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A. The class satisfies the requirements of Rule 23(a) for settlement purposes.

1. <u>The class members are too numerous to be joined.</u>

The first Rule 23(a) requirement is that the proposed class be so numerous that joinder of all members is impracticable. *See* Fed. R. Civ. P. 23(a)(1). Here, this "numerosity" requirement is easily satisfied. Hyundai sold over 500,000 Class Vehicles nationwide, and many have been resold in the years since, such that the total number of class members is even higher.

2. <u>The action involves common questions of law or fact.</u>

Under Rule 23(a)(2), there must be "questions of law or fact common to the class," meaning the class's claims "must depend upon a common contention" such that "determination of [their] truth or falsity will resolve an issue that is central to the validity of each one of the claims in one stroke." *Wal-Mart Stores v. Dukes*, 564 U.S. 338, 350 (2011). In past cases, the Ninth Circuit has held that plaintiffs "easily satisfy the commonality requirement," where the class claims turn on questions including (i) whether Class Vehicles are defective; (ii) whether the defendant was aware of the defect; and (iii) whether the defendant concealed the nature of the defect. *Wolin v. Jaguar Land Rover N. Am.*, 617 F.3d 1168, 1172 (9th Cir. 2010). For settlement purposes, the commonality requirement is thus satisfied; the "circumstances of each particular class member … retain a common core of factual or legal issues with the rest of the class." *Evon v. Law Offices of Sidney Mickell*, 688 F.3d 1015, 1029 (9th Cir. 2012).

3. <u>Plaintiffs' claims are typical of those of the class.</u>

Rule 23(a)(3) requires that "the claims or defenses of the representative parties [be] typical of the claims or defenses of the class." "[T]he typicality requirement is permissive and requires only that the representative's claims are reasonably co-extensive with those of absent class members; they need not be substantially identical." *Rodriguez v. Hayes*, 591 F.3d 1105, 1124 (9th Cir. 2010).

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Plaintiffs have alleged the same claims as everyone else who bought or leased a Class Vehicle: Hyundai sold them a vehicle allegedly prone to sunroof shattering. This common course of conduct gives rise to the same reasonably co-extensive claims for all class members for purposes of settlement. *See Just Film v. Buono*, 847 F.3d 1108, 1117 (9th Cir. 2017).

4. <u>Plaintiffs and their counsel have and will continue to fairly and adequately protect the interests of the class.</u>

The final Rule 23(a) requirement demands that "the representative parties will fairly and adequately protect the interests of the class." Fed. R. Civ. P. 23(a)(4). This requirement is met as long as the named plaintiffs and their counsel (1) have no conflicts of interest with other class members, and (2) will prosecute the action vigorously. *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1020 (9th Cir. 1998).

As discussed above in the context of settlement approval, there has been adequate representation of the class throughout this litigation. There are no intra-class conflicts; to the contrary, Plaintiffs and the members of the classes share the same interest in holding Hyundai accountable for selling defective Class Vehicles. In addition, the class representatives' years-long effort to obtain relief demonstrates their commitment to furthering the class's interests. (Stein Decl., ¶ 8.) Plaintiffs' counsel, for their part, are experienced attorneys with a history successfully litigating complex class actions, including against Hyundai and other manufacturers. (*Id.*, Ex. 2, Resume.) They successfully opposed two motions to dismiss, uncovered key documents in discovery, and engaged experts to help explain technical issues in this litigation. (*Id.*, ¶¶ 4-5.) There is no reason to doubt the adequacy of this representation.

B. The class meets the requirements of Rule 23(b)(3) for settlement purposes.

"In addition to meeting the conditions imposed by Rule 23(a), the parties seeking class certification must also show that the action is maintainable under Fed.

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R. Civ. P. 23(b)(1), (2) or (3)." *Hanlon*, 150 F.3d at 1022. Here, for settlement purposes, the settlement class is maintainable under Rule 23(b)(3), as common questions predominate over any questions affecting only individual members and class resolution is superior to other available methods of adjudication. *Id.* As alleged, class members' claims depend primarily on whether their sunroofs are defective, raising predominantly common questions courts have found to justify class treatment. *See, e.g.*, *Wolin*, 617 F.3d at 1173 (common issues predominated in multistate automotive defect litigation); *Hanlon,* 150 F.3d at 1022-1023 (common issues predominated in suit involving auto defect); *Chamberlan v. Ford Motor Co*., 223 F.R.D. 524, 526 (N.D. Cal. 2004) (same).

Similarly, there can be little doubt that resolving all settlement class members' claims through a single class action is superior to a series of individual lawsuits. "From either a judicial or litigant viewpoint, there is no advantage in individual members controlling the prosecution of separate actions. There would be less litigation or settlement leverage, significantly reduced resources and no greater prospect for recovery." *Hanlon*, 150 F.3d at 1023. Finally, in the settlement context, there can be no objection that class proceedings would present the sort of intractable management problems that sometimes override the collective benefits of class actions, "for the proposal is that there be no trial." *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 620 (1997).

C. The settlement provides the best method of notice practicable.

Before approving a class settlement, "[t]he court must direct notice in a reasonable manner to all class members who would be bound by the proposal." Fed. R. Civ. P. 23(e)(1). Where the settlement class is certified under Rule 23(b)(3), the notice must also be the "best notice that is practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort." Fed. R. Civ. P. 23(c)(2)(B).

Here, the parties agreed to provide individual notice by both U.S. mail and email (where available). (*See* Settlement, Sec. IV.C.1-2.) In addition, the parties have agreed to publish a settlement website, on which will be posted a long-form class notice. (Settlement, Ex. A; Sec. IV.C.3.) For the U.S. mail notice, Hyundai will derive up-to-date mailing addresses for class members by employing the services of R.L. Polk, IHS Markit, or a similar third-party entity, to utilize the most current address data from state agencies. (*Id.*, Sec. IV.C.1.) For any individual notice that is returned as undeliverable, Hyundai will also conduct an advanced address search using Hyundai's customer database information regarding the Class Vehicle owner to obtain a deliverable address. (*Id.*)

Plaintiffs request that the Court approve this method of notice as the best practicable under the circumstances. *See, e.g., Rannis v. Recchia*, 380 F. App'x. 646, 650 (9th Cir. 2010) (finding mailed notice to be the best notice practicable where reasonable efforts were taken to ascertain class members addresses). The notices comply with Rule 23(c)(2)(B) in that they "clearly and concisely state in plain, easily understood language" the nature of the action; the class definition; the class claims, issues, or defenses; that the class member may appear through counsel; that the court will exclude from the class any member who requests exclusion; the time and manner for requesting exclusion; and the binding effect of a class judgment on class members. (*See* Settlement, Exs. A, B.) The notice is also consistent with the sample provided by the Federal Judiciary Center.[2]

Notice of the proposed settlement will also be provided to the U.S. Attorney General and appropriate regulatory officials in all 50 states, as required by the Class Action Fairness Act, 28 U.S.C. § 1715. (Settlement, Sec. IV.A.1.) Hyundai will provide these government officials with copies of all required materials so that the states and federal government may make an independent evaluation of the settlement and bring any concerns to the Court's attention prior to final approval.

[2] *See* https://www.fjc.gov/sites/default/files/2016/ClaAct04.pdf.

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THE COURT SHOULD SET A SCHEDULE FOR FINAL APPROVAL.

Once the Court directs notice of the settlement to the class, the next steps in the settlement approval process are to schedule a final approval hearing, allow time for notice to be sent to the class and an opportunity for class members to submit objections and opt-out requests, and allow the parties to conduct appropriate objector discovery if needed.[3]

The parties thus propose the following schedule:

Hyundai to disseminate class notice:	60 days after entry of order
Plaintiffs to file a motion for settlement approval and award of attorney's fees:	90 days after entry of order
Deadline for class members to opt out of or object to the settlement	120 days after entry of order
Replies in support of final approval and fee application:	150 days after entry of order
Hyundai to file affidavit attesting that notice was disseminated as ordered:	155 days after entry of order
Final Approval hearing:	165 days after entry of order

CONCLUSION

For the foregoing reasons, the parties respectfully request that the Court enter the accompanying proposed order directing notice of the proposed settlement to the class, appointing Class Counsel, and setting a hearing for the purpose of deciding whether to grant final approval of the settlement.

[3] *See, e.g.,* Final Order and Judgment, *Milano v. Interstate Battery Sys. of Am., Inc.*, No. 4:10-CV-02125 (N.D. Cal. July 5, 2012) (ECF No. 106) (noting that objector repudiated his objection in deposition testimony); *In Re: MagSafe Apple Power Adapter Litig.*, No. 5:09-CV-01911, 2015 WL 428105, at *2 (N.D. Cal. May 29, 2012) (authorizing objector depositions)

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Respectfully submitted,

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