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10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA

12 CITY OF SYRACUSE, NEW YORK,
13
14 Plaintiff,

15 v.

16 HYUNDAI MOTOR COMPANY,
17 HYUNDAI MOTOR AMERICA, KIA
18 CORPORATION, and KIA AMERICA,
19 INC.,

20 Defendants.

No. 8:23-cv-02058

COMPLAINT

JURY TRIAL DEMANDED

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I. INTRODUCTION¹

1. There is an inextricable link between preventing vehicle theft and protecting public safety. Ensuring that cars are not simple to steal protects both property and the public by keeping dangerous drivers in stolen vehicles off the roads and reserving valuable police resources. Two car manufacturers made a business decision not to equip the vehicles they sell with standard anti-theft technology. That decision has left counties and cities across the nation to deal with massive public safety consequences. Despite taking some initial steps to discourage thefts, Defendants have been unable to abate the dangerous crime wave unleashed on communities nationwide—a crime wave that continues to this day.

2. The days of “hotwiring” cars with nothing more than a screwdriver are largely over. Near the turn of the twenty-first century, with advancements in technology, manufacturers began installing devices that prevented cars from starting without the proper key. The right key emits a unique radio signal that prompts a computer in the car to disengage its immobilizer device and allows the car to start and move. These immobilizers significantly decrease the ability of would-be thieves to steal a car without the matching key. Unfortunately, recent Hyundai and Kia models are a glaring exception of cars not sold with these devices or any other reasonable anti-theft measure.

¹ The allegations in this Complaint specific to the City of Syracuse are based on the personal knowledge and information provided by its employees and, in all other respects, the investigation of counsel. Unless otherwise stated, the allegations are made on information and belief.

1 3. For most model years between 2011 and 2022, long after other
2 carmakers adopted immobilizer technology that ensured car ignitions could not be
3 started without their keys, Defendants Hyundai Motor Company (“HMC”),
4 Hyundai Motor America (“HMA” and, with HMC, collectively “Hyundai”), Kia
5 Corporation (“KC”), and Kia America, Inc. (“KA” and, with KC, collectively
6 “Kia”) intentionally ignored industry-standard practices in the name of profit.
7 Specifically, upon information and belief, at all relevant times, Defendants
8 designed, manufactured, and distributed the following automobile models without
9 engine immobilizers: Hyundai Accent, Elantra, Elantra GT, Elantra Coupe, Elantra
10 Touring, Genesis Coupe, Kona, Palisade, Santa Fe, Santa Fe Sport, Santa Fe XL,
11 Sonata, Tucson, Veloster, Venue, and Veracruz; and the Kia Forte, K5, Optima,
12 Rio, Sedona, Seltos, Sorento, Soul, and Sportage. These vehicles, when
13 manufactured and sold without engine immobilizers, are hereinafter referred to as
14 the “Susceptible Vehicles.”

15 4. As a result, online videos demonstrate how easy it is to steal Hyundai
16 and Kia vehicles. In many cases, thieves use tools no more advanced than a USB
17 cable. Hyundai’s and Kia’s business decisions to reduce costs, and thereby boost
18 profits, by forgoing common anti-theft technology have resulted in a dangerous rash
19 of thefts. This vehicular crime wave has had a significant impact on law
20 enforcement operations, emergency services, and public safety, particularly for the
21 City of Syracuse, New York (“Plaintiff,” the “City,” or “Syracuse”).

22 5. In the 1960s and 1970s, all that was needed for a successful vehicle
23 heist was a little brute force (to crack open the ignition column) and a key-shaped

1 object to start the car and drive off within seconds. Thanks to modern technology,
2 this is no longer the case for most cars.

3 6. Hyundai and Kia are unique among automobile manufacturers in
4 failing to install engine immobilizers in most of their cars. This is not because the
5 technology is somehow beyond them—in fact, Hyundai and Kia vehicles sold in
6 the European and Canadian markets incorporate vehicle immobilizers, because
7 regulations there expressly require them. In the United States, meanwhile, Hyundai
8 and Kia have decided to trade public safety for profits.

9 7. The difference between the proportion of Hyundai and Kia vehicle
10 models with immobilizers compared to all other manufacturers is staggering: for
11 the 2015 model year, for example, only **26%** of Hyundai and Kia vehicles in the
12 United States were equipped with immobilizers, compared to **96%** of vehicles from
13 all other manufacturers.²

14 8. Hyundai and Kia are aware of the well-documented benefit of
15 immobilizer technology in preventing thefts, as they opted to install engine
16 immobilizers in their higher end models and in all of their 2023 vehicles.

17 9. Hyundai's and Kia's decisions to put profits over public safety have
18 had devastating consequences for Plaintiff and their residents. Defendants' failure
19 to install the industry-standard immobilization technology or other reasonable anti-
20 theft device, notwithstanding decades of academic literature and research

21
22 ² *Hyundai and Kia theft losses*, 38 HLDI Bull. 28, 2 (Dec. 2021),
23 https://www.iihs.org/media/0e14ba17-a3c2-4375-8e66-081df9101ed2/opm7QA/HLDI%20Research/Bulletins/hldi_bulletin_38-28.pdf
(emphasis added).

1 supporting the deterrent effects of such technology,³ has opened the floodgates to
2 vehicle theft, reckless driving, and endangered public safety.

3 10. This epidemic started in Milwaukee and spread nationwide. By June
4 2021, the Milwaukee Police Department reported that the theft of Hyundai and Kia
5 vehicles had increased by 2,500% since the previous year, with an average of 30
6 cars being stolen per day.⁴ This trend then spread nationwide, enabled by millions
7 of Hyundai and Kia vehicles lacking immobilizers or other reasonable anti-theft
8 measures. As explained below, the crime wave continues to this day in communities
9 coast to coast—and those communities are left to pay the price while the
10 manufacturers enjoy the profits.

11 11. Vehicle theft is not only a property crime affecting vehicle owners, but
12 it also constitutes a grave threat to public safety. Vehicle theft goes hand in hand
13 with reckless driving, which in turn can result in injuries and death. It can result in
14 increased violence, when car owners catch thieves in the act. It also consumes law
15 enforcement and emergency resources which puts the public safety at risk.

16 12. The skyrocketing rate of Kia and Hyundai vehicle thefts has drastically
17 impacted city and police resources for Plaintiff. Plaintiff's residents are subjected
18 to increasingly dangerous conditions on their streets, as car thieves (many of them

19 ³ Richard A. Posner, *An Economic Theory of the Criminal Law*, 85 Colum. L. Rev.
20 6, 1193–1231 (1985),
21 [https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=2827&context=](https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=2827&context=journal_articles)
[journal_articles](https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=2827&context=journal_articles).

22 ⁴ James Gilboy, *Why Milwaukee Might Sue Hyundai, Kia Over Stolen Car*
Epidemic, TheDrive.com (Dec. 11, 2021, 11:15 AM),
23 [https://www.thedrive.com/news/43454/why-milwaukee-might-sue-hyundai-kia-](https://www.thedrive.com/news/43454/why-milwaukee-might-sue-hyundai-kia-over-stolen-car-epidemic)
[over-stolen-car-epidemic](https://www.thedrive.com/news/43454/why-milwaukee-might-sue-hyundai-kia-over-stolen-car-epidemic).

1 teenagers) are taking advantage of Hyundai's and Kia's failures and engaging in
2 reckless driving, endangering Plaintiff's employees, residents, and property.

3 13. Defendants' conduct has created a public nuisance that could have
4 been avoided had they followed industry-wide standards and installed immobilizer
5 devices or taken other reasonable measures to deter thefts of their vehicles.

6 14. Among other harms, Plaintiff has been forced to divert funds and risk
7 officer and public safety to combat the growing burden caused by increased
8 Hyundai and Kia vehicle thefts and their many associated dangers, including
9 reckless driving.

10 II. JURISDICTION AND VENUE

11 A. Subject Matter Jurisdiction

12 15. This Court has subject matter jurisdiction pursuant to 28 U.S.C.
13 § 1332(a), as the amount in controversy exceeds \$75,000 and there is complete
14 diversity between the parties. The City of Syracuse is regarded as a citizen of the
15 State of New York, for the purposes of diversity jurisdiction. *Bullard v. City of*
16 *Cisco*, 290 U.S. 179, 187 (1933). Defendants HMA and KA are citizens of the State
17 of California, where they are headquartered and incorporated. Defendants HMC and
18 KC are both multinational automakers, headquartered in Seoul, South Korea.

19 B. Personal Jurisdiction

20 16. This Court has general personal jurisdiction over Defendants HMA
21 and KA because they are incorporated and headquartered in the State of California.
22 HMA and KA have transacted and done business in the State of California and in
23 this judicial district.

1 17. As detailed below, this Court has specific jurisdiction over HMC and
2 KC under the long-arm statute of California based on (1) their forum-related
3 activities from which this case arises; (2) the forum-related activities of HMC's
4 primary domestic subsidiary, HMA, which HMC substantially controls; and (3) the
5 forum-related activities of KC's primary domestic subsidiary, KA, which KC
6 substantially controls.

7 **1. HMC's and KC's Forum-Related Activities**

8 18. HMC is a South Korea-based company, and its substantial activities
9 directed at the United States give rise to and relate to Plaintiff's claims.

10 19. In a recent complaint to enforce its trademark rights, HMC represented
11 that it "currently designs, manufactures, markets, distributes, and sells a wide range
12 of automobile and related automobile parts to over 190 countries throughout the
13 world, including the United States, under the trademark 'Hyundai.'"⁵

14 20. HMC and KC design, manufacture, market, distribute, and sell the
15 Susceptible Vehicles under their registered trademarks "Hyundai" and "Kia,"
16 respectively. Between 2011 and 2022, when the Susceptible Vehicles were sold and
17 distributed in Plaintiff's jurisdiction, HMC and KC purposefully availed themselves
18 of the United States' legal protections by registering and maintaining registrations
19 with the United States government for trademarks associated with their vehicles and
20 parts, which HMC and KC used to identify and distinguish their respective vehicles
21 and parts in the United States, this district, and Plaintiff's jurisdiction.

22 _____
23 ⁵ First Amended Complaint at 6, *Hyundai Motor Am., Inc. v. Midwest Indus.*
Supply Co., No. 2:17-cv-3010-JCM-GWF (D. Nev. Nov. 21, 2018), Dkt. No. 34.

1 21. HMC and KC purposefully availed themselves of markets in the
2 United States, including in this district and Plaintiff's jurisdiction, as each company
3 sells approximately 500 thousand vehicles per year in this market through their
4 respective domestic subsidiaries, HMA and KA.

5 22. HMC and KC manufactured over eight million of the Susceptible
6 Vehicles, which were delivered to HMA and KA for sale in the United States. Upon
7 information and belief, HMC and KC manufactured the majority of the Susceptible
8 Vehicles overseas in South Korea. However, HMC and KC segregated the
9 Susceptible Vehicles intended for sale in the United States and shipped those
10 vehicles to the United States with full knowledge and intent that HMA and KA
11 would distribute them across the country.

12 23. Rather than passively placing the Susceptible Vehicles into the stream
13 of commerce, HMC and KC intentionally targeted the distribution of the
14 Susceptible Vehicles into United States markets specifically, because engine
15 immobilizers are not expressly required by law to sell the vehicles in this country.

16 24. HMC and KC purposely availed themselves of markets in the United
17 States by regularly submitting applications to the Environmental Protection Agency
18 to obtain certification required for the sale of their vehicles in the United States.⁶
19

20 ⁶ See, e.g., Letter from Hyundai America Technical Center to Director Linc Wehrly
21 re: Request for GHG credit for High Efficiency Alternator Technology (June 10,
22 2019), [https://www.epa.gov/sites/default/files/2019-07/documents/kmc-off-cycle-](https://www.epa.gov/sites/default/files/2019-07/documents/kmc-off-cycle-ghg-credit-high-efficiency-alternator-2019-06-10.pdf)
23 [ghg-credit-high-efficiency-alternator-2019-06-10.pdf](https://www.epa.gov/sites/default/files/2019-07/documents/kmc-off-cycle-ghg-credit-high-efficiency-alternator-2019-06-10.pdf) (writing on behalf of KC,
f/k/a Kia Motors Corporation); see also Letter from Hyundai America Technical
Center to Director Linc Wehrly re: Request for GHG Off-Cycle Credit for HVAC
Brushless Motor Technology in 2020 Model Year and later HMC vehicles (Dec.

25. HMC and KC played instrumental roles in HMA's and KA's analysis and decision-making processes related to the design and/or manufacture of the Susceptible Vehicles without engine immobilizers.

26. Upon information and belief, HMC and KC both were involved in monitoring vehicle thefts of the Susceptible Vehicles, as reported by their respective subsidiaries, HMA and KA.

2. HMC's and KC's Control Over Their Respective Subsidiaries

27. HMC and KC exercise control over HMA and KA, respectively, through both formal and informal means.

28. Upon information and belief, HMC and KC possess the power to appoint board members to HMA and KA, respectively, and both HMC and KC have exercised this power.

29. HMC operates a "Global Command and Control Center" with "walls covered with television screens and computer monitors" that track "every operating line at 27 plants in the world, in real time, 24 hours a day, 365 days a year."⁷

30. The production chief for a Hyundai plant in Alabama noted that if there is "a hiccup at any of those boards, headquarters wants to know what needs to be done about it—right now[.]"⁸

15, 2020), <https://www.epa.gov/system/files/documents/2022-09/hyundai-ghg-credit-pwm-hvac-blm-apl-2020-12-15.pdf>.

⁷ William J. Holstein, *Hyundai's Capabilities Play*, 70 *Strategy & Bus.* 62, 67–68 (Spring 2013), <https://digitaledition.strategy-business.com/publication/?m=6320&i=145911&p=70&ver=html5>.

⁸ *Id.* at 68.

1 31. Upon information and belief, KC representatives similarly monitor
2 Kia's global operations from HMC's Global Command and Control Center.

3 32. Senior executives in South Korea for HMC and KC also regularly visit
4 Hyundai and Kia plants and offices throughout the United States, including HMA's
5 and KA's California headquarters, both of which are located in this district.

6 33. The common executives for HMC and HMA frequently overlap. Jose
7 Muñoz, for example, is the current Global Chief Operating Officer of HMC and
8 serves as the President and CEO of HMA. Meanwhile, Brian Latouf serves as the
9 Global Chief Safety Officer for HMC and serves as the Chief Safety Officer of
10 HMA.

11 34. KC and KA also share executive employees. SeongKyu (Sean) Yoo
12 serves as President and CEO of KA, as well as Senior Managing Director of KC.
13 Additionally, HMC and KC have overlapping management, with Eui-Sun Chung
14 serving as the President of KC and the Executive Vice Chairman of HMC.

15 35. Last, HMC and KC control the public name and brand of HMA and
16 KA, respectively.

17 **C. Venue**

18 36. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391
19 because Defendants transact substantial business in this district. Venue is also
20 proper for HMA and KA because they are headquartered here, have research and
21 development offices here, and a substantial part of the events/omissions giving rise
22 to the claims occurred in this district.
23

III. PARTIES

A. Plaintiff

37. Plaintiff, the City of Syracuse, is a municipal corporation organized under the laws of the State of New York. The City's principal offices are located at City Hall, 233 East Washington Street, Syracuse, New York, 13202. The City is the seat of Onondaga County, New York.

38. Syracuse is one of the more populated cities in New York with 148,620 residents as of the 2020 Census.⁹

B. Defendants

1. Hyundai Motor Company

39. Defendant Hyundai Motor Company is a multinational automaker headquartered in Seoul, South Korea. HMC, together with Defendants Kia Corporation, Kia America, Inc., and Hyundai Motor America, comprise the Hyundai Motor Group, which designs, manufactures, and distributes the Susceptible Vehicles referenced in this Complaint. HMC is the parent corporation of Hyundai Motor America.

2. Hyundai Motor America

40. Defendant Hyundai Motor America is an automobile designer, manufacturer, distributor, and/or servicer of new motor vehicles under the Hyundai brand doing business within the United States. HMA is incorporated and headquartered in the State of California. HMA's principal place of business is

⁹ *Quick Facts, Syracuse city, New York*, U.S. Census Bureau, <https://www.census.gov/quickfacts/fact/table/syracusecitynewyork> (last visited Oct. 30, 2023).

1 located at 10550 Talbert Avenue, Fountain Valley, California. HMA distributes,
2 markets, leases, warrants, and oversees regulatory compliance and warranty claims
3 for Hyundai-brand vehicles through a network of over 800 dealers throughout the
4 United States from its headquarters in California. Defendant HMA engages in
5 continuous and substantial business in California.

6 **3. Kia Corporation**

7 41. Defendant Kia Corporation is a multinational automaker
8 headquartered in Seoul, South Korea. KC is the parent corporation of Kia America,
9 Inc. As of December 31, 2017, Defendant KC's largest shareholder was HMC,
10 which holds 33.88% of KC's stock.¹⁰

11 **4. Kia America, Inc.**

12 42. Defendant Kia America, Inc. is a manufacturer and distributor of new
13 motor vehicles under the Kia brand and is incorporated and headquartered in the
14 State of California. KA's principal place of business is located at 111 Peters Canyon
15 Road, Irvine, California. KA distributes, markets, leases, warrants, and oversees
16 regulatory compliance and warranty claims for Kia-brand vehicles through a
17 network of over 700 dealers throughout the United States from its headquarters in
18 California. Defendant KA engages in continuous and substantial business in
19 California.

22 ¹⁰ *The Future: Kia Motors Annual Report 2017* at 11, Kia,
23 [https://worldwide.kia.com/int/company/ir/archive/annual-
report/download/B200002757/F200012579](https://worldwide.kia.com/int/company/ir/archive/annual-report/download/B200002757/F200012579) (last visited July 25, 2023).

IV. THE KIA HYUNDAI THEFT WAVE

A. Measures to Prevent Vehicle Thefts Have Existed for over a Century

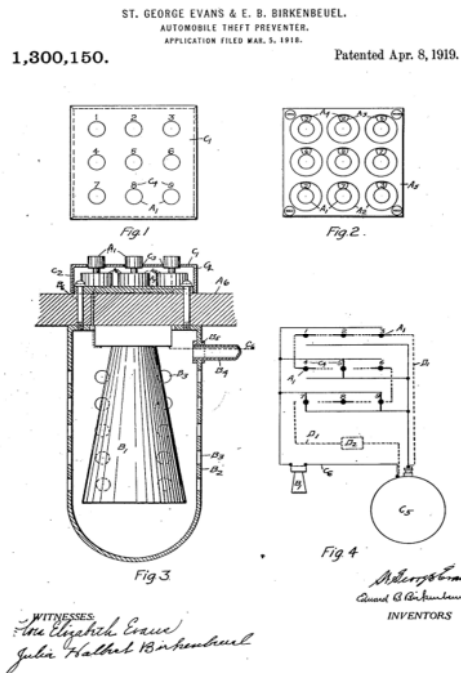
43. Since the invention of gasoline-powered automobiles at the close of the nineteenth century, consumers have needed effective ways to keep their vehicles from being stolen. Thus, efforts to prevent theft or unauthorized access to automobiles have tracked vehicle development. In 1919, St. George Evans and Edward B. Birkenbeuel invented the first electric immobilizer/vehicle security system.¹¹

44. Labeled the “Automobile-Theft Preventer” the purpose of Evans and Birkenbeuel’s invention was relatively straightforward: “to provide a means for automatically signaling an attempt to move an automobile by unauthorized persons; and to provide a means for locking the electric circuit open, in which case it will be impossible to move the car by its own power.”¹²

45. Evans and Birkenbeuel’s immobilizer/alarm system consisted of a three-by-three switch panel that connected to the car’s battery, horn, and ignition. Upon exiting his vehicle, a driver could turn a few switches on the panel to different positions that, until released, would divert electricity to the horn instead of the ignition should an unauthorized user attempt to start the vehicle.

¹¹ U.S. Patent No. 1,300,150 (issued Apr. 8, 1919).

¹² *Id.* at col. 1 ll. 14–20.



Sketches for Evans & Birkenbeuel's "Automobile Theft Preventer"¹³

46. The timing of the first immobilizer patent coincided with Congress's enactment of the National Motor Vehicle Theft Act, 18 U.S.C. § 2311 *et seq.*, which made the interstate transportation of stolen vehicles a federal crime. The law passed, in part, to respond to the growing number of automobile thefts around the country, especially in midwestern cities.

47. As time passed and technology advanced, the United States pursued further efforts to promulgate vehicle safety standards. These efforts were also fueled by the post-war rise in vehicle thefts among juveniles and young adults, “who took cars for joyriding and transportation.”¹⁴

¹³ *Id.* at figs. 1, 2, 3, 4.

¹⁴ Anthony Dixon & Graham Farrell, *Age-period-cohort effects in half a century of motor vehicle theft in the United States*, 9 Crime Sci. 17, 1, 3 (2020),

1 48. In 1966, Congress passed the National Traffic and Motor Vehicle
 2 Safety Act (the “Safety Act”), with the aim of administering new motor vehicle and
 3 traffic safety standards.¹⁵ Administration of the Safety Act was overseen by the
 4 newly created Department of Transportation through its sub-agency: the National
 5 Highway Traffic Safety Administration, f/k/a/ the National Traffic Safety Bureau
 6 (“NHTSA”).

7 49. Pursuant to its statutory authority under the Safety Act, NHTSA
 8 promulgated numerous federal motor vehicle safety standards (“FMVSS”). Among
 9 these standards, FMVSS 114¹⁶ requires minimum theft-protection standards for
 10 nearly all passenger vehicles in the United States:

11 S1. Scope. This standard specifies vehicle performance
 12 requirements intended to reduce the incident of crashes
 13 resulting from theft and accidental rollaway of motor
 vehicles.

14 S2. Purpose. The purpose of this standard is to decrease
 15 the likelihood that a vehicle is stolen, or accidentally set in
 motion.

16 S3. Application. This standard applies to all passenger
 17 cars, and to trucks and multipurpose passenger vehicles
 18 with GVWR of 4,536 kilograms (10,000 pounds) or less.

19 ...

S5.1 Theft Protection.

20 [https://crimesciencejournal.biomedcentral.com/articles/10.1186/s40163-020-](https://crimesciencejournal.biomedcentral.com/articles/10.1186/s40163-020-00126-5)
 21 [00126-5](https://crimesciencejournal.biomedcentral.com/articles/10.1186/s40163-020-00126-5).

22 ¹⁵ National Traffic and Motor Vehicle Safety Act, Pub. L. 89–563, 80 Stat. 718
 (1966).

23 ¹⁶ Standard No. 114; Theft protection and rollaway prevention, 49 C.F.R.
 § 571.114 (2010) (“FMVSS 114”).

1 S5.1.1 Each vehicle must have a starting system which,
 2 whenever the key is removed from the starting system
 3 prevents:

- 4 (a) The normal activation of the vehicle's engine or
 5 motor; and
- 6 (b) Either steering, or forward self-mobility, of the
 7 vehicle, or both.

8 . . .

9 S5.2.2 Except as specified in S5.2.4, the vehicle must be
 10 designed such that the transmission or gear selection
 11 control cannot move from the "park" position, unless the
 12 key is in the starting system.¹⁷

13 50. The main motivation for creating FMVSS 114 was NHTSA's
 14 recognition "that stolen cars constitute a major hazard to life and limb on the
 15 highways. The evidence shows that cars operated by unauthorized persons are far
 16 more likely to cause unreasonable risk of accident, personal injury, and death than
 17 those which are driven by authorized individuals."¹⁸

18 51. As early as 1966, studies showed "there were an estimated 94,000
 19 stolen cars involved in accidents"—with "18,000 of these accidents result[ing] in
 20 injury to one or more people."¹⁹ Accordingly, NHTSA recognized that "a reduction
 21 of the incidence of auto theft would make a substantial contribution to motor vehicle
 22 safety" and "protect the many innocent members of the public who are killed and
 23 injured by stolen cars each year."²⁰ To address this safety risk, which is largely tied

¹⁷ *Id.*

¹⁸ Motor Vehicle Safety Standard No. 114; Theft Protection; Passenger Cars, 33
 Fed. Reg. 83, 6,471 (Apr. 27, 1968), <https://www.govinfo.gov/content/pkg/FR-1968-04-27/pdf/FR-1968-04-27.pdf#page=1>.

¹⁹ *Id.*

²⁰ *Id.*

1 to “car thieves who could bypass the ignition lock . . . the agency decided to require
2 a device, which would prevent either self-mobility or steering even if the ignition
3 lock were bypassed.”²¹

4 52. An industry-standard engine immobilizer is the most effective way to
5 satisfy this requirement, “because it locks out the engine control module if an
6 attempt is made to start the vehicle without the correct key or to bypass the
7 electronic ignition system.”²² Defendants’ choice not to use this industry-standard
8 anti-theft technology predictably led to rampant car thefts and resulted in a threat to
9 public safety and an ongoing public nuisance.

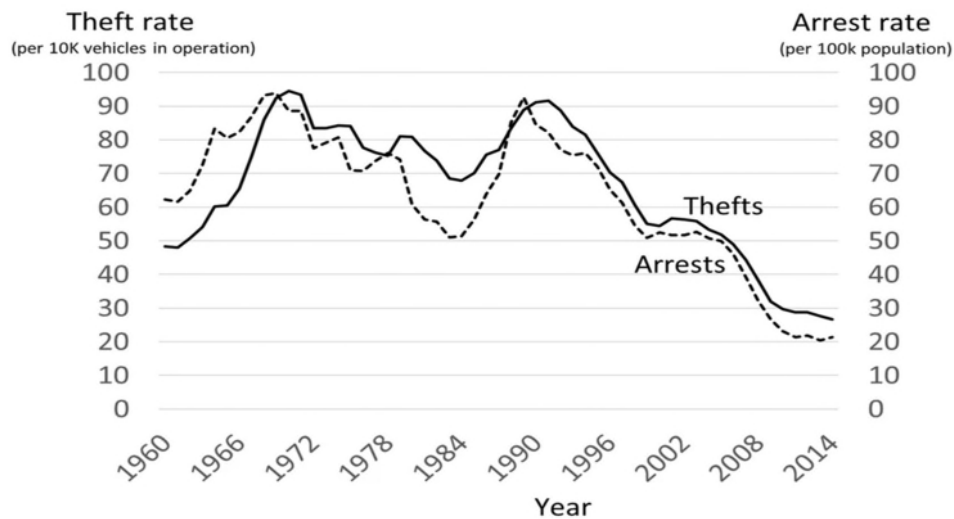
10 53. In the late 1980s and early 1990s, vehicle theft increased dramatically
11 in the United States.²³ The most common method for stealing a car involved
12 bypassing the motor’s ignition switch, otherwise known as “hotwiring.” The graph
13 below illustrates the dramatic rise in car thefts during this time period.²⁴

15 ²¹ Federal Motor Vehicle Safety Standards; Theft Protection, 71 Fed. Reg. 17,753
16 (Apr. 7, 2006), <https://www.govinfo.gov/content/pkg/FR-2006-04-07/pdf/06-3358.pdf>; *see also* Motor Vehicle Safety Standard No. 114; Theft Protection;
17 Passenger Cars, 33 Fed. Reg. 83, 6,471 (Apr. 27, 1968),
18 <https://www.govinfo.gov/content/pkg/FR-1968-04-27/pdf/FR-1968-04-27.pdf#page=1>.

19 ²² Jacqueline Glassman, *Interpretation ID: GF005229-2*, NHTSA (Sept. 24, 2004),
20 <https://www.nhtsa.gov/interpretations/gf005229-2#:~:text=This%20responds%20to%20your%20letter,114%2C%20Theft%20Protection>.

21 ²³ Anthony Dixon & Graham Farrell, *Age-period-cohort effects in half a century of*
22 *motor vehicle theft in the United States*, 9 Crime Sci. 17, 1, 3 (2020),
23 <https://crimesciencejournal.biomedcentral.com/articles/10.1186/s40163-020-00126-5>.

²⁴ *Id.* at fig. 1.



Vehicle thefts per 10,000 vehicles in operation, and vehicle theft arrests per 100,000 population, 1960-2014

54. In a precursor to the contemporary crisis, in the late 1980's to early 1990's, General Motors cars were stolen at elevated rates due to the relative ease with which a thief could bypass the ignition lock.²⁵ The ease with which those cars could be stolen spurred a trend of youths—some as young as ten years old—engaging in automobile theft and joyriding.²⁶

55. In the years that followed, General Motors, and nearly all other automotive manufacturers, adopted the anti-theft technology of passive vehicle immobilizers for cars distributed to the American market, which were patented in

²⁵ See Tim Farley, *Thieves Put GM Models At Top of List*, The Oklahoman, (Sept. 11, 1988, 12:00 AM), <https://www.oklahoman.com/story/news/1988/09/11/thieves-put-gm-models-at-top-of-list/62639884007/>.

²⁶ See Stephen Buckley, *D.C. Police Report Increase in Car Thefts by Youngsters*, Wash. Post (Feb. 1, 1990), <https://www.washingtonpost.com/archive/politics/1990/02/01/dc-police-report-increase-in-car-thefts-by-youngsters/fa2c16c0-55a9-4866-8514-8f8e4abfdcf7/>.

1 1993.²⁷ Unlike Evans and Birkenbeuel’s invention nearly 75 years prior, the vehicle
2 immobilizer would render the engine operable only “if the correct key having coded
3 information is used[,]” rather than relying on concealed switches or memorizing
4 keypad combinations.²⁸

5 56. In essence, the vehicle immobilizers of the 1990s worked by checking
6 the “fingerprint” of a car key based on electronic codes the key sends to the vehicle.
7 They prevented hotwiring by ensuring that a car would not start if the key was not
8 present—whether or not the ignition switch was turned or bypassed.

9 57. Although the mechanism behind the vehicle immobilizer was more
10 intricate than the original 1919 invention, the overall purpose remained the same:
11 “to make the vehicle more difficult to steal.”²⁹

12 58. The invention proved successful and, less than five years later, the
13 European Union mandated that all new passenger cars from 1998 onward be
14 equipped with an electronic engine immobilizer.³⁰ Similar mandates soon followed
15 in Australia, New Zealand, and Canada.

16 59. As engine immobilizers became the industry standard among
17 manufacturers, at least one study in the Netherlands suggested that immobilizers
18
19

20 ²⁷ Int’l Patent Publication No. WO 93/13968 (filed Jan. 7, 1993).

21 ²⁸ *Id.*

22 ²⁹ *Id.*

23 ³⁰ Commission Directive 95/56/EC, 1995 O.J. (L286) 1 (amending Council
Directive 74/61/EEC to require the installation of immobilizers and alarm
systems in motor vehicles beginning in October 1998).

1 “lowered the overall rate of car theft on average by about 40 percent during
2 1995-2008.”³¹

3 60. By 2011, studies concluded “that good quality electronic immobilizers
4 [have] bec[o]me car theft’s killer technology” and proved to be 32.7% “more
5 effective in reducing car theft than alarms” and 42.2% “more effective than central
6 locking.”³²

7 61. Equally critical, academic studies support the proposition that “[f]rom
8 the early 1990s onwards, it gradually became less easy for adolescents to begin
9 offending as an increasing proportion of vehicles became secure” because the
10 “young offenders did not have the skill or experience to overcome the new vehicle
11 security technology, particularly electronic immobilizers.”³³ As the rate of young
12
13

14 ³¹ Jan C. van Ours & Ben Vollaard, *The Engine Immobiliser: A Non-Starter for*
15 *Car Thieves*, TILEC Discussion Paper No. 2013-001, SSRN (Jan. 14, 2013),
16 <https://deliverypdf.ssrn.com/delivery.php?ID=127087120097029119078084107081001030022041017031027078099093024106009075127118002030001121005122042126107027087095100026018070046034013064088076022067085110020010058066038090085019017108089031127069111086113121096030001027069090090007106081078030084&EXT=pdf&INDEX=TRUE>.

18 ³² Graham Farrell *et al.*, *The Crime Drop and the Security Hypothesis*, 48(2) J. Res.
19 Crime & Delinq. 147, 163, 169 (2011),
20 https://www.researchgate.net/profile/Graham-Farrell/publication/255589010_The_Crime_Drop_and_the_Security_Hypothesis/links/54f3b8300cf299c8d9e537d9/The-Crime-Drop-and-the-Security-Hypothesis.pdf.

21 ³³ Anthony Dixon & Graham Farrell, *Age-period-cohort effects in half a century of*
22 *motor vehicle theft in the United States*, 9 Crime Sci. 17, 1, 7 (2020),
23 <https://crimesciencejournal.biomedcentral.com/articles/10.1186/s40163-020-00126-5>.

1 offenders decreased due to improved vehicle security, “fewer adolescents” went on
2 to experience “criminal career onset and continuance.”³⁴

3 **B. Hyundai and Kia Deviated from the Industry Standard by**
4 **Electing Not to Include Immobilizers in the Susceptible Vehicles**

5 62. Studies by the Highway Loss Data Institute (“HLDI”) showed “that
6 vehicle theft losses decreased significantly after factory-installed passive
7 immobilizing antitheft devices were introduced.”³⁵ Specifically, HLDI studies
8 between 1996 and 2013 all showed decreases in theft losses for vehicles with engine
9 immobilizers studied in those years, including General Motors, BMW, Ford, and
10 Nissan.³⁶ A 2013 HLDI study “found that thieves were sometimes targeting the
11 older model years of a vehicle series without immobilizers, such as the Honda Civic
12 and Honda Accord.”³⁷

13 63. Despite decades of research and findings that immobilizers
14 significantly reduced vehicle theft and the consequential public safety risks, “only
15 26 percent of Hyundai and Kia” 2015 vehicle models had “passive immobilizers as
16 standard equipment, compared with 96 percent of other manufacturers.”³⁸

17
18 ³⁴ *Id.*; see also Graham Farrell, *Forty years of declining burglary in the United*
19 *States: Explanation and evidence relating to the security hypothesis*, 35 Sec. J.
20 444, 458 (2022) <https://link.springer.com/article/10.1057/s41284-021-00284-4>
(arguing that “making crime more difficult to commit may be the most effective
way to reduce juvenile crime and progression to adult crime”).

21 ³⁵ *Hyundai and Kia theft losses*, 38 HLDI Bull. 28, 1 (Dec. 2021),
22 https://www.iihs.org/media/0e14ba17-a3c2-4375-8e66-081df9101ed2/opm7QA/HLDI%20Research/Bulletins/hldi_bulletin_38-28.pdf.

23 ³⁶ *Id.* at 2.

³⁷ *Id.*

³⁸ *Id.* at 5.

1 64. The low percentage of Hyundai and Kia vehicles with immobilizers is
2 especially concerning given that, during this same time period, Hyundai and Kia
3 were installing immobilizers in their models for sale in the European and Canadian
4 markets.³⁹

5 65. Defendants are not unfamiliar with the benefits of installing
6 immobilizers in the American market. A NHTSA standard separate from FMVSS
7 114 requires automobile manufacturers to label parts to reduce the demand for
8 stolen cars and chop shops (where stolen cars are disassembled so that their valuable
9 parts can be sold).⁴⁰ Manufacturers can apply for exemptions from this labeling
10 requirement based on the inclusion of anti-theft technology, because vehicles with
11 anti-theft technology are much harder to steal in the first place and thus much less
12 likely to be “chopped” for parts. In March of 2007, Hyundai requested an exemption
13 from the labeling requirement for its 2008 Hyundai Azera line based on its inclusion
14 of an immobilizer in that model. Thus, Hyundai recognized the efficacy of
15 immobilizers in reducing vehicle theft.⁴¹

16 ³⁹ Hyundai first began exporting its cars to parts of Europe, the United Kingdom,
17 and Canada between 1978 and 1984. *See Over 50 years of progress: the history of*
18 *Hyundai*, Hyundai Newsroom (Apr. 6, 2019),
19 [https://www.hyundai.news/eu/articles/press-releases/over-50-years-of-progress-](https://www.hyundai.news/eu/articles/press-releases/over-50-years-of-progress-the-history-of-hyundai.html)
20 [the-history-of-hyundai.html](https://www.hyundai.news/eu/articles/press-releases/over-50-years-of-progress-the-history-of-hyundai.html). Similarly, Kia vehicles were introduced into
21 European and Canadian markets in the 1990s.

22 ⁴⁰ Requirements for passenger motor vehicles, 49 C.F.R. § 541.5 (June 1, 2011).

23 ⁴¹ Petition for Exemption From the Vehicle Theft Prevention Standard; Hyundai-
Kia America Technical Center, Inc., 72 Fed. Reg. 39,661 (July 19, 2007),
<https://www.govinfo.gov/content/pkg/FR-2007-07-19/pdf/FR-2007-07-19.pdf>;
see also Petition for Exemption From the Vehicle Theft Prevention Standard;
Hyundai-Kia America Technical Center, Inc., 75 Fed. Reg. 1,447 (Jan. 11, 2010),
<https://www.govinfo.gov/content/pkg/FR-2010-01-11/pdf/2010-236.pdf> (NHTSA

66. Yet, despite knowing the unquestionable benefit of engine immobilizers, Hyundai and Kia offered immobilizers only in a few more expensive models, like the Azera, until the last year or so. Their decisions have compounded the harms to low-income communities.⁴² Consumers without resources to afford these higher end models are more likely to live in areas with higher crime rates and are likely less able to pay for alternative transportation or for the cost of repairing a recovered, but damaged, vehicle or replacing the same after a theft.

67. In September 2022, HLDI found that Hyundais and Kias are stolen at nearly twice the rate of other vehicles in the automobile industry. Specifically, “Hyundais and Kias without immobilizers had a vehicle theft claim rate of 2.18 per 1,000 insured vehicle years” while the remainder of the industry, *combined*, had a theft claim rate of 1.21.⁴³

68. Defendants’ decision not to install the simple and highly effective immobilizer or other reasonable anti-theft measure in the Susceptible Vehicles between 2011 and 2022, in contrast to the vast majority of car manufacturers that did choose to install immobilizers in nearly all of their vehicles, has, foreseeably, led to the epidemic plaguing Plaintiff.

notice granting an identical exemption for the Kia Amanti vehicle line beginning in model year 2009 based on Defendant Kia’s representation that the immobilizer installation for that specific model should substantially reduce theft rates).

⁴² Tom Krisher, *Thieves key on hack that leaves Hyundai, Kia cars vulnerable*, AP News (Sept. 21, 2022, 10:21 PM), <https://apnews.com/article/social-media-milwaukee-theft-eed3be407c1b7cb725ae607b8d86bcdf> (noting that “[m]any of the vulnerable Hyundais and Kias are often bought by lower-income people” because, as stated by HLDI Senior VP Matt Moore, those cars “are relatively inexpensive vehicles when purchased new”).

⁴³ *Id.* (“An insured vehicle year is equal to one vehicle insured for one year.”).

C. The Lack of Industry Standard Anti-Theft Devices in Most Hyundai and Kia Vehicles Has Led to a Wave of Thefts

69. Kia and Hyundai chose to flout the industry standard and sell their vehicles without any reasonable anti-theft measures, which made those vehicles more susceptible to theft. As would-be car thieves learned of this susceptibility, the incidence of theft for Susceptible Vehicles increased, relative to other models, from 2015 to 2020.⁴⁴

70. However, this progression became an explosion in late 2020, when a group of teenagers began posting “how-to” videos detailing how simple it was to steal Susceptible Vehicles.⁴⁵ That group, the “Kia Boyz,” became notorious for posting videos of youth engaging in reckless driving after stealing Kias and

⁴⁴ See *NICB’s Hot Wheels: America’s 10 Most Stolen Vehicles*, NICB (Aug. 1, 2016), <https://www.nicb.org/sites/files/2017-11/2015-Hot-Wheels-Report.pdf>; *NICB’s Hot Wheels: America’s 10 Most Stolen Vehicles*, NICB (July 12, 2017), <https://www.nicb.org/sites/files/2017-11/2016-Hot-Wheels-Report.pdf>; *2017 Hot Wheels Report*, NICB (Sept. 18, 2018), <https://www.nicb.org/news/news-releases/2017-hot-wheels-report>; *NICB’s Hot Wheels: America’s 10 Most Stolen Vehicles*, NICB (Nov. 19, 2019), <https://www.nicb.org/sites/files/2020-01/2018%20Hot%20Wheels%20Report.pdf>; *NICB’s Hot Wheels: America’s Top Ten Most Stolen Vehicles*, NICB (Oct. 13, 2020), <https://www.nicb.org/HotWheels2019>; and *NICB Releases Annual ‘Hot Wheels’ Report: America’s Top Ten Most Stolen Vehicles*, NICB (Oct. 12, 2021), <https://www.nicb.org/news/news-releases/nicb-releases-annual-hot-wheels-report-americas-top-ten-most-stolen-vehicles>.

⁴⁵ Greg Rosalsky, *Someone stole my truck. I got a crash course on the wild black market for stolen cars*, NPR (Aug. 23, 2022, 6:30 AM), <https://www.npr.org/sections/money/2022/08/23/1118457271/someone-stole-my-truck-i-got-a-crash-course-on-the-wild-black-market-for-stolen->

1 Hyundais.⁴⁶ As the videos detailed, a thief need only break a window, remove the
2 plastic cowl under the steering column, and use a USB connector (such as the
3 ubiquitous mobile phone charging cable) to turn the ignition switch and start these
4 unsecure cars. In many instances, thieves can break into the Susceptible Vehicles
5 and drive away in under one minute.

6 71. What followed the trending documentation of the unsecure Susceptible
7 Vehicles was all too predictable: thefts of Kias and Hyundais skyrocketed.⁴⁷ In the
8 first half of 2021, the number of stolen Kias and Hyundais in Milwaukee increased
9 by more than thirty and fifteen times, respectively, when compared to the same
10 period in 2020.⁴⁸ This dramatic increase was unique to Kias and Hyundais, which
11 represented 67% of all cars stolen in that period, compared to only 6% of stolen
12 cars in 2019.⁴⁹ This trend then spread nationwide.

15 ⁴⁶ Chris DiLella & Andrea Day, *TikTok challenge spurs rise in thefts of Kia,*
16 *Hyundai cars*, CNBC (Sept. 9, 2022, 9:11 PM),
17 <https://www.cnbc.com/2022/09/08/tiktok-challenge-spurs-rise-in-thefts-of-kia-hyundai-cars.html>.

18 ⁴⁷ *Videos Show Teens How to Steal Certain Kias and Hyundais With Only a USB*
19 *Cable, Police Warn Amid Rising Thefts*, Inside Edition (Aug. 10, 2022, 1:51 PM),
20 <https://www.insideedition.com/videos-show-teens-how-to-steal-certain-kias-and-hyundais-with-only-a-usb-cable-police-warn-amid>.

21 ⁴⁸ Sean Tucker, *Milwaukee Police Report Hyundais, Kias Stolen in Record*
22 *Numbers*, Kelley Blue Book (Dec. 14, 2021, 5:27 PM), <https://www.kbb.com/car-news/milwaukee-police-report-hyundais-kias-stolen-in-record-numbers/>.

23 ⁴⁹ Matt Posky, *Summer of Theft Creating Bad Publicity for Hyundai, Kia*, Truth
About Cars (Sept. 20, 2022 2:36 PM),
<https://www.thetruthaboutcars.com/cars/kia/summer-of-theft-creating-bad-publicity-for-hyundai-kia-44496971>.

1 **D. Car Thefts Imperil Public Safety**

2 72. Car thefts directly imperil public safety. By creating, facilitating,
3 and/or otherwise contributing to a rash of car thefts, Defendants are responsible for
4 a substantial risk to the public safety.

5 73. NHTSA promulgated FMVSS 114 to reduce the instances of car theft,
6 because “stolen cars constitute a major hazard to life and limb on the highways.”⁵⁰
7 NHTSA concluded that the “evidence shows that cars operated by unauthorized
8 persons are far more likely to cause unreasonable risk of accident, personal injury,
9 and death than those which are driven by authorized individuals.”⁵¹ The NHTSA
10 Administrator concluded that “a reduction in the incidence of auto theft would make
11 a substantial contribution to motor vehicle safety,” by reducing both injuries and
12 deaths to would-be car thieves, and by “protect[ing] the many innocent members of
13 the public who are killed and injured by stolen cars each year.”⁵²

14 74. The reverse is true as well. An *increase* in the incidence of automobile
15 theft results in a substantial decrease in public safety. Defendants’ decision not to
16 equip their vehicles with reasonable anti-theft measures, such as an immobilizer,
17 has led to a clear rise in automobile thefts, and the concomitant threats to public
18 safety. Stolen cars are often driven recklessly—particularly in this case, where cars
19 are stolen for joyriding or use in the commission of other crimes, rather than for
20

21 ⁵⁰ See Motor Vehicle Safety Standard No. 114; Theft Protection; Passenger Cars,
22 33 Fed. Reg. 6,471 (Apr. 27, 1968), <https://www.govinfo.gov/content/pkg/FR-1968-04-27/pdf/FR-1968-04-27.pdf#page=1>.

23 ⁵¹ *Id.*

⁵² *Id.*

1 parts or resale—which poses a risk to both the operators of the stolen vehicle and
2 any lawful drivers or pedestrians who are unfortunate enough to cross their paths.

3 75. By contributing to a rash of car thefts, Defendants are responsible for
4 a substantial risk to public safety.

5 76. Reckless driving impacts the comfortable enjoyment of life, health,
6 and safety of others. Distinct from many instances of car theft, where the object is
7 converting the stolen vehicle (either whole or in parts), the recent wave of Hyundai
8 and Kia thefts often involves teenagers joyriding, posting videos of themselves
9 driving recklessly, and then abandoning the stolen vehicles—often after
10 collisions—at all hours of the day and night.

11 77. Social media platforms are rife with examples of this dangerous
12 conduct. Videos posted on these platforms highlight the very real dangers of this
13 phenomenon, including youth joyriding through school zones or through crowds of
14 bystanders, and drivers hitting other cars and then running from the scene.⁵³ The
15 fact that many of the perpetrators are juveniles and therefore inexperienced
16 drivers—in many cases, too young to have a driver’s license or permit—adds to the
17 danger.

18
19 ⁵³ See, e.g., @mixtapetrappers_, Instagram (Oct. 19, 2021),
20 [https://www.instagram.com/p/CVNhig9D64B/?utm%20medium=copy%20link](https://www.instagram.com/p/CVNhig9D64B/?utm%20medium=copy%20link;);
21 @monloww_, TikTok (Oct. 10, 2022),
22 https://www.tiktok.com/@monloww_/video/7153012228067773738;
23 @414hypehouse, Instagram (Aug. 19, 2021),
<https://www.instagram.com/p/CSwsnhfAktd/>; @414hypehouse, Instagram (Sept.
10, 2021), <https://www.instagram.com/p/CTqCaYTANaC/>; @414hypehouse,
Instagram (Oct. 20, 2021), <https://www.instagram.com/p/CVRCCu5AkwT/>.

78. Police officers responding to vehicle thefts and other crimes stemming from those same thefts also face serious safety threats. In Cleveland, officers have been shot,⁵⁴ shot at,⁵⁵ and stabbed⁵⁶ when responding to and/or encountering a Hyundai or Kia theft incident. In Tonawanda, a police officer stopped a driver in a stolen Kia Sportage SUV and was dragged and “thrown onto the road” when the driver of the stolen Kia attempted to flee.⁵⁷ The officer was badly injured and subsequently hospitalized.⁵⁸

79. A substantial risk to public safety also arises in the event that the would-be thief is confronted in the act. In January 2023, a Cleveland man followed a Hyundai Sonata that struck his car mirror and did not stop. The driver and

⁵⁴ Julia Bingel, *Cleveland police issue warrant for 17-year-old boy accused of shooting officer (body camera video)*, 19 News (Mar. 30, 2023, 8:51 AM), <https://www.cleveland19.com/2023/03/30/cleveland-police-issue-warrant-17-year-old-male-accused-shooting-officer/>.

⁵⁵ Ed Gallek & Peggy Gallek, *Thieves getting bolder: Police threatened, taunted, and shot by suspects in stolen KIAs*, Fox 8 (Mar. 20, 2023, 4:52 PM), <https://fox8.com/news/i-team/thieves-getting-bolder-police-threatened-taunted-and-shot-by-suspects-in-stolen-kias/>.

⁵⁶ Ed Gallek & Peggy Gallek, *Cleveland police officer stabbed in head with screwdriver*, Fox 8 (June 12, 2023, 2:12 PM), <https://fox8.com/news/cleveland-police-officer-stabbed-in-head-with-screwdriver/>; see also John H. Tucker, *Suspect charged in screwdriver assault on off-duty Cleveland police officer*, Cleveland.com (June 15, 2023, 4:34 PM), <https://www.cleveland.com/crime/2023/06/suspect-charged-in-screwdriver-assault-on-off-duty-cleveland-police-officer.html>.

⁵⁷ Stephen T. Watson, *Tonawanda officer badly injured when dragged by stolen vehicle is released from ECMC*, Buffalo News (June 5, 2023), https://buffalonews.com/news/local/crime-and-courts/tonawanda-officer-badly-injured-when-dragged-by-stolen-vehicle-is-released-from-ecmc/article_4768ae48-03d4-11ee-8593-4322704cd734.html#tracking-source=article-related-bottom.

⁵⁸ *Id.*

1 passenger of the Hyundai got out of the vehicle with guns and began shooting at
2 him.⁵⁹ Police found nine bullet casings in the street and bullet holes in the front
3 window of a nearby home and in a car parked on the street.⁶⁰ About one hour later,
4 the same Hyundai, which had been reported stolen days earlier, was involved in a
5 drive-by shooting.⁶¹

6 80. Car thefts and reckless driving also create a substantial risk of physical
7 harm to pedestrian bystanders. On February 8, 2023, a stolen Hyundai involved in
8 a high-speed chase in Baltimore crashed into another car and a 54-year-old
9 pedestrian.⁶² Both cars careened into a nearby building, which collapsed on top of
10 the vehicles and the pedestrian, as depicted in the image below.⁶³ The pedestrian
11 was pronounced dead at the scene, and five occupants of the two cars were injured.⁶⁴

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17 ⁵⁹ Cory Shaffer, *Teens Lodge stolen Hyundai in Burger King drive-thru on two*
18 *wheels after owner confronts them*, Cleveland.com (Feb. 3, 2023, 5:03 PM),
19 [https://www.cleveland.com/court-justice/2023/02/teens-lodge-stolen-hyundai-in-](https://www.cleveland.com/court-justice/2023/02/teens-lodge-stolen-hyundai-in-burger-king-drive-thru-on-two-wheels-after-owner-confronts-them.html)
20 [burger-king-drive-thru-on-two-wheels-after-owner-confronts-them.html](https://www.cleveland.com/court-justice/2023/02/teens-lodge-stolen-hyundai-in-burger-king-drive-thru-on-two-wheels-after-owner-confronts-them.html).

21 ⁶⁰ *Id.*

22 ⁶¹ *Id.*

23 ⁶² Dan Belson, *Footage shows fatal crash into Baltimore building, collapse*
following police pursuit of stolen car, Balt. Sun (Mar. 2, 2023, 8:29 PM),
[https://www.baltimoresun.com/news/crime/bs-md-ci-cr-oag-crash-collapse-](https://www.baltimoresun.com/news/crime/bs-md-ci-cr-oag-crash-collapse-footage-20230303-rbd6j3tokfhkjduh3oktmo6ow4-story.html)
[footage-20230303-rbd6j3tokfhkjduh3oktmo6ow4-story.html](https://www.baltimoresun.com/news/crime/bs-md-ci-cr-oag-crash-collapse-footage-20230303-rbd6j3tokfhkjduh3oktmo6ow4-story.html)
[<https://perma.cc/6UHA-S9GT>].

⁶³ *Id.*

⁶⁴ *Id.*



81. This risk was also tragically demonstrated in Columbus, Ohio, when a 4-year-old was killed in a hit-and-run involving a stolen Kia.⁶⁵

E. Car Thefts Drain Public Resources and Frustrate Public Policy

82. Plaintiff has expended significant time and resources responding to this public nuisance.

83. Additionally, the police and emergency resources Plaintiff has been forced to divert to respond to these thefts leaves fewer resources for combatting other crimes and enhancing community safety.⁶⁶

⁶⁵ Carly D'Eon, *Man wanted in fatal hit-and-run of 4-year-old boy turns himself in*, 10 WBNS (July 24, 2023, 6:04 AM), <https://www.10tv.com/article/news/local/arrest-warrant-issued-for-man-allegedly-connected-to-fatal-hit-skip-south-franklinton/530-a8ab887d-8c43-48ea-8b4d-91ed5531a351>.

⁶⁶ John Roman *et al.*, *Cost-Benefit Analysis for Crime Prevention: Opportunity Costs, Routine Savings and Crime Externalities*, 14 Crime Prevention Stud. 53–92 (Jan. 2002), https://www.researchgate.net/publication/28575336_Cost-

84. As a result of the skyrocketing rates of theft of Hyundai and Kia vehicles nationwide, some insurance companies are refusing to write policies for certain Hyundai and Kia models in major cities, thereby increasing the potential number of uninsured motorists on the road.⁶⁷

V. THE CONTINUING PUBLIC NUISANCE AND DEFENDANTS' LATE, INSUFFICIENT RESPONSE

85. The rampant thefts of Hyundai and Kia vehicles are still impacting municipalities nationwide, including Plaintiff, years after the rise in thefts of the

[Benefit Analysis for Crime Prevention Opportunity Costs Routine Savings and Crime Externalities.](#)

⁶⁷ Peter Valdes-Dapena, *Some auto insurers are refusing to cover certain Hyundai and Kia models*, CNN (Jan. 28, 2023, 3:06 PM), <https://www.cnn.com/2023/01/27/business/progressive-state-farm-hyundai-kia/index.html>; see also Robert Higgs, *Progressive, State Farm halt new car insurance policies for high theft models of Kia and Hyundai*, Cleveland.com (Jan. 31, 2023, 1:06 PM), <https://www.cleveland.com/business/2023/01/progressive-state-farm-halt-new-car-insurance-policies-for-high-theft-models-of-kia-and-hyundai.html>; see also Joe Hernandez, *Dealers still sell Hyundais and Kias vulnerable to theft, but insurance is hard to get*, NPR (May 4, 2023, 5:00 AM), <https://www.npr.org/2023/05/04/1173048646/hyundai-kia-car-theft-tiktok-insurance-dealerships> (discussing how “a dozen” insurance companies denied coverage for the new owner of 2020 Kia Forte).

1 Susceptible Vehicles first began.⁶⁸

2 86. Data from the Council on Criminal Justice shows that between 2019
3 and 2023 motor vehicle theft has increased an average of 104% across 30 cities in
4 the United States.⁶⁹

5 87. Defendants' responses to the crises that they have created show they
6 continue to prioritize profits over safety. Defendants have refused to implement a
7 recall to install engine immobilizers in the Susceptible Vehicles, initially only
8 suggesting that owners of Susceptible Vehicles use wheel locks and, for some
9 municipalities, offering wheel locks for them to distribute.⁷⁰ Unfortunately, the
10 wheel locks are not entirely effective; Susceptible Vehicles with wheel locks in use
11 have still been stolen and, in some instances, used in connection with other crimes,
12 including shootings.⁷¹ In addition, municipalities are not set up to distribute
13 automotive parts to residents.

14 ⁶⁸ Tom Krisher, *Hyundai and Kia thefts keep rising despite security fix*, AP News
15 (May 9, 2023, 7:40 AM), <https://apnews.com/article/hyundai-kia-tiktok-theft-stolen-8e0a353d24be0e7bce36e34c5e4dac51>.

16 ⁶⁹ Ernesto Lopez *et al.*, *Crime Trends in U.S. Cities: Mid-Year 2023 Update*,
17 Council Crim. Just. (July 2023), <https://counciloncj.org/mid-year-2023-crime-trends/>.

18 ⁷⁰ Elliot Hughes, *Kia, Hyundai will make security feature standard on new vehicles*
19 *and distribute free steering wheel locks after surge of thefts*, Milwaukee J.
20 Sentinel (July 19, 2021, 10:16 AM), <https://www.jsonline.com/story/news/crime/2021/07/19/kia-hyundai-handing-out-free-steering-wheel-locks-through-end-year/7963950002/>.

21 ⁷¹ Ashley Sears, *Milwaukee woman's Kia stolen twice, had steering wheel lock*,
22 FOX 6 News Milwaukee (Sept. 28, 2021), <https://www.fox6now.com/news/milwaukee-womans-kia-stolen-twice>; see also
23 David Rose, *'B****, I swear, b****, I'm gonna crack your phone:' Drive-by shooting suspect says to Tacoma woman*, FOX 13 Seattle (Jan. 25, 2023), <https://www.q13fox.com/news/b-i-swear-b-im-gonna-crack-your-phone-drive-by->

1 88. More recently, Hyundai and Kia have begun rolling out a “software
2 update” rather than installing immobilizers.⁷² As highlighted in the multistate letter
3 sent on behalf of 18 Attorneys General, Hyundai acknowledged that some of the
4 affected vehicles cannot be updated, and Kia “confirmed that some unspecified
5 number of affected vehicles cannot receive the updates.”⁷³

6 89. As acknowledged in the motion for preliminary approval of the class
7 action settlement in the instant litigation, only 6.9 million of the approximately 9
8 million Susceptible Vehicles are even eligible for the update.⁷⁴

9 90. In the three months immediately following Kia’s and Hyundai’s
10 release of the software update, data gathered from the Associated Press showed
11

12 [shooting-suspect-says-to-tacoma-woman](#); and *Boy, 15, fighting for his life after*
13 *shooting involving stolen Kia in Minneapolis*, CBS News Minnesota (Apr. 6,
14 2023), [https://www.cbsnews.com/minnesota/video/boy-15-fighting-for-his-life-](https://www.cbsnews.com/minnesota/video/boy-15-fighting-for-his-life-after-shooting-involving-stolen-kia-in-minneapolis/)
15 [after-shooting-involving-stolen-kia-in-minneapolis/](https://www.cbsnews.com/minnesota/video/boy-15-fighting-for-his-life-after-shooting-involving-stolen-kia-in-minneapolis/).

16 ⁷² *Hyundai and Kia Launch Service Campaign to Prevent Theft of Millions of*
17 *Vehicles Targeted by Social Media Challenge*, NHTSA (Feb. 14, 2023),
18 [https://www.nhtsa.gov/press-releases/hyundai-kia-campaign-prevent-vehicle-](https://www.nhtsa.gov/press-releases/hyundai-kia-campaign-prevent-vehicle-theft)
19 [theft](https://www.nhtsa.gov/press-releases/hyundai-kia-campaign-prevent-vehicle-theft).

20 ⁷³ Letter from Attorneys General to Ann Carlson, Acting Administrator of the
21 National Highway Traffic Safety Administration (“Letter from Attorneys General
22 to NHTSA”) at 6 (Apr. 20, 2023), [https://oag.dc.gov/sites/default/files/2023-](https://oag.dc.gov/sites/default/files/2023-04/AG%20Multistate%20Letter%20to%20NHTSA%204.20.2023%20%281%29.pdf)
23 [04/AG%20Multistate%20Letter%20to%20NHTSA%204.20.2023%20%281%29.](https://oag.dc.gov/sites/default/files/2023-04/AG%20Multistate%20Letter%20to%20NHTSA%204.20.2023%20%281%29.pdf)
[pdf](https://oag.dc.gov/sites/default/files/2023-04/AG%20Multistate%20Letter%20to%20NHTSA%204.20.2023%20%281%29.pdf).

⁷⁴ Consumer Class Pls.’ Amended Notice Mot. & Renewed Mot. for Prelim.
Approval of Class Action Settlement at 15, *In Re: Kia Hyundai Vehicle Theft*
Marketing, Sales Practices, and Products Liability Litigation, 8:22-ml-03052-
JVS-KES (C.D. Cal. Sept. 27, 2023), Dkt. No. 228; *see also* Carly Schaffner, *Kia,*
Hyundai anti-theft software fixes a work in progress, Auto. News (June 2, 2023,
8:00 AM), [https://www.autonews.com/regulation-safety/kia-hyundai-antitheft-](https://www.autonews.com/regulation-safety/kia-hyundai-antitheft-software-fix-needs-fixes)
[software-fix-needs-fixes](https://www.autonews.com/regulation-safety/kia-hyundai-antitheft-software-fix-needs-fixes) [<https://perma.cc/HGH7-ZHZF>] (noting that Defendants
estimate “there are 9 million affected vehicles between them on the road”).

1 “that the number of Hyundai and Kia thefts is still growing[.]”⁷⁵ The software
 2 update has not stopped the nuisance that the Susceptible Vehicles created and the
 3 expenses that Plaintiff has incurred and continues to incur.

4 91. The update’s efficacy has not been proven in the real world. There
 5 have been numerous reports of Kia and Hyundai vehicles being stolen after
 6 receiving the software update, and Kia and Hyundai have identified scenarios where
 7 the software logic fails.⁷⁶ For vehicles not covered by the update, Defendants are
 8 offering nothing more than steering wheel locks, or rebates for already purchased
 9 wheel locks.⁷⁷ As noted by multiple Attorneys General, steering wheel locks “still
 10 would not correct the underlying safety flaw . . . and . . . would impermissibly shift
 11 the responsibility for fixing this problem from the company to the individual vehicle
 12 owners.”⁷⁸

13 92. In addition, upon information and belief, the software update can
 14 significantly inconvenience the drivers of the Susceptible Vehicles, making them
 15

16 ⁷⁵ See Tom Krisher, *Hyundai and Kia thefts keep rising despite security fix*, AP
 17 News (May 9, 2023, 7:40 AM), [https://apnews.com/article/hyundai-kia-tiktok-
 theft-stolen-8e0a353d24be0e7bce36e34c5e4dac51](https://apnews.com/article/hyundai-kia-tiktok-theft-stolen-8e0a353d24be0e7bce36e34c5e4dac51).

18 ⁷⁶ Carly Shaffner, *Kia, Hyundai anti-theft software fixes a work in progress*, Auto.
 19 News (June 2, 2023, 8:00 AM), [https://www.autonews.com/regulation-safety/kia-
 hyundai-antitheft-software-fix-needs-fixes](https://www.autonews.com/regulation-safety/kia-hyundai-antitheft-software-fix-needs-fixes) [<https://perma.cc/HGH7-ZHZF>]
 20 (discussing a February 2023 service bulletin issued from Kia to its dealers
 21 regarding a software compatibility issue for Kia vehicles equipped with remote
 22 start accessories; another bulletin issued from Kia in late-May of 2023
 23 acknowledged that “the problem has not been remedied”).

⁷⁷ See Zac Palmer, *Hyundai launches software update to fix some of 4 million
 vehicles at risk of theft*, Yahoo! (Feb. 14, 2023),
<https://autos.yahoo.com/hyundai-launches-software-fix-4-155800221.html>.

⁷⁸ Letter from Attorneys General to NHTSA at 6.

1 less likely to seek it out. Rather than install an actual immobilizer, the software
 2 update doubles the length of the vehicles' theft alarm sound and adds a new logic
 3 check to the vehicles' onboard computers that is intended to prevent the Engine
 4 Control Unit from allowing the engine to start and run if the key fob is not used to
 5 unlock the doors. This update will interfere with the usability of the Susceptible
 6 Vehicles in many everyday situations.

7 93. As noted by the Attorneys General in their letter dated April 20, 2023,
 8 there are at least two other significant issues with the software update. First, "not
 9 all eligible vehicles can receive the updates immediately"—approximately two
 10 million vehicles with the "starting system flaw" are still awaiting eligibility for the
 11 update.⁷⁹ Meanwhile, these vehicles "will remain on the road, vulnerable to theft
 12 and posing a threat to public safety."⁸⁰ Second, Defendants' "voluntary service
 13 campaign" does not prompt certain "regulatory requirements and oversight and
 14 instead places additional burdens on individual vehicle owners."⁸¹

15 94. Owners of the Susceptible Vehicles have already experienced issues
 16 where the software update—which requires the car to be unlocked using the fob
 17 before starting, failing which the alarm will sound—conflicts with after-market

18 ⁷⁹ *Id.* at 6–7. Additionally, media outlets report that customers are "having a
 19 difficult time getting through" to customer service representatives for Hyundai
 20 and Kia to inquire about the software update and their vehicle's eligibility. *See*
 21 *Hyundai, Kia owners frustrated by customer call center wait times to get security*
 22 *upgrade*, WHIO TV 7 (Feb. 16, 2023, 8:47 PM),
 23 <https://www.whio.com/news/crime-and-law/hyundai-kia-owners-frustrated-by-customer-call-center-wait-times-get-security-update/SXRBN3OTHVC37OLC3735Y755ZU/>.

⁸⁰ Letter from Attorneys General to NHTSA at 7.

⁸¹ *Id.*

1 remote start systems that they had installed, rendering the vehicles functionally
2 inoperable. As one owner recently posted: “I have the update. I also have an
3 aftermarket remote start. The remote start will set off my car alarm. You can turn
4 the alarm off, but it will beep periodically and the headlights flash until you turn the
5 vehicle off.”⁸²

6 95. There can be no doubt that communities nationwide are suffering
7 harmful downstream consequences because of business decisions Hyundai and Kia
8 made not to include reasonable anti-theft measures, such as immobilizer
9 technology, in certain vehicles. And as local governments have experienced
10 nationwide when vaping products and drugs have unleashed widespread harms
11 affecting public health and safety, local communities are left paying the price for
12 businesses’ decisions to boost their profits.

13 96. Prior to this software update, Hyundai turned this crisis of its own
14 making into a source of revenue, selling security kits for \$170, plus the cost of
15 installation.⁸³ Defendants could have, and should have, initially included a fob-
16 integrated engine immobilizer, consistent with the industry standard. Even after the
17 cars were sold, Defendants could have implemented a mandatory recall. Instead,
18 Hyundai chose to make money from a crime wave it caused.

19 ⁸² u/fungiinterezt, *Hyundai and Kia release software update to prevent TikTok*
20 *thefts*, Reddit (Feb. 15, 2023, 7:05 AM),
21 [https://www.reddit.com/r/kia/comments/11303m4/hyundai_and_kia_release_softw
are_update_to/](https://www.reddit.com/r/kia/comments/11303m4/hyundai_and_kia_release_softw_are_update_to/).

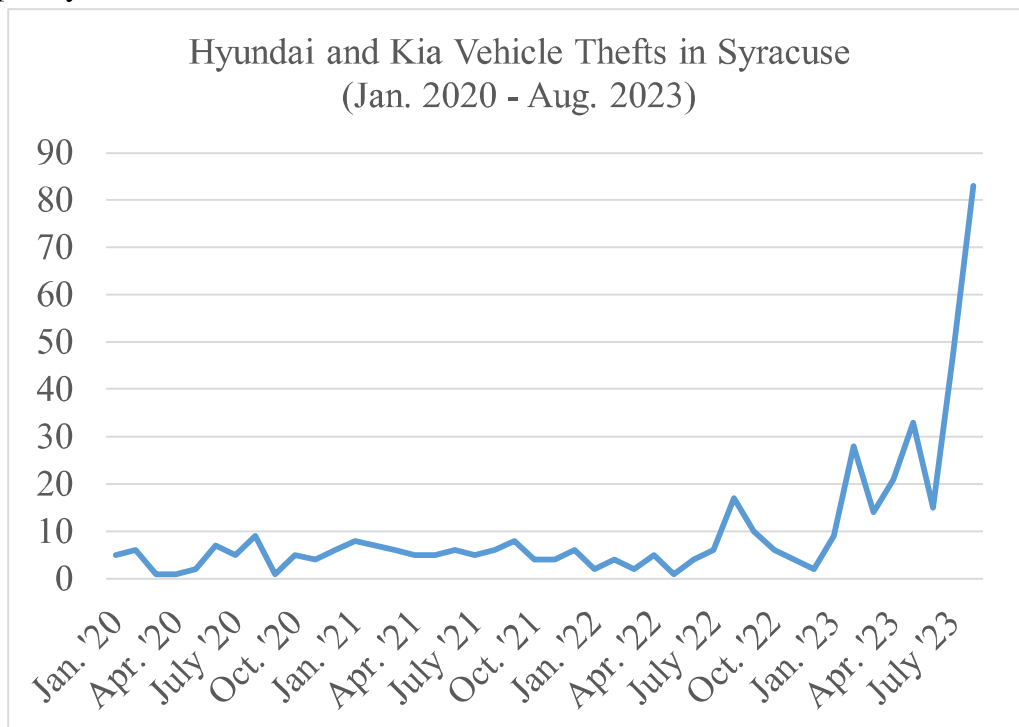
22 ⁸³ Taryn Phaneuf, *Own a Kia or Hyundai? Here’s Why Your Insurance Rates*
23 *Could Go Up*, Nerd Wallet (Jan. 26, 2023, 1:31 PM),
<https://www.nerdwallet.com/article/insurance/kia-hyundai-theft>.

97. Because Hyundai and Kia have not implemented a mandatory recall for the installation of immobilizers, millions of the Susceptible Vehicles remain on the road. A recent report from CARFAX found that 4.9 million Hyundais and Kias remain susceptible to theft.⁸⁴

98. By failing to equip their vehicles with reasonable anti-theft measures, such as the industry-standard engine immobilizer, Defendants have elected profits over safety and created a public nuisance that continues to this day.

VI. IMPACTS ON PLAINTIFF

99. Syracuse has experienced skyrocketing rates of Hyundai and Kia vehicle thefts, with thefts increasing slightly in August of 2022 and then exploding in the past year.



⁸⁴ Patrick Olsen, *Nearly 5 Million Hyundai and Kia Models Need Anti-Theft Repairs*, CARFAX Blog (July 19, 2023), <https://www.carfax.com/blog/kia-hyundai-theft-repairs>.

1 100. From January through August of 2023, Syracuse recorded 250 thefts
2 of Hyundai and Kia vehicles—a 510% increase from the 41 stolen Hyundais and
3 Kias reported for January to August of 2022, and a 421% increase from the 48 stolen
4 in the same period in 2021.

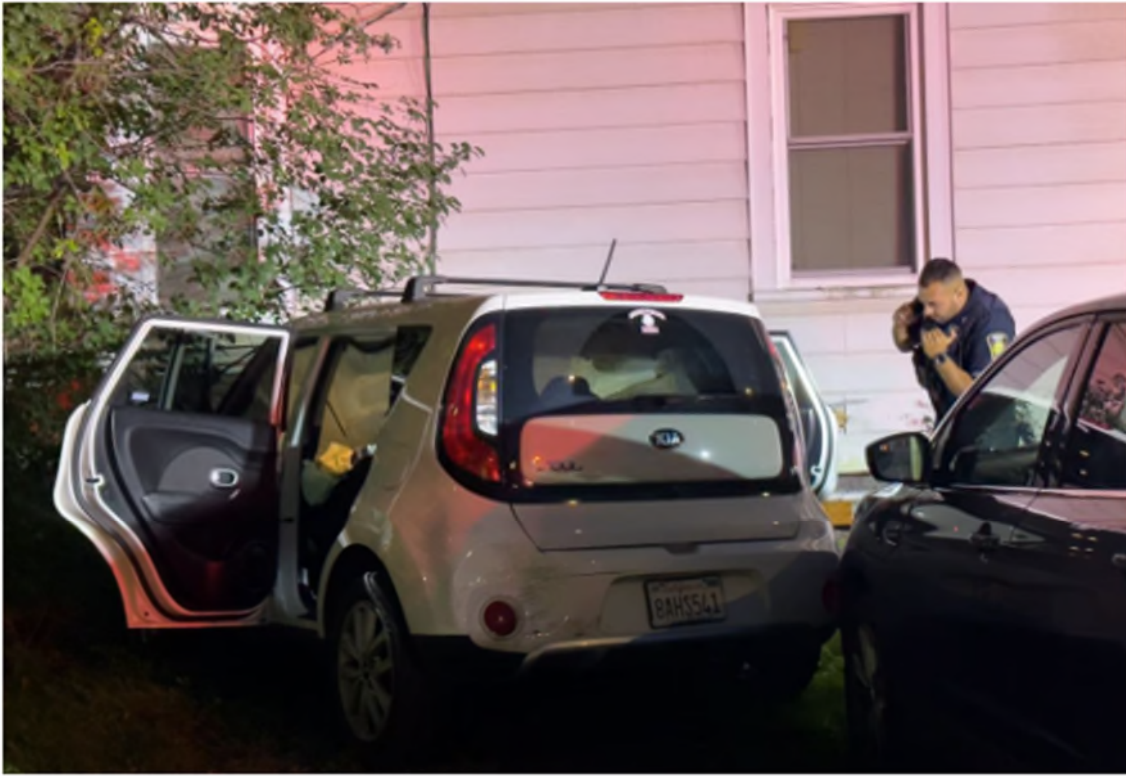
5 101. From 2020 to 2022, Hyundais and Kias accounted for approximately
6 9% to 11% of all vehicle thefts in Syracuse. In contrast, Hyundais and Kias have
7 accounted for approximately 43% of all motor vehicle thefts in Syracuse between
8 January 1 and August 31, 2023.

9 102. During the same timeframe this year, Hyundai and Kia vehicles have
10 also accounted for **83%** of attempted vehicle thefts.

11 103. The high rate of thefts has also led to increased threats to public safety.
12 On September 19, 2023, Syracuse police pursued a stolen Kia Soul after a 911 call
13 reported that a gunshot was fired from the Kia.⁸⁵ The car ultimately crashed into a
14 home on Midland Avenue.⁸⁶

21 ⁸⁵ Fernando Alba & Darian Stevenson, *Teens crash stolen Kia into home in*
22 *Syracuse, police say*, Syracuse.com (Sept. 19, 2023, 7:21 PM),
23 <https://www.syracuse.com/crime/2023/09/teens-crash-stolen-kia-into-home-in-syracuse-police-say.html>.

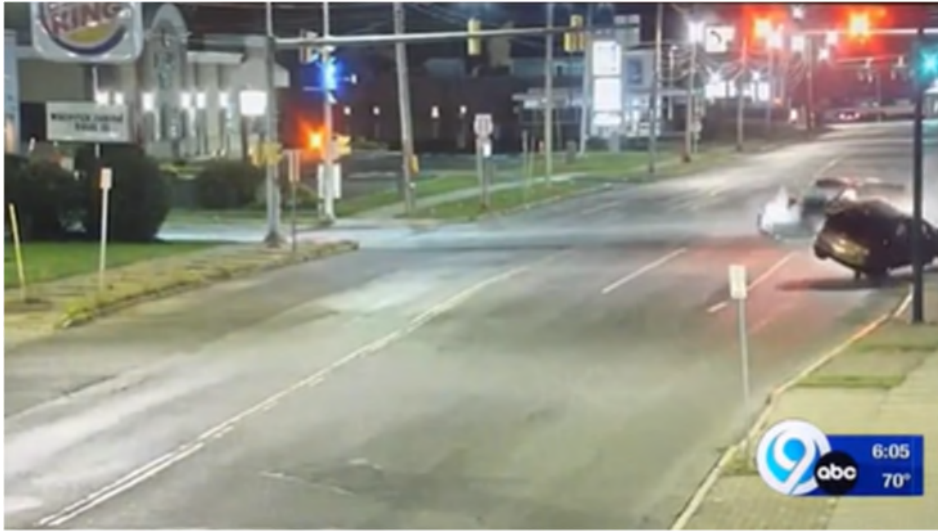
⁸⁶ *Id.*



104. Stolen Kias and Hyundais have also been linked to other crashes in and around Syracuse. On September 3, 2023, video footage from a local Syracuse car dealership captured a stolen Kia Sportage colliding with another vehicle in the middle of an intersection.⁸⁷ Seven individuals fled the stolen Kia Sportage, a five-passenger car.⁸⁸

⁸⁷ Christie Casciano & Megan Hatch, *Local business calls on lawmakers to stop car thefts in Syracuse*, Localsyr.com (Sept. 11, 2023, 7:23 PM), <https://www.localsyr.com/on-the-lookout-2/local-business-calls-on-lawmakers-to-stop-car-thefts-in-syracuse/>.

⁸⁸ *Id.*



105. As thefts of Hyundais and Kias continue to skyrocket, Syracuse community members have banded together to strategize on where to safely park their Hyundai or Kia vehicles so that their family can visit the zoo without fear of their car being stolen.⁸⁹

106. The rise of Hyundai and Kia theft incidents has caused Syracuse law enforcement officers to spend more of their time responding to such incidents. Between January and August of 2023, the Syracuse Police Department spent nearly 500 hours responding to calls reporting stolen Hyundais and Kias which is more than the total time spent responding to thefts of the same vehicles for 2020 through 2022 *combined*. This work, while critical, necessarily diverts officer time from other important duties, such as policing streets to deter crime and responding to and investigating other crimes, not to mention the time other bureaus and agencies spend

⁸⁹ @feminursej, Reddit (Sept. 4, 2023, 6:03 AM), https://www.reddit.com/r/Syracuse/comments/169rgcy/what_is_kiahyundai_situation_in_syracuse/.

1 investigating and prosecuting these thefts and crimes committed with these stolen
2 vehicles.

3 107. Moreover, “longitudinal studies of delinquency and crime have
4 repeatedly documented a strong link between past and future behavior.”⁹⁰ “Across
5 multiple data sources collected at different time periods and throughout the world,
6 a consistent finding indicates that antisocial and deviant behavior that emerges early
7 in the life course tends to continue into childhood, adolescence, and adulthood[.]”⁹¹
8 The point, to put it bluntly, is that these Susceptible Vehicles can set juveniles down
9 a path of crime.

10 VII. CAUSES OF ACTION

11 COUNT ONE — COMMON LAW PUBLIC NUISANCE

12 108. Plaintiff incorporates each preceding paragraph as though fully set
13 forth herein.

14 109. Defendants, through designing, manufacturing, and distributing of
15 automobiles that are dangerously susceptible to theft, have created, contributed to,
16 and maintained a public nuisance that substantially interferes with rights common
17 to the general public.

18 110. A public nuisance “consists of conduct or omissions which offend,
19 interfere with or cause damage to the public in the exercise of rights common to all,
20

21 ⁹⁰ See Mark A. Cohen & Alex R. Piquero, *New Evidence on the Monetary Value of*
22 *Saving a High Risk Youth*, 25(1) J. Quantitative Criminology, 25–49 (2009),
23 https://www.researchgate.net/publication/225637886_New_Evidence_on_the_Monetary_Value_of_Saving_a_High_Risk_Youth.

⁹¹ *Id.*

1 in a manner such as to offend public morals, interfere with use by the public of a
2 public place or endanger or injure the property, health, safety or comfort of a
3 considerable number of persons.” *Copart Indus., Inc. v. Consol. Edison Co. of N.Y.*
4 *Inc.*, 362 N.E.2d 968, 971 (1977) (internal citations omitted).

5 111. Defendants’ conduct has interfered, and continues to interfere, with the
6 use of public streets in Syracuse, and has endangered the safety, health, and comfort
7 of the general public in the City.

8 112. In addition, Defendants’ conduct has undermined law enforcement
9 efforts to deter vehicle theft and has otherwise diverted scarce law enforcement
10 resources.

11 113. At all relevant times, Defendants have been the manufacturers,
12 marketers, and/or distributors of the Susceptible Vehicles being stolen at record
13 rates that are, at times, being used in the commission of violent crimes in Syracuse
14 and the State of New York.

15 114. At all times relevant to this litigation, Defendants knew or had reason
16 to know of the hazards and dangers of failing to equip the Susceptible Vehicles with
17 reasonable anti-theft measures, such as engine immobilizers, and specifically, the
18 increased risk of vehicle theft and public harm. Defendants knew or had reason to
19 know that the installation of engine immobilizers successfully decreased the rate of
20 car theft by as much as 40%. Defendants also knew or had reason to know that the
21 installation of immobilizers in their own vehicles has considerable deterrent effects
22 on the rate of car theft.
23

1 115. Defendants know that their conduct has caused an increase in vehicle
2 theft that has had and will continue to have a detrimental effect on the safety,
3 welfare, peace, comfort, and convenience of the general public in the City.

4 116. Defendants, through their business practices, contribute to a significant
5 increase in vehicle theft, reckless driving, and the use of their vehicles in the
6 commission of other crimes in Syracuse, thus endangering the safety and health of
7 considerable numbers of Syracuse residents, depriving Syracuse residents of the
8 peaceful use of the public streets and sidewalks, undermining law enforcement
9 efforts, increasing law enforcement costs, diverting law enforcement resources
10 from, for example, policing streets to deter crime and responding to and
11 investigating other crimes, to name a few, and interfering with commerce, travel,
12 and the quality of daily life in Syracuse.

13 117. Accordingly, each Defendant has substantially interfered, and
14 continues to substantially interfere, with rights common to all and causes,
15 contributes to, and/or maintains a public nuisance in Syracuse.

16 118. As a result of Defendants' conduct, the City has suffered and will
17 continue to suffer economic damages, including significant expenditures for police
18 and other services. The City will continue to incur economic damages until the
19 nuisance is abated. These damages are particular to the City and are different in
20 kind to the harms suffered by New York residents at large.

21 119. The misconduct alleged in this case does not concern a discrete event
22 or discrete emergency of the sort a political subdivision would reasonably expect to
23 occur and is not part of the normal and expected costs of a local government's

1 existence. The City alleges wrongful acts which are neither discrete nor of the sort
2 a local government can reasonably expect to occur.

3 120. The City of Syracuse has incurred, and will continue to incur,
4 expenditures over and above its ordinary public services due to the public nuisance
5 created by Defendants' actions.

6 121. Plaintiff requests an order providing for abatement of the public
7 nuisance that Defendants have created or assisted in the creation of, compensation
8 for the economic damages suffered as a result of the nuisance, and injunctive relief.

9 **COUNT TWO — NEGLIGENCE**

10 122. Plaintiff incorporates each preceding paragraph as though set forth
11 fully herein.

12 123. At all times relevant to this litigation, Defendants had a duty to act as
13 a reasonably careful person would act under the circumstances in the design,
14 research, manufacture, and distribution of Defendants' products, including the duty
15 to take all reasonable steps necessary to prevent the manufacture and/or sale of a
16 product that was so easy to steal.

17 124. Defendants owed and continue to owe the City a duty not to expose
18 the City to an unreasonable risk of harm.

19 125. At all times relevant to this litigation, Defendants knew or, in the
20 exercise of reasonable care, should have known of the hazards and dangers of
21 failing to equip the Susceptible Vehicles with reasonable anti-theft measures, such
22 as engine immobilizers, and specifically, the increased risk of vehicle theft and
23 public harm.

1 126. Accordingly, at all times relevant to this litigation, Defendants knew
2 or, in the exercise of reasonable care, should have known that the omission of such
3 reasonable anti-theft measures in the Susceptible Vehicles could cause the City's
4 injuries and thus create a dangerous and unreasonable risk of injury to the City.
5 Defendants were therefore in the best position to protect the City against the
6 foreseeable rise in the theft of Hyundai and Kia vehicles.

7 127. At all times relevant to this litigation, Defendants knew or had reason
8 to know that the omission of reasonable anti-theft measures, such as engine
9 immobilizers, in the Susceptible Vehicles could cause the City's injuries.

10 128. Defendants, by action and inaction, breached their duty and failed to
11 exercise reasonable care, and failed to act as a reasonably prudent person and/or
12 company would act under the same circumstances in the design, research,
13 development, manufacture, testing, and distribution of the Susceptible Vehicles, in
14 that Defendants manufactured and produced vehicles that fell below the standards
15 for reasonable anti-theft measures.

16 129. Defendants are in control of the design, research, manufacture, testing,
17 and distribution of the vehicles they distributed to authorized dealerships in
18 Syracuse.

19 130. Defendants knew and/or should have known that it was foreseeable
20 that Syracuse would suffer injuries as a result of Defendants' failure to exercise
21 reasonable care in the manufacturing and sale of Defendants' vehicles, particularly
22 given Defendants' recognition as early as 2007 that engine immobilizers were an
23 effective deterrent in preventing vehicle theft.

1 131. Defendants were negligent in failing to monitor and guard against
2 third-party misconduct and enabled such misconduct.

3 132. Defendants acted unreasonably in light of the foreseeable result of
4 their conduct, and Defendants' negligence helped to and did produce, and was a
5 factual and proximate cause, of the injuries, harm, and economic damages that
6 Syracuse suffered and will continue to suffer.

7 133. Defendants' acts and omissions imposed an unreasonable risk of harm
8 to others separately and/or combined with the negligent and/or criminal acts of third
9 parties.

10 134. Plaintiff's injuries, harms, and economic damages would not have
11 occurred absent Defendants' negligent conduct as described herein.

12 135. As a proximate result of Defendants' wrongful acts and omissions,
13 Syracuse has been injured and suffered economic damages and will continue to
14 incur expenses in the future, as described herein, including but not limited to
15 expending, diverting, and increasing resources to retrieve stolen cars, provide
16 emergency medical services, and/or address property damage on public roads in the
17 City's community.

18 136. Defendants engaged in conduct, as described above, that constituted
19 reckless disregard of the safety and health of the City's residents, being fully aware
20 of the probable dangerous consequences of the conduct and deliberately failing to
21 avoid those consequences.

22 137. The conduct constituting reckless and conscious disregard for public
23 safety was committed and/or authorized by one or more officers, directors, or

1 managing agents of Defendants, who acted on behalf of Defendants. Additionally,
2 or in the alternative, one or more officers, directors or managing agents of
3 Defendants knew of the conduct constituting reckless disregard for public safety
4 and adopted or approved that conduct after it occurred.

5 138. The misconduct alleged in this case does not concern a discrete event
6 or discrete emergency of the sort a political subdivision would reasonably expect to
7 occur and is not part of the normal and expected costs of a local government's
8 existence. Plaintiff alleges wrongful acts which are neither discrete nor of the sort
9 a local government can reasonably expect to occur.

10 139. Plaintiff has incurred, and will continue to incur, expenditures over and
11 above its ordinary public services due to the negligence caused by Defendants'
12 actions.

13 140. The tortious conduct of each Defendant was a substantial factor in
14 producing harm to Plaintiff.

15 141. Defendants' conduct was not only negligent, but also willful, knowing,
16 and reckless, constituting reckless disregard of Plaintiff's rights and the rights of
17 Plaintiff's citizens, including the right to public safety, and therefore warrants an
18 award of aggravated or punitive damages.

19 142. Plaintiff is without fault and injuries to the City of Syracuse and its
20 residents would not have occurred in the ordinary course of events had Defendants
21 used due care commensurate to the dangers involved in the manufacturing and
22 distribution of their vehicles.
23

VIII. PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for a judgment:

143. Entering an Order that the conduct alleged herein constitutes a public nuisance under New York law;

144. Entering an Order that Defendants are jointly and severally liable;

145. Entering an Order requiring Defendants to abate the public nuisance described herein and to deter and/or prevent the resumption of such nuisance;

146. Enjoining Defendants from engaging in further actions causing or contributing to the public nuisance as described herein;

147. Awarding Plaintiff equitable relief to fund automobile theft prevention;

148. Awarding Plaintiff actual and compensatory damages;

149. Awarding Plaintiff punitive damages;

150. Awarding Plaintiff reasonable attorneys' fees and costs of suit;

151. Awarding pre-judgment and post-judgment interest; and

152. Awarding Plaintiff with such other and further relief as the Court deems just and proper under the circumstances.

IX. DEMAND FOR JURY TRIAL

153. Plaintiff hereby demands a trial by jury.

RESPECTFULLY SUBMITTED this 1ST DAY OF NOVEMBER, 2023.

1 CITY OF SYRACUSE

2 By /s/ Susan R. Katzoff

3 Susan R. Katzoff (*pro hac vice*
4 *forthcoming*)

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By /s/ Dean Kawamoto

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