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8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF WISCONSIN
10 MILWAUKEE DIVISION

11 CITY OF MILWAUKEE,

12 Plaintiff,

13 v.

14 HYUNDAI MOTOR AMERICA, and KIA
15 AMERICA, INC.,

16 Defendants.

No. 2:23-cv-376

COMPLAINT

JURY TRIAL DEMANDED

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COMPLAINT - i

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I. INTRODUCTION

1. There is an inextricable link between preventing vehicle theft and protecting public safety. Making sure cars are not easy to steal both protects property and protects the public by keeping dangerous drivers in stolen vehicles off the roads. This case is a clear example of what happens to public safety when car manufacturers cannot be bothered to include standard anti-theft technology in their cars.

2. The days of “hotwiring” cars with nothing more than a screwdriver are largely over: in most cars, the ignition key emits a radio signal that prompts a computer to disengage an immobilizer device and allows the car to move when the key is present. But recent Hyundai and Kia models are a glaring exception.

3. Between 2011 and 2021, long after other carmakers adopted immobilizer technology that ensured car ignitions could not be started without their keys, Hyundai and Kia failed to keep up with the times. As a result, TikTok and news videos teaching the relative ease with which Hyundai and Kia vehicles can be stolen have gone viral. In many cases, thieves use tools no more advanced than a USB cable. Hyundai’s and Kia’s business decisions to reduce costs, and thereby boost profits, by foregoing common anti-theft technology have resulted in an epidemic of thefts in Milwaukee and other cities. This vehicular crime wave has had a significant impact on law enforcement operations, emergency services, and public safety, particularly in the City of Milwaukee, where the police department is under considerable staffing stress.

4. In the 1960s and 1970s, all that was needed for a successful vehicle heist was a little brute force (to crack open the ignition column) and a key-shaped object to start the car and drive off within seconds. Thanks to modern technology, this is no longer the case for most cars. Hyundai and Kia are nearly unique among automobile manufacturers in failing to install vehicle

1 immobilizers in most of their cars. This is not because the technology is somehow beyond
2 them—in fact, Hyundai and Kia vehicles sold in the European and Canadian markets incorporate
3 vehicle immobilizers, because regulations there expressly require them. It is only in the United
4 States that Hyundai and Kia have decided to trade public safety for profits.

5
6 5. The difference between the proportion of Hyundai and Kia vehicle models with
7 immobilizers compared to all other manufacturers is staggering: only 26% of 2015-model
8 Hyundai and Kia vehicles in the U.S. had immobilizers, compared to 96% of vehicles from all
9 other manufacturers.¹

10 6. Hyundai's and Kia's decision to put cost-savings and profits over public safety
11 has had devastating consequences for the City of Milwaukee and its residents, as it has in other
12 cities. The failure of Defendants to install an industry-standard anti-theft device, notwithstanding
13 decades of academic literature and research supporting the deterrent effects of such technology,
14 has opened the floodgates to vehicle theft, crime sprees, reckless driving, and public harm.

15
16 7. This epidemic started in Milwaukee before spreading nationwide.² By June 2021,
17 the Milwaukee Police Department reported that the theft of Hyundai and Kia vehicles had
18 increased by 2,500% compared to the same time period for the previous year, with an average of
19 16 cars being stolen per day.³ By September 2021, Milwaukee police recorded over 5,100
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24 ¹ *Hyundai and Kia theft losses*, 38 HLDI BULLETIN 28 (Dec. 2021), https://www.iihs.org/media/0e14ba17-a3c2-4375-8e66-081df9101ed2/opm7QA/HLDI%20Research/Bulletins/hldi_bulletin_38-28.pdf.

25 ² Tom Krisher, *Thieves key on hack that leaves Hyundai, Kia cars vulnerable*, ASSOCIATED PRESS (Sept. 21, 2022),
<https://apnews.com/article/social-media-milwaukee-theft-ecd3be407c1b7cb725ae607b8d86bcaf>.

26 ³ James Gilboy, *News, Why Milwaukee Might Sue Hyundai, Kia Over Stolen Car Epidemic*, THEDRIVE.COM (Dec. 11, 2021, 11:15 AM), <https://www.thedrive.com/news/43454/why-milwaukee-might-sue-hyundai-kia-over-stolen-car-epidemic>.

Hyundai and Kia vehicle thefts with the two car makes comprising 68% of all cars stolen for that year.⁴



8. By the end of the year, Milwaukee had the eighth-highest motor vehicle theft rate of any United States city in 2021 and the highest overall theft rate change, with an increase of 72% from 2020 to 2021.⁵

9. More recently, Milwaukee continues to report significant thefts of Hyundai and Kia vehicles: the two car makes accounted for 58% all car thefts in 2022 and 52% of all car thefts thus far in 2023.⁶

⁴ Ben Jordan, *Local News, Hyundais and Kias make up 68% of stolen cars this year in Milwaukee*, TMJ4 (Sept. 23, 2021, 4:54 PM), <https://www.tmj4.com/news/local-news/hyundais-and-kias-make-up-68-of-stolen-cars-this-year-in-milwaukee>.

⁵ See NICB's 2021 Hot Spots Report, NATIONAL INSURANCE CRIME BUREAU ("NICB") (Sept. 1, 2022), <https://www.nicb.org/news/news-releases/nicb-report-finds-vehicle-thefts-continue-skyrocket-many-areas-us>.

⁶ Ben Jordan & Jackson Danbeck, *Project: Drive Safer, AG Kaul, Milwaukee leaders demand action from Kia/Hyundai to address thefts: 'They've been that easy to steal,'* TMJ4 (Mar. 20, 2023, 3:24 PM), <https://www.tmj4.com/news/local-news/attorneys-general-from-23-states-including-wisconsin-issue-letter-to-kia>.

1 10. Vehicle theft is not only a property crime affecting vehicle owners, but also
2 constitutes a grave threat to public safety. Vehicle theft goes hand in hand with reckless driving,
3 which in turn results in injuries and death. It results in increased violence, as many car owners
4 are unlikely to part with their vehicles willingly. It consumes scarce law enforcement and
5 emergency resources and deprives the public of safe streets and sidewalks.
6

7 11. The skyrocketing rate of theft in Milwaukee has drastically impacted city and
8 police resources. Milwaukee residents are subjected to the increasingly dangerous conditions on
9 their city streets, as car thieves (many of them teenagers) taking advantage of Hyundai's and
10 Kia's failures engage in reckless driving, endangering Milwaukee residents and their property.
11

12 12. Defendants' conduct has created a public nuisance that could have been avoided
13 had they simply followed industry-wide standards and installed immobilizer devices, or an
14 equivalent anti-theft device, in all their vehicles.

15 13. To date, Hyundai and Kia refuse to accept responsibility, forcing municipalities
16 across the country, including Milwaukee, to divert funds and risk officer safety to combat the
17 rising burden caused by increased Hyundai and Kia vehicle theft and reckless driving on city
18 streets.
19

20 **II. JURISDICTION AND VENUE**

21 14. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332(a), as the
22 amount in controversy exceeds \$75,000 and there is complete diversity between the Parties. The
23 City of Milwaukee is a municipal corporation and regarded as a citizen of the state of Wisconsin
24

25
26 [hyundai-over-rampant-car-thefts#:~:text=According%20to%20Milwaukee%20Police%2C%208%2C096,manufactured%20by%20those%20t%20wo%20automakers.](#)

COMPLAINT - 4

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1 for the purposes of diversity jurisdiction. *Bullard v. City of Cisco, Texas*, 290 U.S. 179, 187
2 (1933). Defendants are citizens of California, where they are headquartered and incorporated.

3 15. This court has specific personal jurisdiction over Defendants, as they conduct
4 substantial business in Wisconsin, purposefully availing themselves of the privilege of conduct
5 business in this State through the sale of vehicles that they distributed in this state, and the claims
6 arise out of or relate to the Defendants' contacts with Wisconsin. *See Ford Motor Co. v.*
7 *Montana Eighth Jud. Dist. Ct.*, 592 U.S. ___, 141 S. Ct. 1017, 1028 (2021).

9 16. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(2)
10 because it is a district where a substantial part of the events giving rise to the claims took place
11 and where the public nuisance exists.

12 III. PARTIES

13 A. Plaintiff

14 1. Plaintiff, the City of Milwaukee (the "City" or "Milwaukee") is a
15 municipal corporation organized and operating pursuant to the laws of the State of
16 Wisconsin, with approximately 570,000 residents. The City's principal offices are
17 located at 200 E. Wells Street, Milwaukee, Wisconsin.

18 B. Defendants

19 17. Defendant **Hyundai Motor America** ("Hyundai") is a manufacturer and
20 distributor of new motor vehicles under the Hyundai brand and is incorporated and
21 headquartered in the state of California. Its principal place of business is located at 10550 Talbert
22 Avenue, Fountain Valley, California. Hyundai distributes, markets, leases, warrants, and
23 oversees regulatory compliance and warranty servicing of Hyundai brand vehicles through a
24 network of over 800 dealers throughout the United States from its headquarters in California.

1 18. Defendant **Kia America, Inc.** (“Kia”) is a manufacturer and distributor of new
2 motor vehicles under the Kia brand and is incorporated and headquartered in the state of
3 California. Its principal place of business is located at 111 Peters Canyon Road, Irvine,
4 California. Kia markets, leases, warrants, and oversees regulatory compliance and warranty
5 servicing of Kia-brand vehicles through a network of over 700 dealers throughout the United
6 States from its headquarters in California.
7

8 **IV. THE KIA HYUNDAI THEFT WAVE**

9 **A. Without Immobilizers, Defendants’ Vehicles Are Sitting Ducks**

10 19. As described further below, Kia and Hyundai have chosen to flout the industry
11 standard of utilizing an engine immobilizer in many of their vehicles, which made those vehicles
12 more susceptible to theft. Specifically, upon information and belief, at all relevant times,
13 Defendants designed, manufactured, and distributed the following automobile models
14 (“Susceptible Vehicles”) without engine immobilizers between 2011 and 2021: Hyundai Accent,
15 Elantra, Kona, Palisade, Santa Cruz, Santa Fe, Sonata, Tucson, Veloster, and Venue; and the Kia
16 Cadenza, Forte, K900, Optima, Rio, Sedona, Seltos, Sorento, Soul, and Sportage. As would-be
17 car thieves learned of this susceptibility, the incidence of theft for susceptible models increased,
18 relative to other models, from 2015 to 2020.⁷
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21

22 ⁷ See *NICB’s Hot Wheels: America’s 10 Most Stolen Vehicles*, NICB (Aug. 1, 2016),
23 <https://www.nicb.org/sites/files/2017-11/2015-Hot-Wheels-Report.pdf>; *NICB’s Hot Wheels: America’s 10 Most*
24 *Stolen Vehicles*, NICB (July 12, 2017),
25 <https://www.nicb.org/sites/files/2017-11/2016-Hot-Wheels-Report.pdf>; *America’s 10 Most Stolen Vehicles*, NICB
26 (Sept. 18, 2018),
<https://www.nicb.org/news/news-releases/2017-hot-wheels-report>; *America’s 10 Most Stolen Vehicles*, NICB (Nov.
19, 2019), <https://www.nicb.org/sites/files/2020-01/2018%20Hot%20Wheels%20Report.pdf>; *America’s 10 Most*
Stolen Vehicles, NICB (Oct. 13, 2020), <https://www.nicb.org/HotWheels2019>; and *America’s 10 Most Stolen*
Vehicles, NICB (Oct. 12, 2021), [https://www.nicb.org/news/news-releases/nicb-releases-annual-hot-wheels-report-](https://www.nicb.org/news/news-releases/nicb-releases-annual-hot-wheels-report-america-top-ten-most-stolen-vehicles)
[americas-top-ten-most-stolen-vehicles](https://www.nicb.org/news/news-releases/nicb-releases-annual-hot-wheels-report-america-top-ten-most-stolen-vehicles).

1 20. However, this progression became an explosion in late 2020, when a group of
2 teenagers began posting “how-to” videos detailing how simple it was to steal susceptible Kias
3 and Hyundais.⁸ That group, the “Kia Boyz,” became notorious for posting videos of youth
4 engaging in reckless driving after stealing Kias and Hyundais.⁹ As the videos detailed, a thief
5 need only remove the plastic cowl under the steering column and use a USB cable to start these
6 unsecure cars.
7

8 21. What followed was all-too predictable: thefts of Kias and Hyundais
9 skyrocketed.¹⁰ In the first half of 2021, the number of stolen Kias and Hyundais increased by
10 more than 30 and 15 times, respectively, when compared to the same period in 2020 in
11 Milwaukee.¹¹ This dramatic increase was unique to Kias and Hyundais, which represented 66%
12 of all cars stolen in that period, compared to only 6% of stolen cars in 2019.¹²
13

14 22. The Milwaukee Common Council has worked to address this crisis, including in a
15 December 6, 2021 meeting of the Judiciary and Legislation Committee.¹³ At that meeting, Nick
16

17 ⁸ Greg Rosalsky, *Planet Money, Someone stole my truck. I got a crash course on the wild black market for stolen*
18 *cars*, NPR (Aug. 23, 2022, 6:30 AM), [https://www.npr.org/sections/money/2022/08/23/1118457271/someone-](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)
19 [stole-my-truck-i-got-a-crash-course-on-the-wild-black-market-for-stolen](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). **Error! Hyperlink reference not valid.**

20 ⁹ Chris DiLella & Andrea Day, *Autos, TikTok challenge spurs rise in thefts of Kia, Hyundai cars*, CNBC (Sept. 9,
21 2022, 9:11 PM), <https://www.cnbc.com/2022/09/08/tiktok-challenge-spurs-rise-in-thefts-of-kia-hyundai-cars.html>.

22 ¹⁰ *Investigative, Videos Show Teens How to Steal Certain Kias and Hyundais With Only a USB Cable, Police Warn*
23 *Amid Rising Thefts*, INSIDE EDITION (Aug. 10, 2022, 1:51 PM), [https://www.insideedition.com/videos-show-teens-](https://www.insideedition.com/videos-show-teens-how-to-steal-certain-kias-and-hyundais-with-only-a-usb-cable-police-warn-amid)
24 [how-to-steal-certain-kias-and-hyundais-with-only-a-usb-cable-police-warn-amid](https://www.insideedition.com/videos-show-teens-how-to-steal-certain-kias-and-hyundais-with-only-a-usb-cable-police-warn-amid).

25 ¹¹ Sean Tucker, *General, Milwaukee Police Report Hyundais, Kias Stolen in Record Numbers*, KELLEY BLUE BOOK
26 (Dec. 14, 2021, 5:27 PM), [https://www.kbb.com/car-news/milwaukee-police-report-hyundais-kias-stolen-in-](https://www.kbb.com/car-news/milwaukee-police-report-hyundais-kias-stolen-in-record-numbers/)
[record-numbers/](https://www.kbb.com/car-news/milwaukee-police-report-hyundais-kias-stolen-in-record-numbers/).

¹² Matt Posky, *News Blog, Summer of Theft Creating Bad Publicity for Hyundai, Kia*, THE TRUTH ABOUT CARS
(Sept. 20, 2022 2:36 PM), [https://www.thetruthaboutcars.com/cars/kia/summer-of-theft-creating-bad-publicity-for-](https://www.thetruthaboutcars.com/cars/kia/summer-of-theft-creating-bad-publicity-for-hyundai-kia-44496971)
23 [hyundai-kia-44496971](https://www.thetruthaboutcars.com/cars/kia/summer-of-theft-creating-bad-publicity-for-hyundai-kia-44496971); Jeramey Jannene, *Two-Thirds of All Milwaukee Auto Thefts Are Kia and Hyundai*
24 *Vehicles*, URBAN MILWAUKEE (July 24, 2021, 4:29 PM), [https://urbanmilwaukee.com/2021/07/24/two-thirds-of-](https://urbanmilwaukee.com/2021/07/24/two-thirds-of-all-milwaukee-auto-thefts-are-kia-and-hyundai-vehicles/)
25 [all-milwaukee-auto-thefts-are-kia-and-hyundai-vehicles/](https://urbanmilwaukee.com/2021/07/24/two-thirds-of-all-milwaukee-auto-thefts-are-kia-and-hyundai-vehicles/).

¹³ *See generally* Communication from the Milwaukee Police Department and certain car manufacturers relating to a
recent significant increase in vehicle theft: Hearing before the Judiciary & Legislation Committee for the City of
Milwaukee (Dec. 6, 2021),
26 [https://milwaukee.granicus.com/player/clip/2984?view_id=2&redirect=true&h=acd2a61fb8f2928dda0e9d8f17ad1](https://milwaukee.granicus.com/player/clip/2984?view_id=2&redirect=true&h=acd2a61fb8f2928dda0e9d8f17ad13cd)
[3cd](https://milwaukee.granicus.com/player/clip/2984?view_id=2&redirect=true&h=acd2a61fb8f2928dda0e9d8f17ad13cd).

DeSiato, then the Chief of Staff for the Milwaukee Police Department, provided a presentation on the car theft epidemic.¹⁴ Mr. DeSiato confirmed that there had indeed been a meteoric rise in auto thefts, and that “Kia and Hyundai are driving our auto theft numbers citywide.”¹⁵

23. Data presented at the committee meeting showed that nearly 6,500 Hyundais and Kias were stolen that year.

Auto Thefts by Vehicle Type				
Motor Vehicle Theft and Operating without Owners Consent (OAWOOC)				
Vehicle Type	2021	% of Total	2020	
Kia	3,290	34%	2021 YTD	
Hyundai	3,179	33%	Month	Kia Hyundai
General Motors	689	7%	January	10 14 268 242
Honda	628	7%	February	6 18 184 163
Fiat Chrysler	427	4%	March	12 15 241 256
Other/Unknown	425	4%	April	6 11 298 299
Toyota	343	4%	May	7 5 280 310
Ford	326	3%	June	5 11 317 327
Nissan	273	3%	July	8 16 377 383
Volkswagen	108	1%	August	10 10 427 403
Total	9,611	100%	September	16 23 319 284
			October	21 56 284 273
			November	110 99 295 239
			December	258 148 - -
			Total	469 426 3,290 3,179

Vehicle type data was obtained from InformaBIS Reporting and counts distinct incidents for the time period of January 1, 2020 - November 30, 2021. Totals may not sum due to more than one vehicle taken in an incident.

24. This trend, after starting in Milwaukee, has since spread nationwide, including in Cleveland, Chicago, Atlanta, Seattle, and Baltimore.¹⁶ Recently, 22 states and the District of

¹⁴ *Id.* (statement of Nick DeSiato).

¹⁵ *Id.*

¹⁶ Herb Scribner, *Economy & Business, What's behind the recent rise in car thefts*, AXIOS (Mar. 21, 2023), <https://www.axios.com/2023/03/21/tiktok-car-thefts-nationwide-rise>.

1 Columbia issued a letter to Hyundai and Kia, urging them to take accelerated action to respond
2 to the surge in car thefts.¹⁷

3 25. The susceptibility of Defendants' vehicles to theft enabled this spiraling epidemic.
4 Defendants' choice to deviate from the industry standard of utilizing engine immobilizers,
5 placing profits over people and safety, was both a proximate and but-for cause of this outbreak.
6 As a Milwaukee police sergeant described the problem, Defendants' cars are simply too easy to
7 steal.¹⁸ This presents a risk not only for property damage, but to public safety, as thieves often
8 engage in reckless driving, as well as other dangerous criminal conduct, including robbery and
9 firearm thefts. Specifically, Kias and Hyundais have been targeted by thieves seeking weapons
10 (and other valuables) that might have been left in patrons' vehicles.¹⁹

11 12 **B. Car Thefts Imperil Public Safety**

13 26. Car thefts imperil public safety. By creating a rash of car thefts, Defendants are
14 responsible for a substantial risk to the public safety.

15 27. This is the conclusion drawn by the National Highway Traffic Safety
16 Administration ("NHTSA"). Operating under what was formerly known as the National Traffic
17 Safety Bureau, NHTSA promulgated Federal Motor Vehicle Safety Standard 114 to reduce the
18 instances of car theft, because "stolen cars constitute a major hazard to life and limb on the
19
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22 ¹⁷ David Shepardson, *U.S. States urge Hyundai, Kia to do more to tackle theft risk*, REUTERS (Mar. 20, 2023, 2:51
23 PM), <https://www.reuters.com/business/autos-transportation/more-than-20-us-states-urge-korean-automakers-do-more-address-theft-prone-2023-03-20/>.

24 ¹⁸ Rebecca Klopff, *MPD: Hyundai and Kia vehicles too easy to steal, leading to spike in car thefts*, TMJ 4 (Feb. 3,
25 2021, 4:40 PM), <https://www.tmj4.com/news/local-news/mpd-hyundai-and-kia-vehicles-too-easy-to-steal-leading-to-spike-in-car-thefts>.

26 ¹⁹ In one instance, a 2017 Hyundai Sonata owned by the Department of Homeland Security was stolen in broad daylight. See Jim Piwowarczyk, *Department of Homeland Security Hyundai Stolen in Milwaukee, Contained Rifle & Body Armor*, Wisconsin Right Now (Apr. 17, 2022), <https://www.wisconsinrightnow.com/homeland-security-hyundai/>.

1 highways.”²⁰ NHTSA concluded that the “evidence shows that cars operated by unauthorized
2 persons are far more likely to cause unreasonable risk of accident, personal injury, and death
3 than those which are driven by authorized individuals.”²¹ The NHTSA Administrator concluded
4 that “a reduction in the incidence of auto theft would make a substantial contribution to motor
5 vehicle safety,” by reducing both injuries and deaths to would-be car thieves, and by
6 “protect[ing] the many innocent members of the public who are killed and injured by stolen cars
7 each year.”²²

9 28. Sadly, the reverse is true as well. An *increase* in the incidence of automobile theft
10 results in a substantial decrease in public safety. Defendants’ pursuit of profits over theft-
11 prevention led to a meteoric rise in automobile thefts, and the concomitant threats to public
12 safety. Car theft results in reckless driving, which poses a risk to both the operators of the stolen
13 vehicles and any lawful users of the public thoroughfare who are unfortunate enough to cross
14 paths.

16 29. Reckless driving threatens the comfortable enjoyment of life, health, and safety of
17 others within Milwaukee. This is particularly true with the current crime wave. In contrast to
18 many instances of car theft, where the object is converting the stolen vehicle and stolen cars are
19 delivered to a chop shop, usually under cover of night, the recent wave of Hyundai and Kia thefts
20 often involves teenagers joyriding, posting videos of themselves driving recklessly, and
21 abandoning the stolen vehicles after collisions, during busy hours of the day.

25 ²⁰ See 33 Fed. Reg. 6,471 (Apr. 27, 1968).

26 ²¹ *Id.*

²² *Id.*

30. Social media platforms like TikTok and Instagram are rife with examples of this dangerous conduct. Videos posted on these platforms highlight the very real danger from this phenomenon, including youth joyriding through school zones or even through crowds of students, and drivers hitting other cars and then running from the scene.²³

31. In 2021, nearly half of the individuals arrested for car theft in Milwaukee were 16 years old or younger.²⁴

Age	2020	2021*
16 and younger	264	518
17-25	309	347
26-35	107	134
36 and older	65	62
Total	745	1,061

32. This phenomenon has led to devastating accidents in Milwaukee. In June 2021, a 16-year-old was killed after he stole a Kia Sportage and collided with another car.²⁵ His two 12-

²³ See e.g., @mixtapetrappers_, Instagram (Oct. 19, 2021), <https://www.instagram.com/p/CVNhig9D64B/?utm%20medium=copy%20link>; @monloww_, TikTok (Oct. 10, 2022), https://www.tiktok.com/@monloww_/video/7153012228067773738; @414hypehouse, Instagram (Aug. 19, 2021), <https://www.instagram.com/p/CSwsnhfAkd/>; @414hypehouse, Instagram (Sept. 10, 2021), <https://www.instagram.com/p/CTqCaYTANaC/>; and @414hypehouse, Instagram (Oct. 20, 2021), <https://www.instagram.com/p/CVRCCu5AkWt/>.

²⁴ See Communication from the Milwaukee Police Department and certain car manufacturers relating to a recent significant increase in vehicle theft: Hearing before the Judiciary & Legislation Committee for the City of Milwaukee (Dec. 6, 2021), https://milwaukee.granicus.com/player/clip/2984?view_id=2&redirect=true&h=acd2a61fb8f2928dda0e9d8f17ad13cd.

²⁵ *Teen driving stolen car killed in head-on crash, 5 others injured*, WISN (June 16, 2021, 5:32 PM), <https://www.wisn.com/article/teen-car-theft-suspect-killed-in-head-on-crash-5-others-injured/36741640>.

1 year-old accomplices were also seriously injured, as were three passengers in the car that he
2 struck.²⁶ The images and dashcam footage of this tragedy show how the epidemic of vehicle theft
3 imperils the public.



16 33. In January 2023, five juveniles, between the ages of 13 and 15, crashed a stolen
17 Kia into another car, killing the 47-year-old passenger of the car that was hit.²⁷ The driver of the
18 car that was struck received hospital treatment for serious injuries, including a broken back and
19 bruised lung.²⁸ One of the five juveniles in the stolen car also was taken to the hospital; the other
20

23
24 ²⁶ Caroline Reinwald, *Dashcam video shows fatal crash moments after police cancel pursuit*, WISN (Oct. 13, 2021,
11:00 PM), [https://www.wisn.com/article/dashcam-video-shows-fatal-crash-moments-after-police-cancel-](https://www.wisn.com/article/dashcam-video-shows-fatal-crash-moments-after-police-cancel-pursuit/37955614)
25 [pursuit/37955614](https://www.wisn.com/article/dashcam-video-shows-fatal-crash-moments-after-police-cancel-pursuit/37955614).

26 ²⁷ Caroline Reinwald, *Milwaukee Man dies during first date after stolen car crashes into their car*, WISN, (Jan. 24,
2023, 8:31 AM), [https://www.wisn.com/article/milwaukee-man-dies-during-first-date-after-stolen-kia-crashes-](https://www.wisn.com/article/milwaukee-man-dies-during-first-date-after-stolen-kia-crashes-into-their-car/42628885)
[into-their-car/42628885](https://www.wisn.com/article/milwaukee-man-dies-during-first-date-after-stolen-kia-crashes-into-their-car/42628885).

²⁸ *Id.*

1 four were taken into custody.²⁹ Milwaukee police began chasing the stolen Kia based on its
2 match to a suspected vehicle involved in an armed robbery earlier in the day.³⁰



14 34. The surge in stolen Hyundais and Kias has also led to significant property damage
15 for Milwaukee and its local businesses. The owner of a Milwaukee auto body shop, for example,
16 described the shop's car lot as a "demolition derby" after a group of car thieves spent
17 approximately 45 minutes ramming the Kia they stole against other cars in the lot, in an attempt
18 to free it from the barriers to the lot's exit.³¹

19 35. In January 2023, two teenagers stole a Kia and crashed it into a Glendale police
20 squad car.³² The officer of the squad car was transporting a prisoner to the Milwaukee Secure
21

23 _____
24 ²⁹ *Id.*

³⁰ *Id.* (discussed during video embedded in news article at 1:01–1:20).

25 ³¹ Madalyn O'Neill, *Crime and Public Safety, Milwaukee car thieves cause 'a lot of destruction for 1 vehicle,'*
owner says, FOX 6 Now (Oct. 25, 2022), [https://www.fox6now.com/news/milwaukee-car-thieves-caused-](https://www.fox6now.com/news/milwaukee-car-thieves-caused-destruction-1-vehicle-owner-says)
26 [destruction-1-vehicle-owner-says](https://www.fox6now.com/news/milwaukee-car-thieves-caused-destruction-1-vehicle-owner-says).

³² Caroline Reinwald, *Two teenagers steal Kia, crash it into Glendale police squad car*, WISN (Jan. 17, 2023, 4:05
PM), <https://www.wisn.com/article/thieves-steal-kia-crash-it-into-glendale-police-squad-car/42526160>.

1 Detention Facility. Both the officer and the prisoner were transported to the hospital for
2 precautionary evaluations.³³ The owners of the Kia noted their car was stolen while they were
3 attending a Milwaukee Bucks game, leading the Bucks' organization to issue a statement about
4 where attendees should go for more "secure" parking.³⁴



14 36. In February 2023, a driver crashed a stolen Kia into a tree near Washington High
15 School. Several occupants of the vehicle fled the scene, and two individuals were taken into
16 custody.³⁵



³³ *Id.*

³⁴ *Id.* (discussed during video embedded in news article at 0:33–0:46).

³⁵ CBS 58 Newsroom, *Driver crashes stolen Kia into tree near Washington High School, 2 arrested*, CBS58, (Feb. 15, 2023, 1:21 PM), <https://cbs58.com/news/driver-crashes-stolen-kia-into-tree-near-washington-high-school-2-arrested>.

1 37. Milwaukee is the epicenter for the Kia/Hyundai theft epidemic,³⁶ and the
2 symptoms have manifested there with tragic results, as shown by the increase in Milwaukee's
3 traffic fatality rates. Despite a substantial reduction in traffic due to COVID-19, traffic fatalities
4 in Milwaukee increased by 50% in 2020,³⁷ and remained elevated for 2021 and 2022.³⁸ Not only
5 has Milwaukee experienced a heartbreaking surge in automobile fatalities, it has also seen record
6 high numbers of pedestrian fatalities.³⁹

7
8 38. The risk to pedestrians as a result of the Kia/Hyundai theft phenomenon was
9 tragically demonstrated in Baltimore, where a stolen Hyundai involved in a high-speed chase
10 crashed into another car and a 54-year-old pedestrian.⁴⁰ Both cars careened into a nearby
11 building, which collapsed on top of the vehicles and the pedestrian.⁴¹ The pedestrian was
12 pronounced dead at the scene, and five occupants of the two cars were injured.⁴²

19 ³⁶ Evan Casey, *Milwaukee Eighth in Nation for Vehicle Thefts*, URBAN MILWAUKEE (Sep. 16, 2022, 1:04 PM),
20 <https://urbanmilwaukee.com/2022/09/16/hd-report-milwaukee-is-the-8th-worst-city-in-the-nation-for-vehicle-thefts/>.

21 ³⁷ Bruce Murphy, *Reckless Driving a National Problem*, URBAN MILWAUKEE (Feb. 15, 2022, 1:59 PM),
22 <https://urbanmilwaukee.com/2022/02/15/back-in-the-news-reckless-driving-a-national-problem/>.

23 ³⁸ Rob Mentzer, *Wisconsin Traffic Deaths Rising*, URBAN MILWAUKEE (Feb. 25, 2022, 1:03 PM),
24 <https://urbanmilwaukee.com/2022/02/25/wisconsin-traffic-deaths-rising/#:~:text=The%20state%20ended%202021%20with,the%20time%20was%20an%20outlier.>

25 ³⁹ Ben Jordan, *Project: Drive Safer, In-Depth: Milwaukee County pedestrian fatalities reach 20-year high*, TMJ4
26 (Nov. 23, 2022, 5:42 PM), <https://www.tmj4.com/news/project-drive-safer/in-depth-milwaukee-county-pedestrian-fatalities-reach-20-year-high>.

⁴⁰ Dan Belson, *Crime, Footage shows fatal crash into Baltimore building, collapse following police pursuit of stolen car*, THE BALTIMORE SUN (Mar 2, 2023, 8:29 PM), <https://www.baltimoresun.com/news/crime/bs-md-ci-cr-oag-crash-collapse-footage-20230303-rbd6j3tokfhkjduh3oktmo6ow4-story.html>.

⁴¹ *Id.*

⁴² *Id.*



39. Because the Susceptible Vehicles are entry-level models and relatively low priced, the impact of this surge in car theft is being felt disproportionately among communities of moderate and low means.⁴³ That means this crisis has the potential to exacerbate existing disparities, as traffic fatalities are already disproportionately suffered by Black and low-income families nationwide.⁴⁴ Despite the City's attempts to address this inequity, these disparities hold true in Milwaukee, as well.⁴⁵ Thus, car thefts are not only a scourge and public nuisance, but one whose harms disproportionately fall on the City's low-income and minority communities.

⁴³ Tom Krisher, *Thieves key on hack that leaves Hyundai, Kia cars vulnerable*, ASSOCIATED PRESS (Sept. 21, 2022), <https://apnews.com/article/social-media-milwaukee-theft-eed3be407c1b7cb725ae607b8d86bcaf>.

⁴⁴ See David Leonhardt, *Morning Newsletter, Race, Class and Traffic Deaths*, THE NEW YORK TIMES (Aug. 23, 2022), <https://www.nytimes.com/2022/08/23/briefing/traffic-deaths-class-race-covid.html>.

⁴⁵ Wisconsin Watch, *Deadly Driving: Milwaukee works at overcoming state bureaucratic barriers to make urban highways safer*, MILWAUKEE INDEPENDENT (Oct. 1, 2022), <https://www.milwaukeeindependent.com/syndicated/deadly-driving-milwaukee-works-overcome-state-bureaucratic-barriers-make-urban-highways-safer/>.

1 40. With no assistance from Defendants, owners of the Susceptible Vehicles have
2 resorted to self-help, banding together to form groups to identify repeat thieves and stolen cars.⁴⁶
3 One local restaurant even directed patrons to inform the host if they drive a Hyundai or Kia so
4 they could be seated near a window to keep an eye on their car.⁴⁷
5



18 41. Whatever the benefits to theft prevention, this sort of self-help furthers the risk to
19 public safety in the event the would-be thief is confronted in the act. This was tragically
20 demonstrated in October 2021, when a woman was killed while attempting to prevent a group of
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24 ⁴⁶ Caroline Reinwald, *Council members urge Kia, Hyundai to build better anti-theft systems*, WISN12 ABC (Jun.
25 16, 2021, 10:30 PM),
<https://www.wisn.com/article/mke-common-council-members-urge-kia-hyundai-to-build-better-anti-theft-systems/36745134>.

26 ⁴⁷ CBS 58 Newsroom, *Lakefront Brewery offers guests with Kias, Hyundais closer parking due to rise in theft*, CBS 58 (Apr. 18, 2022, 6:34 PM), <https://www.cbs58.com/news/lakefront-brewery-offers-guests-with-kias-hyundais-closer-parking>.

1 four youth, all below the age of 16, from reportedly stealing a Hyundai in Wauwatosa,
2 Wisconsin, just outside of Milwaukee.⁴⁸

3 42. Further risk to public safety occurs where drivers confront thieves of Hyundai and
4 Kia vehicles for reckless driving. For example, in January 2023, a Cleveland man followed a
5 Hyundai Sonata that struck his car mirror and did not stop. The driver and passenger of the
6 Hyundai got out with guns and began shooting at him.⁴⁹ Police found nine bullet casings in the
7 street and bullet holes in the front window of a nearby home and in a car parked on the street.⁵⁰
8 About one hour later, reports indicate that the same Hyundai, which had been reported stolen
9 days earlier, was involved in a drive-by shooting.⁵¹

10 43. Milwaukee has experienced an especially high rate of Hyundai and Kia vehicle
11 thefts and has been forced to respond, incurring significant costs, including expending extra
12 police time and resources taking reports and collecting evidence, providing emergency and
13 medical services, and processing, prosecuting, and rehabilitating offenders.

14 44. In addition, the City has responded to this wave of vehicle theft with public
15 awareness campaigns and increased and targeted policing, including implementing “bait cars”
16 and a vehicle sticker program,⁵² hiring additional civilian employees within the Milwaukee
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22 ⁴⁸ Michele Fiore, *13-year-old charged as adult in deadly Wauwatosa hit-and-run*, CBS 58 (Oct. 20, 2021, 10:06
PM), <https://www.cbs58.com/news/13-year-old-charged-as-adult-in-deadly-wauwatosa-hit-and-run>.

23 ⁴⁹ Cory Shaffer, *Courts and Justice, Teens Lodge stolen Hyundai in Burger King drive-thru on two wheels after*
24 *owner confronts them*, CLEVELAND.COM, (Feb. 3, 2023, 5:03 PM), <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>.

25 ⁵⁰ *Id.*

26 ⁵¹ *Id.*

⁵² Jeremy Jannene, *Kia, Hyundai Thefts Now National Problem*, URBAN MILWAUKEE (Aug. 17, 2022, 12:51 PM),
<https://urbanmilwaukee.com/2022/08/17/kia-hyundai-thefts-now-national-problem/>.

1 Police Department to address the surge in auto thefts,⁵³ and establishing a City-County
2 Carjacking and Reckless Driving Task Force.⁵⁴ The City even began distributing wheel locks to
3 Kia and Hyundai owners.⁵⁵ These are costs incurred above and beyond normal policing costs,
4 attributable to the public nuisance created and maintained by Defendants.

5 45. Moreover, the amount of time spent responding to these vehicle thefts puts
6 additional stress on the City of Milwaukee's limited resources.

7 46. However, despite these efforts, without action from Defendants, the City has been
8 unable, on its own, to abate this nuisance.

9 47. On June 16, 2021, the City sent letters to Defendants, raising the issue of the
10 dramatic rise in thefts of Defendants' vehicles and asking Defendants to "make fundamental
11 changes" to secure the vehicles.⁵⁶

12 48. As a result of the skyrocketing rate of theft of Hyundai and Kia vehicles
13 nationwide, at least two major insurance companies are refusing to write policies for certain
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19 ⁵³See generally Communication from the Milwaukee Police Department and certain car manufacturers relating to a
20 recent significant increase in vehicle theft: Hearing before the Judiciary & Legislation Committee for the City of
21 Milwaukee (Dec. 6, 2021),
https://milwaukee.granicus.com/player/clip/2984?view_id=2&redirect=true&h=acd2a61fb8f2928dda0e9d8f17ad13cd.

22 ⁵⁴Edgar Mendez, *Task Force Plan Targets Reckless Driving*, URBAN MILWAUKEE (Jul. 29, 2020, 10:31 AM),
<https://urbanmilwaukee.com/2020/07/29/task-force-plan-targets-reckless-driving/>.

23 ⁵⁵Winnie Dortch, *Milwaukee alderman urge Kia and Hyundai to ramp up security features on their cars*, CBS 58
(Jun. 17, 2021, 3:58 PM), <https://www.cbs58.com/news/milwaukee-aldermen-urge-kia-and-hyundai-to-ramp-on-security-features-on-their-cars>.

24 ⁵⁶Letter from Milele A. Coggs, Alderwoman for Milwaukee City Council, & Khalif J. Rainey, Alderman for
25 Milwaukee City Council, to Jang Won Sohn, President, Kia Motors America (Jun. 16, 2021), available at:
<https://htv-prod-media.s3.amazonaws.com/files/car-mechanisms-kia-6-16-2021-1623881135.pdf>; Letter from
26 Milele A. Coggs, Alderwoman for Milwaukee City Council, & Khalif J. Rainey, Alderman for Milwaukee City
Council, to Kurt Beyerchen, Jr., Senior Counsel, Privacy and Cybersecurity, Hyundai Motor America (Jun. 16,
2021), available at: <https://htv-prod-media.s3.amazonaws.com/files/car-mechanisms-hyundai-6-16-2021-1623881160.pdf>.

Hyundai and Kia models in major cities, thereby increasing the potential number of uninsured motorists on the road.⁵⁷

49. Additionally, there are reports that certain parking garages “are refusing to have these vehicles in their garage because they’re concerned about liability if the car is stolen.”⁵⁸

50. To date, Defendants’ responses have shown a continued prioritization of profits over safety. Both companies have refused to implement a recall to install engine immobilizers in the Susceptible Vehicles, initially only offering wheel locks for municipalities to distribute.⁵⁹ Unfortunately, the wheel locks are not effective; residents who use them have still had their cars stolen and even, in some instances, connected to shootings.⁶⁰

51. More recently, Hyundai has begun rolling out a “software update” rather than installing immobilizers.⁶¹ Kia has planned a similar software update, yet this software-only approach is too little, too late, and many of the Susceptible Vehicles will not even be included in the update.⁶²

52. Upon information and belief, rather than install an immobilizer, the software update will double the length of the theft alarm sound and add a new logic check to the vehicles’

⁵⁷ Peter Valdes-Dapena, *CNN Business*, *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>.

⁵⁸ Britta Lokting, *Grand Theft TikTok*, Business Insider (Mar. 16, 2023, 3:03 AM), <https://www.businessinsider.com/kia-hyundai-car-thefts-crime-wave-viral-tiktok-lawsuits-2023-3>.

⁵⁹ Elliot Hughes, *Kia, Hyundai will make security feature standard on new vehicles and distribute free steering wheel locks after surge of thefts*, MILWAUKEE JOURNAL 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/>.

⁶⁰ Ashley Sears, *Crime and Public Safety*, *Milwaukee woman’s Kia stolen twice, had steering wheel lock*, FOX6NOW.COM (Sept. 28, 2021), <https://www.fox6now.com/news/milwaukee-womans-kia-stolen-twice>.

⁶¹ News, *Hyundai and Kia Launch Service Campaign to Prevent Theft of Millions of Vehicles Targeted by Social Media Challenge*, NHTSA (Feb. 14, 2023), <https://www.nhtsa.gov/press-releases/hyundai-kia-campaign-prevent-vehicle-theft>.

⁶² *Id.*

1 on-board computers. This update is a late half-measure at best and will be useless in many
2 common scenarios such as parking and waiting to pick up a child from after-school activities.
3 Unless the doors were recently unlocked using a key fob, the Engine Control Unit will not turn
4 on. This software-based approach is yet another example of Defendants pursuing profits over
5 safety. While less expensive than installing engine immobilizers, those savings come at the
6 expense of efficacy and usability, not to mention public safety.

8 53. The rollout of the software update has just begun, far too late to prevent the
9 nuisance that the Susceptible Vehicles created and the expenses that Milwaukee has incurred and
10 continues to incur. The update's efficacy has not been tested in the real world,⁶³ and no one
11 knows how many consumers will even opt in to get it. But there are facial defects with this
12 approach. Upon information and belief, this update will not cover all Susceptible Vehicles—even
13 newer models. For vehicles not covered by the update, Defendants are offering nothing more
14 than wheel locks, or rebates for already purchased wheel locks.

16 54. What's more, the work-around substantially reduces the usability of the vehicles.
17 This software's logic could be triggered by letting a passenger out of a car to run an errand and
18 then starting the car again. In addition, Susceptible Vehicle owners have already experienced
19 issues with after-market remote start systems, rendering the vehicles functionally inoperable. As
20 one owner recently posted:

23 ⁶³ Already, Susceptible Vehicles have been stolen after receiving the update. See Michelle Nicks, *Cleveland woman*
24 *devastated after new anti-theft device on her Hyundai fails to stop thieves from causing damage*,
CLEVELAND19.COM (March 17, 2023, 8:07 PM), <https://www.cleveland19.com/2023/03/18/cleveland-woman-devastated-after-new-anti-theft-device-her-hyundai-fails-stop-thieves-causing-damage/>; Additional anecdotes
25 suggest that the update is not reliable. See Jsmith4523, Reddit (Feb. 22, 2023, 4:52 PM),
26 https://www.reddit.com/r/Hyundai/comments/119jlts/well_it_happened_my_17_elantra_se_was_stolen_and/?utm_source=share&utm_medium=ios_app&utm_name=iossmf; MaximumLongjumping31, Reddit (Mar. 3, 2023, 5:12 AM),

1 “I have the update. I also have an after market remote start. The
2 remote start will set off my car alarm. You can turn the alarm off,
3 but it will beep periodically and the headlights flash until you turn
the vehicle off.”⁶⁴

4 55. Prior to this software update, Hyundai callously turned this crisis of its own
5 making into a source of revenue, selling security kits for \$170, plus the cost of installation.⁶⁵
6 Defendants could have, and should have, initially included a fob-integrated engine immobilizer,
7 consistent with the industry standard. Even after the cars were sold, Defendants could have
8 implemented a mandatory recall. Instead, Hyundai chose to make money off of a crime wave it
9 caused.
10

11 56. By electing profits over safety and deviating from the industry standard by not
12 including engine immobilizers as a standard safety feature, Defendants created and maintained a
13 public nuisance.

14 **C. Measures to Prevent Vehicle Theft Have Existed for Over a Century**

15 57. Since the dawn of gasoline-powered automobiles at the turn of the nineteenth
16 century, consumers have needed effective ways to keep their vehicles from being stolen. Thus,
17 efforts to prevent theft or unauthorized access to automobiles have tracked vehicle development.
18 In 1919, St. George Evans and E. B. Birkenbeuel invented the first formation of an electric
19 immobilizer/vehicle security system.⁶⁶
20

21 58. Labeled the “Automobile-Theft Preventer” the purpose of Evans and
22 Birkenbeuel’s invention was relatively straightforward: “to provide a means for automatically
23

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25 ⁶⁴ Fungiinterezt, Reddit (Feb. 15, 2023, 7:05 AM),

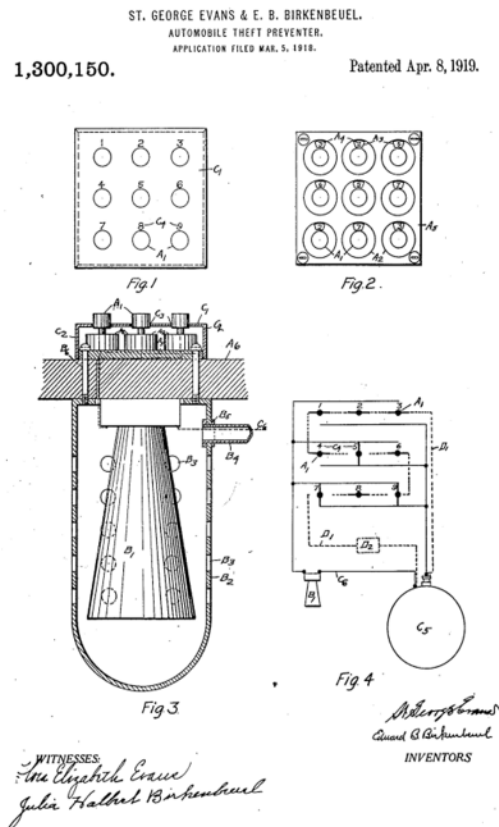
https://www.reddit.com/r/kia/comments/11303m4/hyundai_and_kia_release_software_update_to/?sort=new.

26 ⁶⁵ Taryn Phaneuf, *Insurance, Own a Kia or Hyundai? Here’s Why Your Insurance Rates Could Go Up*, NERD
WALLET (Jan. 26, 2023), <https://www.nerdwallet.com/article/insurance/kia-hyundai-theft>.

⁶⁶ U.S. Patent No. 1,300,150 (issued Apr. 8, 1919).

1 signaling an attempt to move an automobile by unauthorized persons; and to provide a means for
2 locking the electric circuit open, in which case it will be impossible to move the car by its own
3 power.”⁶⁷

4 59. Evans and Birkenbeuel’s immobilizer/alarm system consisted of a 3x3 switch
5 panel that connected to the car’s battery, horn, and ignition. Upon exiting his vehicle, a driver
6 could turn a few switches on the panel to different positions that, until released, would divert
7 electricity to the horn instead of the ignition should an unauthorized user attempt to start the
8 vehicle.
9 vehicle.



24 Sketches for Evans’ & Birkenbeuel’s “Automobile Theft Preventer”

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26
⁶⁷ Id. at ¶¶ 14–20.
COMPLAINT - 23

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

5 61. As time passed and technology advanced, the United States pursued further
6 efforts to promulgate vehicle safety standards.

7 62. In 1966, Congress passed the National Traffic and Motor Vehicle Safety Act (the
8 “Safety Act”), with the aim of administering new motor vehicle and traffic safety standards.⁶⁸
9 Administration of the Safety Act was overseen by the newly created Department of
10 Transportation through its sub-agency: NHTSA, f/k/a/ the National Traffic Safety Bureau.

11 63. Pursuant to its statutory authority under the Safety Act, NHTSA promulgated
12 numerous federal motor vehicle safety standards (“FMVSS”). Among these standards, FMVSS
13 114⁶⁹ requires minimum theft-protection standards for nearly all passenger vehicles in the United
14 States:
15
16

17 S1. *Scope.* This standard specifies vehicle performance
18 requirements intended to reduce the incident of crashes resulting
19 from theft and accidental rollaway of motor vehicles

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

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

25 . . .

26 S5.1 *Theft Protection.*

⁶⁸ P.L. 89–563, 80 Stat. 718.

⁶⁹ 49 C.F.R. § 571.114.

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

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

6 . . .

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

10 64. The main motivation for creating FMVSS 114 was NHTSA's recognition "that
11 stolen cars constitute a major hazard to life and limb on the highways. The evidence shows that
12 stolen cars are far more likely to cause unreasonable risk of accident, personal injury, and death
13 than those which are driven by authorized individuals."⁷⁰

14 65. As early as 1966, studies showed "there were an estimated 94,000 stolen cars
15 involved in accidents"—with "18,000 of these accidents result[ing] in injury to one or more
16 people."⁷¹ Accordingly, NHTSA recognized that "a reduction of the incident of auto theft would
17 make a substantial contribution to motor vehicle safety" and "protect the many innocent
18 members of the public who are killed and injured by stolen cars each year."⁷² To address this
19 safety risk, which is largely tied to "car thieves who could bypass the ignition lock . . . the
20 agency decided to require a device, which would prevent either self-mobility or steering even if
21 the ignition lock were bypassed."⁷³

22
23
24 ⁷⁰ 33 Fed. Reg. 6471 (April 27, 1968).

25 ⁷¹ *Id.*

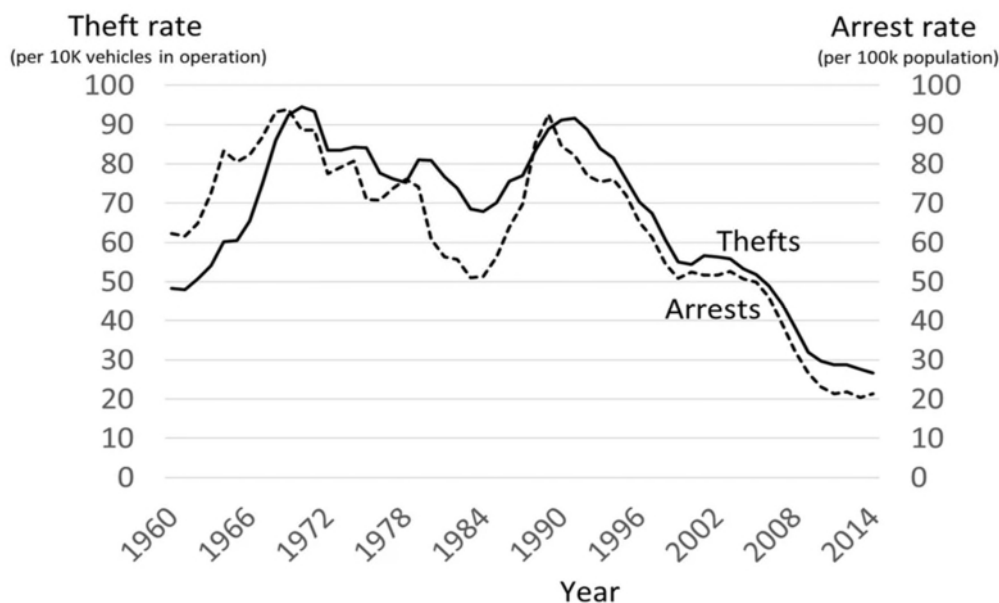
26 ⁷² *Id.*

⁷³ 71 Fed. Reg. 17,753 (Apr. 7, 2006), <https://www.govinfo.gov/content/pkg/FR-2006-04-07/pdf/06-3358.pdf>; *see also* 33 Fed. Reg. 6,471 (Apr. 27, 1968).

66. An engine immobilizer satisfies this requirement, “because it locks out the engine control module if an attempt is made to start the vehicle without the correct key or to bypass the electronic ignition system.”⁷⁴ The proposed software update does not appear to satisfy this requirement – as it is not linked to an attempt to start the vehicle without the correct key – and the absence of *any* system not only violates this standard, it created the public nuisance of rampant car theft in Milwaukee.

D. The Widespread Adoption of Modern Engine Immobilizers as an Even More Effective Vehicle Theft Deterrent

67. In the late 1980s and early 1990s, vehicle theft increased dramatically in the United States.⁷⁵ The common method for stealing a car involved bypassing the motor’s ignition switch, otherwise known as “hotwiring.”



Vehicle thefts per 10,000 vehicles in operation, and vehicle theft arrests per 100,000 population, 1960-2014⁷⁶

⁷⁴ NHTSA Interpretation GF005229-2 (Sept. 24, 2004).

⁷⁵ Anthony Dixon & Graham Farrell, Age-period-cohort effects in half a century of motor vehicle theft in the United States, 9 CRIME SCIENCE 17, 1, 3 (2020).

⁷⁶ *Id.* at 2.

1 68. To respond to this growing problem, manufacturers began installing passive
2 vehicle immobilizers, which were patented no later than 1993.⁷⁷ Unlike Evans and Birkenbeuel's
3 invention nearly 75 years prior, the vehicle immobilizer would render the engine operable only
4 "if the correct key having coded information is used[,]" rather than relying on concealed
5 switches or memorizing keypad combinations.⁷⁸
6

7 69. In essence, the vehicle immobilizers of the 1990s worked by checking the
8 "fingerprint" of a car key based on electronic codes the key sends to the vehicle.

9 70. Although the mechanism behind the vehicle immobilizer was more intricate than
10 the original 1919 invention, the overall purpose remained the same: "to make the vehicle more
11 difficult to steal."⁷⁹
12

13 71. The invention proved successful and, less than five years later, the European
14 Union mandated that all new passenger cars from 1998 onward be equipped with an electronic
15 engine immobilizer.⁸⁰ Similar mandates soon followed in Australia, New Zealand, and Canada.

16 72. As engine immobilizers became the industry-standard among manufacturers, at
17 least one study in the Netherlands suggested that immobilizers "lowered the overall rate of car
18 theft on average by about 40 percent during 1995-2008."⁸¹
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23 ⁷⁷ Int'l Patent Publication No. WO 93/13968 (filed Jan. 7, 1993).

24 ⁷⁸ *Id.*

25 ⁷⁹ *Id.*

26 ⁸⁰ Commission Directive No. 95/96/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).

⁸¹ Jan C. van Ours & Ben Vollaard, *The Engine Immobiliser: A Non-Starter for Car Thieves*, 126 THE ECONOMIC
JOURNAL 593, 1264, 1283 (June 2013).

1 **E. Defendants’ Deviation from the Industry Standard**

2 73. At the turn of the 21st century, automatic engine immobilizers were considered
3 quintessential anti-theft technology by the majority of car manufacturers in America, with the
4 exception of Hyundai and Kia.

5 74. Studies by the Highway Loss Data Institute (“HLDI”) showed “that vehicle theft
6 losses decreased significantly after factory-installed passive immobilizing antitheft devices were
7 introduced.”⁸² Specifically, HLDI studies between 1996 and 2013 all showed decreases in theft
8 losses for vehicles with engine immobilizers studied in those years, including General Motors,
9 BMW, Ford, and Nissan.⁸³ A 2013 HLDI study “found that thieves were sometimes targeting the
10 older model years of a vehicle series without immobilizers, such as the Honda Civic and Honda
11 Accord.”⁸⁴

12
13 75. Despite decades of research and findings that immobilizers significantly reduced
14 vehicle theft and the consequential public safety risks, “only 26 percent of Hyundai and Kia”
15 2015 vehicle models had “passive immobilizers as standard equipment, compared with 96
16 percent of other manufacturers.”⁸⁵

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18 76. The staggeringly low percentage of Hyundai and Kia vehicles with immobilizers
19 is especially concerning given that, during this same time period, Defendants were installing
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⁸² *Hyundai and Kia theft losses*, 38 HLDI BULLETIN 28 (Dec. 2021), https://www.iihs.org/media/0e14ba17-a3c2-4375-8e66-081df9101ed2/opm7QA/HLDI%20Research/Bulletins/hldi_bulletin_38-28.pdf.

25 ⁸³ *Id.*

26 ⁸⁴ *Id.*

⁸⁵ *Id.*

1 immobilizers in 100% of their models for sale in European and Canadian markets, in compliance
2 with applicable laws there.⁸⁶

3 77. Nor are Defendants unfamiliar with the benefits of installing immobilizers in the
4 American market. In March 2007, Hyundai requested an exemption from particular NHTSA
5 vehicle theft prevention standards for its 2008 Hyundai Azera line “based on the installation of
6 an antitheft device” for the vehicle line that would be “at least as effective as th[e] GM and Ford
7 [immobilizer] devices” in reducing vehicle theft.⁸⁷ Yet, until the last year or so, Hyundai and Kia
8 only offered immobilizers in their premium, more expensive, model lines. This decision only
9 compounds the harms on low-income communities.⁸⁸ Those without resources to afford such
10 models are more likely to live in areas with higher crime rates and are likely less able to pay for
11 alternative transportation or for the cost of repairing a recovered vehicle.
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14 78. Based on the above, Defendants’ decision not to install the simple and highly
15 effective immobilizer in the Susceptible Vehicles between 2011 and 2021, in contrast to the
16 approximately 96% of all other car manufacturers that did install an immobilizer, has led to a
17 reasonably foreseeable car theft epidemic that is plaguing Milwaukee.
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22 ⁸⁶ Hyundai first began exporting its cars to parts of Europe, the United Kingdom, and Canada between 1978 and
23 1984. *See Press Release, Over 50 years of progress: the history of Hyundai*, HYUNDAI NEWS (Apr. 6, 2019),
<https://www.hyundai.news/eu/articles/press-releases/over-50-years-of-progress-the-history-of-hyundai.html>.
Similarly, Kia vehicles were introduced into European and Canadian markets in the 1990s.

24 ⁸⁷ 72 Fed. Reg. 39,662 (July 19, 2007); *see also* 75 Fed. Reg. 1,447 (NHTSA notice granting an identical exemption
25 for the Kia Amanti vehicle line beginning in model year 2009 based on Defendants’ representation that the
immobilizer installation for that specific model should substantially reduce theft rates).

26 ⁸⁸ Tom Krisher, *Thieves key on hack that leaves Hyundai, Kia cars vulnerable*, ASSOCIATED PRESS (Sept. 21, 2022),
<https://apnews.com/article/social-media-milwaukee-theft-ecd3be407c1b7cb725ae607b8d86bcac> (HLDI Senior VP
Matt Moore notes that “Many of the vulnerable Hyundais and Kias are often bought by lower-income people”
because those cars “are relatively inexpensive vehicles when purchased new[.]”).

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1 85. Defendants' conduct has directly caused a severe disruption of the public welfare,
2 order, and safety. Defendants' conduct is ongoing and continues to produce permanent and long-
3 lasting damage.

4 86. Further, Defendants' conduct substantially interferes with the public's right to safe
5 and reasonable access to public thoroughfares.

6 87. Defendants' conduct has affected and continues to affect a substantial number of
7 people within Milwaukee's community and is likely to continue causing significant harm.

8 88. The nuisance created by Defendants' conduct is abatable.

9 89. At all relevant times, Defendants, have been the manufacturers, marketers, and/or
10 distributors of the Susceptible Vehicles being stolen at record rates and which are, at times, being
11 used in the commission of other violent crimes in the State of Wisconsin and the City of
12 Milwaukee.

13 90. At all times relevant to this litigation, Defendants knew or had reason to know of
14 the hazards and dangers of foregoing installation of engine immobilizers in the Susceptible
15 Vehicles and specifically, the increased risk of vehicle theft and public harm. Defendants knew or
16 had reason to know that the installation of engine immobilizers successfully decreased the rate of
17 car theft by as much as 40%. Defendants also knew or had reason to know that the installation of
18 immobilizers in their own vehicles has considerably deterrent effects on the rate of car theft.

19 91. Defendants knew or had reason to know that their conduct has caused an increase
20 in vehicle theft that has had, and will continue to have, a detrimental effect on the safety, welfare,
21 peace, comfort, and convenience of the general public in Milwaukee.

22 92. At minimum, Defendants knew or had reason to know that this interference with
23 public safety was substantially certain to result from their conduct.

1 93. By intentionally foregoing the installation of engine immobilizers in the
2 Susceptible Vehicles, Defendants directly facilitated the rapid increase in vehicle theft and, with
3 it, the public nuisance affecting Milwaukee.

4 94. In the alternative, the conduct underlying the public nuisance alleged herein was
5 negligent. Hyundai and Kia could have avoided all this by installing engine immobilizers at the
6 time of manufacture for as little as \$200 per device. Defendants acted unreasonably in light of
7 what conduct could be foreseen as a result of their conduct, and Defendants' conduct was a
8 factual and proximate cause, of the injuries, harm, and economic losses that Plaintiff has suffered
9 and will continue to suffer.

10 95. As a result of Defendants' conduct, the City of Milwaukee has suffered and will
11 continue to suffer economic damages, including significant expenditures for police, emergency,
12 health, prosecutions, corrections, youth rehabilitative services, and other services. Milwaukee
13 will continue to incur such damages until the nuisance is abated. These damages are particular to
14 the City and are different in kind and degree to the harms suffered by Wisconsin residents at
15 large.

16 96. Defendants' misconduct alleged in this case does not concern a discrete event or
17 discrete emergency of the sort a political subdivision would reasonably expect to occur and is not
18 part of the normal and expected costs of a local government's existence. Milwaukee alleges
19 wrongful acts which are neither discrete nor of the sort a local government can reasonably expect
20 to occur.

21 97. The City of Milwaukee requests an order providing for abatement of the public
22 nuisance that Defendants have created or assisted in the creation of; for damages suffered as a
23 result of the public nuisance; and injunctive relief.

24 COMPLAINT - 32

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1 **COUNT TWO — NEGLIGENCE**

2 98. The City of Milwaukee incorporates each preceding paragraph as though set forth
3 fully herein.

4 99. At all times relevant to this litigation, Defendants had a duty to act as a reasonably
5 careful person would act under the circumstances in the design, manufacture, and distribution of
6 Defendants' products, including the duty to take all reasonable steps necessary to prevent the
7 manufacture and/or sale of a product that was so unreasonably easy to steal.

8 100. Defendants owed Milwaukee a duty to not expose the City to an unreasonable risk
9 of harm.

10 101. At all times relevant to this litigation, Defendants knew or, in the exercise of
11 reasonable care, should have known of the hazards and dangers of foregoing installation of
12 engine immobilizers in the Susceptible Vehicles and specifically, the increased risk of vehicle
13 theft and public harm.

14 102. Accordingly, at all times relevant to this litigation, Defendants knew or, in the
15 exercise of reasonable care, should have known that the omission of an engine immobilizer in the
16 Susceptible Vehicles could cause Milwaukee's injuries and thus created a dangerous and
17 unreasonable risk of injury to Milwaukee. Defendants were therefore in the best position to
18 protect Milwaukee against the foreseeable rise in the theft of Hyundai and Kia vehicles.

19 103. At all times relevant to this litigation, Defendants knew or had reason to know
20 that the omission of an engine immobilizer in the Susceptible Vehicles could cause Milwaukee's
21 injuries, as FMVSS 114 requires automobiles to have a starting system which, whenever the key
22 is removed from the starting system prevents "[e]ither steering, or forward self-mobility, of the
23 vehicle, or both" and for vehicles to be designed "such that the transmission or gear selection
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1 control cannot move from the ‘park’ position, unless the key is in the starting system.” As
2 alleged *supra*, nearly all cars in the United States satisfy FMVSS through an engine immobilizer.

3 104. As such, Defendants, by action and inaction, breached their duty and failed to
4 exercise reasonable care, and failed to act as a reasonably prudent person and/or company would
5 act under the same circumstances in the design, development, manufacture, testing, and
6 distribution of their vehicles, in that Defendants manufactured and produced vehicles that fell
7 below minimum, industry-standard security measures.

9 105. Defendants are in control of the design, research, manufacture, testing, and
10 distribution of the vehicles they distributed to authorized dealerships in Milwaukee.

11 106. Defendants knew and/or should have known that it was foreseeable that
12 Milwaukee would suffer injuries as a result of Defendants’ failure to exercise reasonable care in
13 the manufacturing and sale of Defendants’ vehicles, particularly given Defendants’ recognition
14 as early as 2007 that engine immobilizers were an effective deterrent in preventing vehicle theft.

16 107. Defendants were negligent in failing to monitor and guard against third-party
17 misconduct and enabled such misconduct.

18 108. Defendants acted unreasonably in light of what conduct could be foreseen as a
19 result of their conduct and Defendants’ negligence helped to and did produce, and was a factual
20 and proximate cause, of the injuries, harm, and economic losses that Milwaukee suffered, and
21 will continue to suffer.

23 109. Defendants’ acts and omissions imposed an unreasonable risk of harm to others
24 separately and/or combined with the negligent and/or criminal acts of third parties.

25 110. Milwaukee’s injuries, harms, and economic losses would not have occurred
26 absent Defendants’ negligent conduct as described herein.

1 111. As a proximate result of Defendants' wrongful acts and omissions, Milwaukee
2 has been injured and suffered economic damages and will continue to incur expenses in the
3 future, as described herein, including but not limited to expending, diverting, and increasing
4 resources to retrieve stolen cars, provide emergency medical services, and/or address property
5 damage on public roads in Milwaukee's community.
6

7 112. Defendants engaged in conduct, as described above, that constituted reckless
8 disregard of Milwaukee's rights, being fully aware of the probable dangerous consequences of
9 the conduct and deliberately failing to avoid those consequences.

10 113. Defendants' conduct constituting reckless disregard of Milwaukee's rights, was
11 committed and/or authorized by one or more officers, directors, or managing agents of
12 Defendants, who acted on behalf of Defendants. Additionally, or in the alternative, one or more
13 officers, directors or managing agents of Defendants knew of the conduct constituting reckless
14 disregard of Milwaukee's rights and adopted or approved that conduct after it occurred.
15

16 114. Milwaukee has incurred, and will continue to incur, expenditures over and above
17 its ordinary public services.

18 115. The tortious conduct of each Defendant was a substantial factor in producing
19 harm to Milwaukee.
20

21 116. Defendants' willful, knowing, and reckless conduct, constituting reckless
22 disregard of Milwaukee's rights, including the right to public safety, therefore warrants an award
23 of aggravated or punitive damages.

24 117. Milwaukee is without fault and injuries to the City and its residents would not
25 have occurred in the ordinary course of events had Defendants used due care commensurate to
26 the dangers involved in the manufacturing and distribution of their vehicles.

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VII. PRAYER FOR RELIEF

118. Entering an Order that the conduct alleged herein constitutes a public nuisance under Wisconsin law;

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

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

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

122. Awarding equitable relief to fund automobile theft prevention;

123. Awarding actual and compensatory damages;

124. Awarding punitive damages;

125. Awarding reasonable attorneys' fees and costs of suit;

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

127. Such other and further relief as the Court deems just and proper under the circumstances.

VIII. JURY TRIAL DEMANDED

128. Plaintiff hereby demands a trial by jury.

RESPECTFULLY SUBMITTED this 22nd day of March, 2023.

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