that, among other things, Plaintiffs and members of the Class lacked a meaningful choice with respect to the terms of the written warranties due to unequal bargaining power and a lack of warranty competition.

163. Defendant Kia's knowledge of the fact that their Kia Sorento for the said model years would incur premature and/or abnormal wear and tear and failure has given Kia more than adequate opportunity to cure the problem, an opportunity which they have not taken to date.

164. Plaintiffs and other members of the Class were damaged by Defendant Kia's failure to comply with their obligations under the applicable express and implied warranties. As a direct and proximate cause of Defendant Kia's breaches of express and implied warranties, Plaintiffs and other Class members have suffered actual economic damages and have been threatened with irreparable harm.

165. Plaintiffs did repeatedly bring their vehicles to Defendants for the repair of the bolt defect and Kia failed to repair the same. Kia failed to perform repairs within a reasonable amount of time after the buyer presents the defective product, and "a delay in supplying the remedy can just as

effectively deny the purchaser the product he expected as can the total inability to repair." Woolums v. Nat'l RV, 530 F. Supp. 2d 691, 701 (M.D. Pa. 2008)

WHEREFORE, Plaintiffs, on behalf of themselves and members of the Classes, respectfully request that this Court grant judgment against Kia as follows:

A. determine that the claims alleged herein may be maintained as a class action under Rule 23 of the Federal Rules of Civil Procedure, and issue an order certifying the Class as defined above;

B. appoint Plaintiffs as representatives of the Classes and their counsel as Class counsel;

C. award all actual, general, special, incidental, statutory, punitive, and consequential damages to which Plaintiffs and Class members are entitled;

D. award pre-judgment and post-judgment interest on such monetary relief;

E. grant appropriate injunctive and/or declaratory relief, including, without limitation, an order that requires Defendants to repair, recall, and/or replace the Class vehicles or, at a minimum, to provide Plaintiffs and Class members with appropriate curative notice regarding the existence and cause of the design defect;

F. award reasonable attorney's fees and costs; and

G. grant such further relief that this Court deems appropriate.

COUNT VIII
DECLARATORY RELIEF
(On Behalf of each of the State Sub-Classes)

166. Each and every paragraph above is incorporated herein by reference as though the same were fully set forth here at length.

167. This claim is asserted on behalf of Plaintiff and other Class members in accordance with the Declaratory Judgment Act pursuant to 28 USC § 2201 and as an additional equitable remedy.

168. Plaintiff and other Class members are entitled to a declaration that Defendant Kia and Hyundai's conduct described herein constitutes violations of applicable statutory and common law.

The declaratory relief requested includes an order declaring Defendants' conduct, as alleged herein, to be unlawful, and requiring Defendants to compensate Plaintiffs and other Class members in the manner described herein and to supply Class members with replacement vehicles having ordinary life expectancy without the design defect as alleged herein.

WHEREFORE, Plaintiffs, on behalf of themselves and members of the Classes, respectfully request that this Court grant judgment against Kia as follows:

A. determine that the claims alleged herein may be maintained as a class action under Rule 23 of the Federal Rules of Civil Procedure, and issue an order certifying the Class as defined above;

B. appoint Plaintiffs as representatives of the Classes and their counsel as Class counsel;

C. award all actual, general, special, incidental, statutory, punitive, and consequential damages to which Plaintiffs and Class members are entitled;

D. award pre-judgment and post-judgment interest on such monetary relief;

E. grant appropriate injunctive and/or declaratory relief, including, without limitation, an order that requires Defendants to repair, recall, and/or replace the Class vehicles or, at a minimum, to provide Plaintiffs and Class members with appropriate curative notice regarding the existence and cause of the design defect;

F. award reasonable attorney's fees and costs; and

G. grant such further relief that this Court deems appropriate.

COUNT IX
NEGLIGENCE
(On Behalf of each of the State Sub-Classes)

169. The allegations contained in the foregoing paragraphs in this pleading are incorporated as if fully rewritten herein, except if the matter would be inconsistent with the cause of action stated in this Count.

170. Each Defendant owed to Plaintiffs and Class Members for all sub-classes an independent duty imposed by law in the Magnuson-Moss Warranty Act, 15 U.S.C. § 2310 and each Defendant

breached a duty of care so that the Plaintiffs suffered legally cognizable harm. Brunson v. Affinity Federal Credit Union, 954 A.2d 550, 560 (N.J.Super.Ct. App. Div. 2008).

171. Each of the Defendants' conduct caused actual physical harm to Plaintiffs or their property in placing unwarranted clouds on their titles. Public Serv. Enter. Group, Inc. V. Philadelphia Elec. Co., 722 F.Supp. 184, 193 (D.N.J. 1989).

172. In this alternate cause of action, Defendants' respective duties did not entirely emanate from contractual relationships.

WHEREFORE, Plaintiffs, on behalf of themselves and members of the Classes, respectfully request that this Court grant judgment against Kia and Hyundai as follows:

A. determine that the claims alleged herein may be maintained as a class action under Rule 23 of the Federal Rules of Civil Procedure, and issue an order certifying the Class as defined above;

B. appoint Plaintiffs as representatives of the Classes and their counsel as Class counsel;

C. award all actual, general, special, incidental, statutory, punitive, and consequential damages to which Plaintiffs and Class members are entitled;

D. award pre-judgment and post-judgment interest on such monetary relief;

E. grant appropriate injunctive and/or declaratory relief, including, without limitation, an order that requires Defendants to repair, recall, and/or replace the Class vehicles or, at a minimum, to provide Plaintiffs and Class members with appropriate curative notice regarding the existence and cause of the design defect;

F. award reasonable attorney's fees and costs; and

G. grant such further relief that this Court deems appropriate.

COUNT X
BREACH OF CONTRACT
(On Behalf of each of the State Sub-Classes)

173. Plaintiffs and Class Members for all sub-classes repeat and incorporate each and every matter contained above as fully stated herein except if the matter would be inconsistent with the cause of action stated in this Count.

174. Kia and Plaintiffs and Class Members for all sub-classes entered into a binding agreement for valuable consideration that Kia would repair the engine and power train at no cost of all vehicles within the class of Plaintiffs and Class Members for all sub-classes.

175. Instead, when the engines failed as a result of the power train crankshaft pulley bolt failure, Defendants breached their agreement to repair the class vehicles of the Plaintiffs.

176. As stated above in this separate cause of action there was (1) a contract between the parties; (2) a breach of that contract; (3) damages flowing therefrom; and (4) that the party stating the claim performed its own contractual obligations." Frederico v. Home Depot, 507 F.3d 188, 203 (3d Cir. 2007).

WHEREFORE, Plaintiffs and Class Members for all sub-classes, respectfully request that this Court grant judgment against Kia as follows:

A. determine that the claims alleged herein may be maintained as a class action under Rule 23 of the Federal Rules of Civil Procedure, and issue an order certifying the Class as defined above;

B. appoint Plaintiffs as representatives of the Classes and their counsel as Class counsel;

C. award all actual, general, special, incidental, statutory, punitive, and consequential damages to which Plaintiffs and Class members are entitled;

D. award pre-judgment and post-judgment interest on such monetary relief;

E. grant appropriate injunctive and/or declaratory relief, including, without limitation, an order that requires Defendants to repair, recall, and/or replace the Class vehicles or, at a minimum, to provide Plaintiffs and Class members with appropriate curative notice regarding the existence and cause of the design defect;

F. award reasonable attorney's fees and costs; and

G. grant such further relief that this Court deems appropriate.

COUNT XI
COMMON LAW FRAUD
(On Behalf of each of the State Sub-Classes)

177. Plaintiffs repeat and incorporate each and every matter contained above as fully stated herein except if the matter would be inconsistent with the cause of action stated in this Count.

178. Plaintiffs and Class Members for all sub-classes purchased and/or leased Class vehicles for personal, family or household use.

179. Defendant Kia engaged in unlawful conduct, made affirmative misrepresentations, constituting common law fraud and/or misrepresentations of willful mistake, malice, intent, knowledge, and other conditions by Defendant Kia which created in the Plaintiffs and Class Members for all sub-classes' mind, alleged generally, is that Kia represented to the Plaintiffs and Class Members for all sub-classes that it had the "best warranty" for its vehicles and that Kia would stand behind its warranty. Plaintiffs relied on these representations when they purchased the class vehicle. Kia also represented that the engine power train in the Class vehicles would last 100,000 miles. Specifically, Defendants Kia and Hyundai each had knowledge and were each aware that the Class vehicles suffered a common problem regarding the power train crankshaft pulley bolt snapping, but failed to disclose this to Plaintiffs and Class Members for all sub-classes. Defendant Kia also marketed these vehicles as being of superior quality when Kia had actual knowledge that the Class vehicles contained a known problem. These affirmative misrepresentations by Kia were material to the vehicle purchases, and were false statements of fact by Kia. Plaintiffs and Class Members for all sub-classes relied upon Kia's representations regarding the reliability of the Class vehicles and that if the vehicle would fail, then Kia represented it would remedy the vehicle malfunction through its warranty(ies) on the Class vehicles. Kia knew its representations were false regarding the reliability and integrity of the crankshaft pulley bolt and of its engine power train. Alternatively, Kia's later acquired knowledge of the bolt defect, as evidenced by the technical

bulletin, was withheld and misrepresented to Plaintiffs when Kia knew that the Plaintiffs and Class Members for all sub-classes relied on its representations regarding the reliability and integrity of its warranty in purchasing their vehicle in the first place and the integrity of the power train and crankshaft pulley bolt and of its engine power train to Plaintiffs and Class Members for all sub-classes detriment. Further, Plaintiffs and Class Members for all sub-classes were defrauded when they were never told of the technical bulletin after their vehicle failed and instead were defrauded when they were told that he failure was not covered when it was and or that there was another problem that caused then engine failure when it was in fact the crankshaft bolt failure. Plaintiffs and Class Members for all sub-classes suffered damages when Kia would not honor its warranty when the power train crankshaft pulley bolt snapped and resulted in the pulley being ejected with critical belts being shredded and, in many Class vehicles, the destruction of the engine power train, which required the payment of a substantial expense by Class Plaintiffs for repairs.

180. Defendant Kia also committed common law fraud by making knowing and intentional omissions of the design defect and especially the repair of the power train crankshaft pulley bolt in the Class vehicles in order to secure the sale of these vehicles, and to offer them at a premium price or costly repairs suddenly outside the warranty.

181. Defendant Kia did not fully and truthfully disclose to Plaintiffs and Class Members for all sub-classes the true nature of the problem with the power train crankshaft pulley bolt, which was not readily discoverable by customers until years later. As a result, Plaintiffs and Class Members for all sub-classes were fraudulently induced to lease and/or purchase the Class vehicles with the said design defects and all of the resultant problems that occur when the power train crankshaft pulley bolt snaps and leads to the ejection of the pulley, shredding of the belt, and self destruction of the engine. These facts that Defendants Kia and Hyundai concealed were solely within their possession. Further, when Plaintiffs and Class Members for all sub-classes did purchase their vehicle and bring said vehicle to a Kia authorized dealer for service, each Kia dealership

misrepresented the fact that the problem was not covered under the warranty, misrepresented the fact that there was a technical service bulletin regarding the problem, and misrepresented the fact that the vehicle needed extensive and expensive repairs.

182. Defendants Kia and Hyundai intended that Plaintiffs and Class Members for all sub-classes rely on the misrepresentations stated above as well as the acts of concealment of the problem with the power train crankshaft pulley bolt and omissions in disclosing the problem with the power train crankshaft pulley bolt design, to the Plaintiffs' and the Class members' detriment in either purchasing the defective the class vehicles or in the repair and service of the Class vehicles.

183. Defendants Kia and Hyundai's conduct caused Plaintiffs and Class Members for all sub-classes to suffer an ascertainable loss in the form of increased initial purchase price for the defective vehicle and then costly repairs to their vehicles when the problem manifested itself and caused failure. In addition to direct monetary losses, Plaintiffs and Class Members for all sub-classes have suffered an ascertainable loss by total loss of the vehicle because the repair costs more than what the vehicle is worth. Further, Plaintiffs and Class Members for all sub-classes have suffered an ascertainable loss in that the vehicle is unusable as a vehicle and its only value is its weight in scrap metal and useless plastic.

184. A causal relationship exists between Defendant Kia, as seller, warrantor and manufacturer of the Plaintiffs and Class Members for all sub-classes and the Class vehicle and for its unlawful conduct and the ascertainable losses suffered by Plaintiffs and Class Members for all sub-classes as purchasers of the Class vehicles. Had the defective design in the Class vehicles been disclosed, Plaintiffs and Class Members for all sub-classes either would not have purchased the Class vehicle or would have paid less for the Class vehicle.

WHEREFORE, Plaintiffs and Class Members for all sub-classes, respectfully request that this Court grant judgment against Defendant Kia and Hyundai as follows:

A. determine that the claims alleged herein may be maintained as a class action under Rule 23 of the Federal Rules of Civil Procedure, and issue an order certifying the Class as defined above;

B. appoint Plaintiff McConnell as Pennsylvania representative of the Classes and his counsel as Class counsel;

C. award all actual, compensatory, general, special, incidental, statutory, punitive, and consequential damages to which Plaintiffs and Class members are entitled;

D. award pre-judgment and post-judgment interest on such monetary relief against Defendant Kia;

E. grant appropriate injunctive and/or declaratory relief, Including, without limitation, an order that requires Defendants to repair, recall, and/or replace the Class vehicles or, at a minimum, to provide Plaintiffs and Class members with appropriate curative notice regarding the existence and cause of the design defect;

F. award reasonable attorney's fees and costs; and

G. grant such further relief that this Court deems appropriate.

JURY DEMAND

Plaintiff hereby demands trial by jury of all issues properly triable thereby.

Respectfully submitted,

Dated: October 23, 2014

/s/ Shmuel Klein
Law Office of Shmuel Klein, PA