

1 HARVEY ROSENFELD (SBN 123082)
harvey@consumerwatchdog.org
2 PAMELA PRESSLEY (SBN 180362)
pam@consumerwatchdog.org
3 LAURA ANTONINI (SBN 271658)
laura@consumerwatchdog.org
4 **CONSUMER WATCHDOG**
2701 Ocean Park Blvd., Suite 112
5 Santa Monica, CA 90405
Tel: (310) 392-0522 / Fax: (310) 392-8874

6 JONATHAN W. CUNEO
jonc@cuneolaw.com
7 WILLIAM ANDERSON
wanderson@cuneolaw.com
8 **CUNEO GILBERT & LADUCA, LLP**
507 C Street, NE
9 Washington, DC 20002
Tel: (202) 789-3960 / Fax: (202) 789-1813

10 STEVE M. CAMPORA (SBN 110909)
scampora@dbbwlaw.com
11 ROBERT A. BUCCOLA (SBN 112880)
rbuccola@dbbwlaw.com
12 CRAIG C. SHEFFER (SBN 131243)
csheffer@dbbwlaw.com
13 **DREYER BABICH BUCCOLA WOOD**
14 **CAMPORA, LLP**
20 Bicentennial Circle
15 Sacramento, CA 95826
Tel: (916) 379-3500 / Fax: (916) 379-3599

NIALL P. McCARTHY (SBN 160175)
nmccarthy@cpmlegal.com
ANNE MARIE MURPHY (SBN 202540)
amurphy@cpmlegal.com
ERIC J. BUESCHER (SBN 271323)
ebuescher@cpmlegal.com
COTCHETT, PITRE & McCARTHY, LLP
840 Malcolm Road
Burlingame, CA 94010
Tel: (650) 697-6000 / Fax: (650) 692-3606

17 *Attorneys for the Krauth and Hasper et al. Plaintiffs*

18 **UNITED STATES DISTRICT COURT**
19 **CENTRAL DISTRICT OF CALIFORNIA**

20 IN RE: HYUNDAI AND KIA FUEL
21 ECONOMY LITIGATION

Case No. 2:13-ml-02424-GW-FFM

22 **DECLARATION OF WILLIAM**
23 **ANDERSON IN SUPPORT OF**
24 ***KRAUTH/HASPER* PLAINTIFFS'**
25 **MOTION FOR PAYMENT OF**
26 **ATTORNEYS' FEES,**
27 **REIMBURSEMENT OF EXPENSES**
28 **AND COMPENSATION TO**
NAMED PLAINTIFFS

Date: February 26, 2015
Time: 8:30 a.m.
Judge: Hon. George H. Wu
Courtroom: 10

1 I, William Anderson, declare as follows:

2 1. I am an attorney with the law firm Cuneo Gilbert & LaDuca, LLP. I
3 am licensed to practice before the Courts of the Commonwealth of Pennsylvania,
4 the State of Colorado and the District of Columbia. I am admitted pro hac vice in
5 this case and I am one of the attorneys of record for the Plaintiffs in *Krauth v.*
6 *Hyundai Motor America*, Case No. 8:12-cv-01935-GW-FFM (C.D. Cal.); *Hasper*
7 *et al. v. Hyundai Motor America et al.*, Case No. 8:13-cv-00220-GW-FFM (C.D.
8 Cal.); and *Bird v. Hyundai Motor America*, Case No. 34-2012-00127249
9 (Sacramento Superior Court).

10 2. I submit this Declaration on behalf of myself, and the other attorneys
11 and staff from Cuneo Gilbert & LaDuca that worked on this litigation, in support
12 of the *Krauth/Hasper* Plaintiffs' Motion for Payment of Attorneys' Fees,
13 Reimbursement of Expenses and Compensation to Named Plaintiffs ("Motion").
14 This Declaration is being submitted contemporaneously with the declarations of
15 co-counsel Anne Marie Murphy, Steven M. Campora and Laura Antonini, and I
16 incorporate those declarations by reference.

17 3. I have personal knowledge of the facts stated herein and, if called as a
18 witness, I could and would competently testify to the truth thereof.

19 **ABOUT CUNEO GILBERT & LADUCA, LLP**

20 4. Founded in 1988, Cuneo Gilbert & LaDuca, LLP, ("CGL") brings
21 together the diverse talents and experience of 20 lawyers. CGL lawyers come
22 from a range of backgrounds including large international law firms, high caliber
23 boutique law firms, Congressional committee staffs, the U.S. Department of
24 Justice, federal regulatory agencies, public interest organizations, legal academia,
25 and the public defender's office. Collectively, CGL attorneys have tried over 200
26 cases, argued appeals in ten federal circuit courts, appeared in numerous United
27 States Supreme Court cases, and testified before Congress and other
28 administrative bodes at least 60 times.

STAGE 2: Discovery and Motion Practice in *Bird*
(July 4, 2012 - December 18, 2014)

1
2
3 13. After the *Bird* complaint was filed, CGL attorneys assisted in the
4 preparation of comprehensive discovery requests served in early August 2012.

5 14. Following service of the discovery requests, CGL attorneys reviewed
6 and revised motions and discovery briefs drafted by co-counsel at Dreyer Babich
7 Buccola Wood Campora LLP. These pleadings including motions to compel
8 Hyundai's responses to the first set of discovery requests. The Court ultimately
9 compelled production of documents. CGL attorneys reviewed the documents
10 produced by Hyundai as those documents were divided among the Consumer
11 Watchdog Legal Team to avoid duplication of effort. These same documents
12 were later produced in the MDL.

13 15. During this period CGL attorneys also conducted assigned legal
14 research, such as pertaining to the FTC's 4 C's in advertising, and worked on
15 various aspects of the opposition to Hyundai's demurrer.

16 16. Prior to the deadline for filing the opposition to Hyundai's demurrer,
17 on November 2, 2012 ("November 2012 EPA Announcement") the EPA
18 announced that Hyundai and Kia provided inaccurate fuel economy for a host of
19 vehicles in the 2011-2013 model years. This false information was provided in
20 advertising and on the Monroney Labels affixed to the vehicles themselves.
21 Among the vehicles implicated was the Elantra, which was at issue in Mr. Bird's
22 case.

23 17. Following the November 2012 EPA Announcement, CGL also
24 drafted correspondence addressed to Defendants' counsel concerning the fact that
25 despite the relevance of the November 2012 EPA Announcement and attendant
26 investigation by the EPA, Hyundai failed to advise counsel or otherwise make
27 reference to the EPA investigation or announcement in Hyundai's discovery
28 responses or production.

1 18. The November 2012 EPA Announcement also led to the filing of an
2 amended complaint in *Bird*. CGL attorneys assisted with the research and editing
3 necessary to file the amended complaint and with assigned projects related to
4 drafting both the opposition to the demurrer and the First Amended Complaint in
5 *Bird*. Following the initiation of the MDL, CGL attorneys worked to prevent the
6 stays of *Bird* requested twice by Hyundai.

7 19. CGL attorneys and staff expended 125.75 hours, and amassed a
8 lodestar of \$66,306.25, during this period.

9 **STAGE 3: Pre-filing Investigation and Preparation of**
10 ***Krauth and Hasper* and the MDL Petition**
11 **(November 2, 2012 - February 14, 2013)**

12 20. CGL attorneys carefully analyzed the November 2012 EPA
13 Announcement and the contemporaneous announcements by Hyundai and Kia and
14 determined, in conjunction with the Consumer Watchdog Legal Team, that the
15 Voluntary Reimbursement Program was inadequate from a financial perspective.
16 This led to the filing of the *Krauth* complaint on November 6, 2012 by the
17 Consumer Watchdog Legal Team with substantial writing and research assistance
18 by CGL.

19 21. As the filing of cases snowballed, the Consumer Watchdog Legal
20 Team concluded that centralization of the litigation by the Judicial Panel on
21 Multidistrict Litigation was warranted. CGL attorneys drafted and argued the
22 MDL petition, requesting centralization in the Central District of California.

23 22. During this time period CGL worked with Consumer Watchdog to
24 divide up the multitude of consumer complaints sent to Consumer Watchdog
25 CGL attorneys and staff handled many dozens of calls following the November
26 2012 EPA Announcement.

1 23. As directed and agreed upon between co-counsel so as to avoid
2 duplication of effort, during this time period CGL attorneys also undertook
3 discrete research projects pertaining to the vehicles at issue.

4 24. Subsequently, the Consumer Watchdog Legal Team filed *Hasper*, a
5 second federal complaint on behalf of all Hyundai and Kia owners and lessees
6 affected by the November 2012 EPA Announcement. Along with co-counsel,
7 CGL counsel drafted portions of the *Hasper* complaint, filed on February 7, 2013.

8 25. CGL attorneys and staff expended 479.50 hours, and amassed a
9 lodestar of \$278,906.25, during this period.

10 **STAGE 4: Settlement Announcement and MDL Confirmatory Discovery**
11 **(February 14, 2013 – December 22, 2013)**

12 26. Following CGL's argument at the MDL panel requesting the creation
13 of an MDL, at the first MDL status conference on February 14, 2013, attorneys
14 from two law firms (Hagens Berman Sobol Shapiro LLP and McCune Wright
15 LLP, on behalf of the *Espinosa*, *Brady* and *Hunter* plaintiffs (collectively,
16 "Settling Plaintiffs")) announced a settlement with Hyundai.

17 27. Next, CGL, along with the Consumer Watchdog Legal Team,
18 advocated for the Court to follow the procedures of Fed. R. Civ. P. 23(g).
19 Although the Court did not ultimately entertain such a motion, the Court did
20 appoint Liaison Counsel, which was to act as an intermediary between non-
21 settling plaintiffs and the Settling Plaintiffs.

22 28. During this time CGL attorneys, along with the Consumer Watchdog
23 Legal Team, consistently and aggressively fought for transparency and full
24 disclosure of the terms of the Settlement Agreement. This advocacy spanned 21
25 conference calls with Liaison Counsel.

26 29. The primary focus of the litigation during this time period was
27 investigation of the settlement terms and how they were reached, including what
28 the Settling Parties knew and when. On April 11, 2013, CGL counsel appeared at

1 hearing before the Court again advocating for transparency in the confirmatory
2 discovery process. This advocacy by CGL and the Consumer Watchdog Legal
3 Team led to the production of a variety of documents. CGL attorneys reviewed a
4 a variety of documents and memos relating to the production, dividing these
5 documents among the Consumer Watchdog Legal Team to avoid duplication of
6 effort. This process revealed that the Settling Plaintiffs possessed minimal
7 information when they reached the purported settlement announced on February
8 14, 2013. Following a hearing addressing these concerns on April 25, 2014, CGL
9 counsel drafted a letter to Settling Plaintiffs' counsel, which was ultimately sent
10 by Consumer Watchdog on April 29, 2013, identifying in detail how the
11 documents produced were insufficient to evaluate the settlement term sheet and
12 Lump Sum Payment chart, and demanding additional information about the
13 calculations and variables used to determine the Hyundai Lump Sum Payment
14 amounts; previous discovery requests served by Settling Plaintiffs on Defendants;
15 interviews that the Settling Plaintiffs were planning to conduct in Korea (without
16 any non-settling plaintiffs); and support for the Kia settlement since no discovery
17 whatsoever had been produced from Kia. The Consumer Watchdog Legal Team
18 also demanded a copy of Settling Plaintiffs' proposed additional discovery
19 requests so the non-settling plaintiffs' counsel could add to or revise the requests.

20 30. At that point, the Consumer Watchdog Legal Team and non-settling
21 parties were permitted to participate in the creation and revision of discovery
22 requests. CGL counsel, along with the rest of the Consumer Watchdog Legal
23 Team edited the discovery requests and also drafted additional requests.

24 31. Next, Defendants attempted to limit their responsibility under Fed. R.
25 Civ. P. 34. CGL and the Consumer Watchdog Legal Team vehemently protested
26 this effort. Ultimately, Defendants agreed to reserve objections, but otherwise
27 comply with Rule 34.
28

1 32. As part of the Consumer Watchdog Legal Team, during this period,
2 CGL counsel reviewed numerous memos and communicated with co-counsel
3 concerning the progress of the confirmatory discovery process.

4 33. Additionally, at the end of May, CGL counsel received word that
5 Hyundai and Kia were going to produce witnesses for informal interviews both in
6 the United States and Korea. Initially, the plan was to completely exclude non-
7 settling plaintiffs' counsel from this process. CGL counsel, along with the
8 Consumer Watchdog Legal Team and Liaison Counsel, objected to this exclusion
9 and successfully advocated for greater participation of non-settling plaintiffs'
10 counsel. Beyond greater participation of non-settling plaintiffs' counsel, during
11 this period, CGL and the Consumer Watchdog Legal Team advocated for a delay
12 in the interviews to accommodate a review of document production before the
13 interviews commenced.

14 34. CGL counsel actively participated in each of the four U.S. interviews,
15 proposing questions and carefully monitoring the proceedings. In addition, CGL
16 counsel was permitted to personally interview John Krafcik, the then-President
17 and CEO of Hyundai.

18 35. Subsequently CGL counsel participated in Kia witness interviews and
19 proposed questions through the chat room setup for non-settling plaintiffs' counsel.
20 In September, CGL counsel listened and took notes for witness interviews that
21 occurred in Korea.

22 36. After considerable effort by the Consumer Watchdog Legal Team,
23 Hyundai produced a privilege log. But the log was incomplete and questionable in
24 numerous respects. In an attempt to informally resolve the issues, CGL counsel
25 drafted meet and confer correspondence directed to Defendants challenging
26 Hyundai's privilege log. After attempts at informally resolving the issues with
27 Hyundai failed, CGL counsel conducted substantial legal research for and drafted
28 portions of the Joint Discovery Stipulation as it pertained to the privilege log, as

1 well as a Supplemental Discovery Memorandum, and attended a December 9,
2 2013 hearing on the privilege log and document request issues. CGL counsel
3 argued at the hearing with respect to the privilege log challenge. The Court
4 permitted CGL counsel to select a number of documents for which Hyundai
5 claimed privilege for *in camera* review to assess the validity Hyundai's privilege
6 assertions.

7 37. CGL attorneys and staff expended 534.75 hours, and amassed a
8 lodestar of \$333,887.50, during this period.

9 **STAGE 5: Improvement of the Settlement Agreement**
10 **(December 23, 2013 – December 16, 2014)**

11 38. Pursuant to a Court order, the Settlement Agreement was filed on
12 December 23, 2013. It included an onerous notice and claims process.

13 39. After analyzing the Settlement Agreement, CGL attorneys assisted in
14 the preparation of a detailed analysis of the Settlement Agreement, which was
15 submitted to Liaison Counsel and filed with the Court. In particular, CGL counsel
16 conducted an intensive and focused analysis of the proposed financial terms
17 insofar as they concerned compensation for fuel. This analysis raised a number of
18 serious concerns related to the Settlement Agreement's terms.

19 40. Following the filing of the analysis CGL counsel remained closely
20 involved, participating in multiple teleconferences with Liaison Counsel and
21 assisted the Consumer Watchdog Legal Team in securing two amendments to the
22 Settlement.

23 41. After careful analysis, the Consumer Watchdog Legal Team
24 ultimately concluded that the Settlement Agreement was not fair, reasonable and
25 adequate. As a result, CGL counsel assisted in the preparation of portions of an
26 opposition to the motion for preliminary approval.

1 42. In the weeks and months that followed the filing of the opposition,
2 CGL assisted the Consumer Watchdog Legal Team in the preparation of revised
3 notice and claim form documents.

4 43. CGL attorneys expended 137.50 hours, and amassed a lodestar of
5 \$83,118.75, during this period.

6 **LITIGATION COSTS AND EXPENSES**

7 44. From the inception of this litigation through December 16, 2014,
8 CGL paid or incurred costs and expenses in the sum of \$6,245.56. These
9 unreimbursed costs and expenses were reasonably and necessarily incurred in the
10 prosecution of this Litigation, and are broken down as follows:

11

Expense Category	Cumulative Expenses
Travel/Meals	\$ 3,983.66
Telephone/Facsimile/Internet	\$ 171.46
Postage/Express Delivery/Messenger	\$ 183.22
Publications	\$ 34.32
Copying	\$ 60.23
Court Fees/Reporters/Transcripts/Service	\$ 715.00
Computer Research	\$ 1,097.67
Total	\$ 6,245.56

12
13
14
15
16
17
18
19
20
21 45. The costs and expenses paid and incurred are reflected on the books
22 and records of CGL. These books and records are prepared from checks and
23 expense vouchers that are regularly kept and maintained by CGL in the ordinary
24 course of business and accurately reflect the costs and expenses incurred. CGL's
25 expenses were reasonably expended to prosecute this matter. CGL's requested
26 out-of-pocket expenses are not customarily considered covered by the base hourly
27 rate as part of the overhead, but are routinely billed separately.
28

1 46. I declare under penalty of perjury that the foregoing is true and
2 correct. Executed this 23rd day of December, 2014 at Boulder, Colorado.

3
4
5 

6 By: _____
7 William H. Anderson

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT A

EXHIBIT A

In re Hyundai and Kia Fuel Economy Litigation
CUNEO GILBERT & LADUCA, LLP LODESTAR CHART

NAME	HOURS	RATE	LODESTAR
Attorneys			
Jonathan Cuneo	157.25	\$850	\$133,662.50
Pamela Gilbert	3.75	\$575	\$2,156.25
Matthew Miller	12.25	\$750	\$9,187.50
Sandra Cuneo	112.75	\$725	\$81,743.75
William Anderson	962.50	\$575	\$553,437.50
Daniel Black	6.50	\$200	\$1,300.00
Support Staff			
Kyle Lambrecht	16.00	\$200	\$3,200.00
Claire Peters	64.75	\$200	\$12,950.00
TOTAL	1,335.75		\$797,637.50