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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

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**CLERK US DISTRICT COURT
ALEXANDRIA, VIRGINIA**

LAURA McNEIL, PATRICK CUTLER,
AMY NELSON, ALISON RUSSO,
STEVEN WEISE, JOHN IMPEDUGLIA,
and ARTHUR THEXTON, individually and
on behalf of all others similarly situated,

Plaintiffs,

v.

VOLKSWAGEN GROUP OF AMERICA,
INC.,

Defendant.

Case No.

1:15cv1317-LO-MSN

DEMAND FOR JURY TRIAL

CLASS ACTION COMPLAINT

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Plaintiffs Laura McNeil, Patrick Cutler, Amy Nelson, Alison Russo, Steven Weise, John Impeduglia, and Arthur Thexton (“Plaintiffs”), individually and on behalf of all others similarly situated, allege the following against Volkswagen Group of America, Inc. (“Defendant” or “Volkswagen”), based where applicable on personal knowledge, information and belief, and the investigation of counsel. This Court has jurisdiction over this action pursuant to the Class Action Fairness Act (“CAFA”), 28 U.S.C. § 1332(d).

I. INTRODUCTION

1. For over six years, Volkswagen has intentionally and systematically deceived its customers, lied to the government, and misled the public about the efficacy of its four cylinder diesel-engine vehicles sold under the Volkswagen and Audi brands. Volkswagen has marketed its so-called “clean diesel” vehicles as high performing, fuel efficient, and environmentally-friendly. In truth, Volkswagen’s clean diesel vehicles are anything but clean.

2. Instead, the Affected Vehicles, defined below, emit noxious pollutants at up to 40 times the legal limit allowed under federal and state law. In order to conceal this inconvenient truth from regulators and the public, Volkswagen installed a sophisticated software algorithm, or “defeat device,” in the Affected Vehicles that instructs them to cheat on emissions tests; that is, to engage full emissions controls only when undergoing official emissions testing. At all other times, the emissions controls are de-activated, and the vehicles emit extremely high, and illegal, levels of pollutants. “Truth in Engineering,” is Audi’s official slogan. Ironically, these Audis (and Volkswagens) were engineered to deceive.

3. Indeed, in an industry increasingly dominated by software development, Volkswagen secretly installed software in its diesel vehicles that capped emissions only during EPA-mandated testing. When the testing was completed, the vehicle automatically removed the emissions cap, thereby increasing the engine performance. So, while on the surface the vehicles complied with federal emissions standards testing, in fact those same vehicles emitted up to 40 times the legal limit of nitrogen oxide (“NOx”) into the air.

4. As used in this Complaint, the “Affected Vehicles” refer to Volkswagen and Audi vehicles sold in the United States with 4-cylinder, Type EA 189 diesel engines, which share a common, uniform, deceitful, and harmful design, in that they (A) emit high and illegal levels of pollutants in normal operation— up to 40 times the legal limit of nitrogen oxide air; (B) are equipped with a defeat device enabling them to bypass emissions regulations; and (C) cannot deliver the advertised combination of low emissions, fuel economy, and high performance for which they were marketed and advertised. (The “Defect”.) The Affected Vehicles include at least the following makes and model years with the 2.0L TDI Diesel engine (Type EA 189):

2009 – 2015 Volkswagen Jetta

2009 – 2014 Volkswagen Jetta SportWagen

2012 – 2015 Volkswagen Beetle

2012 – 2015 Volkswagen Beetle Convertible

2010 – 2015 Volkswagen Golf

2015 Volkswagen Golf SportWagen

2012 – 2015 Volkswagen Passat

2010 – 2015 Audi A3

5. Instead of delivering on its promise of extremely high fuel mileage coupled with low emissions, Defendant devised a way to make it *appear* that its cars performed as advertised when, in fact, they did not. Put simply, Defendant lied.

6. Volkswagen has admitted that the defeat device was present in approximately 482,000 Affected Vehicles sold in the United States, and more than 11 million vehicles worldwide. But Volkswagen has only *just now* admitted its culpability after an ongoing government investigation into its serious misrepresentations. Indeed, Volkswagen’s CEO accepted “responsibility for the irregularities that have been found in diesel engines.” Even that statement falls far short of acknowledging the wide scale illegal actions taken to deceive consumers and federal regulators.

7. The defeat devices, which were designed and installed by Defendant, work by switching on the full emissions control systems in the Affected Vehicles *only* when the car is undergoing periodic emissions testing. The technology needed to control emissions from Defendant's cars to meet state and federal emissions regulations reduces their performance, limiting acceleration, torque, and fuel efficiency.

8. To hide this, the defeat device simply shuts off most of the emissions control systems in the car once the car has completed its emissions test. While that may have made the car more fun to drive, it resulted in Defendant's cars sending up to 40 times as much pollution into the environment as is allowed under the Clean Air Act and state regulations.

9. Those violations are explained in the EPA's Notice of Violation issued to Defendant, as well as a letter from the California Air Resources Board ("CARB"), copies of which are attached to this Class Action Complaint as **Exhibits A and B**, respectively.

II. PARTIES

A. Virginia Plaintiffs

a) Plaintiff Laura McNeil

10. Plaintiff Laura McNeil is, and at all times relevant to this Complaint was, a resident and citizen of Virginia. Plaintiff purchased a 2012 Volkswagen Jetta SportWagen TDI from the original owner of the vehicle without knowledge of the "defeat device," a Defect which caused the vehicle to obtain an EPA certification and pass emissions tests based on fraud. However, at all other times when the vehicle was not undergoing emissions tests, it emits 40 times the allowed level of pollutants, including NOx.

11. Plaintiff purchased the Volkswagen Jetta SportWagen TDI for personal, family, and household use. Prior to purchasing the vehicle, Plaintiff read and relied on marketing brochures and sales materials in deciding to make the purchase, including information about the TDI "Clean Diesel" technology. For example, the sales brochure states, "You'd like a car that's fuel efficient and powerful? Our German engineers read your mind. The TDI Clean Diesel engine sips fuel at a wallet-friendly rate of 42 hwy mpg without sacrificing one bit of

performance.” A true and accurate representation of the Volkswagen Jetta SportWagen TDI’s sales brochure is attached as **Exhibit C**.

12. Plaintiff has been concerned about the “defeat device” ever since learning of its revelation in the public media.

13. Plaintiff would not have purchased or would have paid less for the vehicle had she known of the “defeat device” prior to her purchase.

14. Plaintiff is further worried the car’s resale value will drop and any repairs done to her vehicle as part of a recall could diminish its performance, also affecting the resale value.

b) Plaintiff Patrick Cutler

15. Plaintiff Patrick Cutler is, and at all times relevant to this Complaint was, a resident and citizen of Virginia. Plaintiff purchased a 2013 Volkswagen Jetta SportWagen TDI from Karen Radley Volkswagen, an authorized Volkswagen dealer in Woodbridge, Virginia, without knowledge of the “defeat device,” a Defect which caused the vehicle to obtain an EPA certification and pass emissions tests based on fraud. However, at all other times when the vehicle was not undergoing emissions tests, it emits 40 times the allowed level of pollutants, including NOx.

16. Plaintiff purchased the Volkswagen Jetta SportWagen TDI for personal, family, and household use. Prior to purchasing the vehicle, Plaintiff read and relied on marketing brochures and sales materials in deciding to make the purchase, including information about the TDI “Clean Diesel” technology. For example, the sales brochure states, “Think Blue is the Volkswagen way to drive progress by creating and producing cars that are more efficient, eco-conscious, and fun to drive. The Volkswagen line features a variety of BlueMotion® technologies — from TDI engines to precision fuel injection — designed to make our vehicles as blue as possible. Which is likely to make other car companies green with envy.” A true and accurate representation of the Volkswagen Jetta SportWagen TDI’s sales brochure is attached as **Exhibit K**.

17. Plaintiff has been concerned about the “defeat device” ever since learning of its revelation in the public media.

18. Plaintiff would not have purchased or would have paid less for the vehicle had he known of the “defeat device” prior to his purchase.

19. Plaintiff is further worried the car’s resale value will drop and any repairs done to his vehicle as part of a recall could diminish its performance, also affecting the resale value.

B. Colorado Plaintiff

b) Plaintiff Amy Nelson

20. Plaintiff Amy Nelson is, and at all times relevant to this Complaint was, a resident and citizen of Colorado. Plaintiff purchased a 2010 Volkswagen Jetta TDI from Scott VW, an authorized Volkswagen dealer in Providence, Rhode Island, without knowledge of the “defeat device,” a Defect which caused the vehicle to obtain an EPA certification and pass emissions tests based on fraud. However, at all other times when the vehicle was not undergoing emissions tests, it emits 40 times the allowed level of pollutants, including NOx.

21. Plaintiff purchased the Volkswagen Jetta TDI for personal, family, and household use. Prior to purchasing the vehicle, Plaintiff read and relied on marketing brochures and sales materials in deciding to make the purchase, including information about the TDI “Clean Diesel” technology. For example, the sales brochure states, “Volkswagen believes in delivering a no-compromise German-tuned auto that performs, and still leaves a small carbon footprint. The Volkswagen TDI engine is cleaner than conventional diesels, emitting as much as 95% less soot than previous diesel engines, as well as a reduction in oxides of nitrogen and sulfur.” A true and accurate representation of the Volkswagen Jetta TDI’s sales brochure is attached as **Exhibit D**.

22. Plaintiff has been concerned about the “defeat device” ever since learning of its revelation in the public media.

23. Plaintiff would not have purchased or would have paid less for the vehicle had she known of the “defeat device” prior to his purchase.

24. Plaintiff is further worried the car's resale value will drop and any repairs done to her vehicle as part of a recall could diminish its performance, also affecting the resale value.

C. Connecticut Plaintiff

a) Plaintiff Alison Russo

25. Plaintiff Alison Russo is, and at all times relevant to this Complaint was, a resident and citizen of Connecticut. Plaintiff purchased a 2012 Volkswagen Jetta TDI from Valenti Volkswagen of Old Saybrook, an authorized Volkswagen dealer in Old Saybrook, Connecticut, without knowledge of the "defeat device," a Defect which caused the vehicle to obtain an EPA certification and pass emissions tests based on fraud. However, at all other times when the vehicle was not undergoing emissions tests, it emits 40 times the allowed level of pollutants, including NOx.

26. Plaintiff purchased the Volkswagen Jetta TDI for personal, family, and household use. Prior to purchasing the vehicle, Plaintiff read and relied on marketing brochures and sales materials in deciding to make the purchase, including information about the TDI "Clean Diesel" technology. For example, the sales brochure states, "The Jetta TDI Clean Diesel is the engineering equivalent of having your cake and eating it too. It achieves an astonishing 42 highway mpg and travels up to 609 miles on a single tank* without sacrificing one bit of turbocharged performance. That's all thanks to the TDI technology. The TDI engine uses a direct injection system and runs on ultra-low-sulfur diesel, helping reduce sooty emissions by up to 90% compared to previous diesel engines." A true and accurate representation of the Volkswagen Jetta TDI's sales brochure is attached as **Exhibit F**.

27. Plaintiff has been concerned about the "defeat device" ever since learning of its revelation in the public media.

28. Plaintiff would not have purchased or would have paid less for the vehicle had she known of the "defeat device" prior to his purchase.

29. Plaintiff is further worried the car's resale value will drop and any repairs done to her vehicle as part of a recall could diminish its performance, also affecting the resale value.

D. Florida Plaintiff

a) Plaintiff Steven Weise

30. Plaintiff Steven Weise is, and at all times relevant to this Complaint was, a resident and citizen of Florida. Plaintiff purchased a 2012 Volkswagen Passat TDI from Gunther Volkswagen, an authorized Volkswagen dealer in Fort Lauderdale, Florida, without knowledge of the “defeat device,” a Defect which caused the vehicle to obtain an EPA certification and pass emissions tests based on fraud. However, at all other times when the vehicle was not undergoing emissions tests, it emits 40 times the allowed level of pollutants, including NOx.

31. Plaintiff purchased the Volkswagen Passat TDI for personal, family, and household use. Prior to purchasing the vehicle, Plaintiff read and relied on marketing brochures and sales materials in deciding to make the purchase, including information about the TDI “Clean Diesel” technology. For example, the sales brochure states, “Let the Passat TDI Clean Diesel set you free from the filling station. It achieves an astonishing 43 highway mpg and travels 795 miles* on a single tank without sacrificing one bit of turbocharged performance. That’s all thanks to its TDI technology that uses a direct injection system and runs on ultra-low-sulfur diesel, helping reduce sooty emissions by up to 90% compared to previous diesel engines.” A true and accurate representation of the Volkswagen Passat TDI’s sales brochure is attached as **Exhibit G**.

32. Plaintiff has been concerned about the “defeat device” ever since learning of its revelation in the public media.

33. Plaintiff would not have purchased or would have paid less for the vehicle had he known of the “defeat device” prior to his purchase.

34. Plaintiff is further worried the car’s resale value will drop and any repairs done to his vehicle as part of a recall could diminish its performance, also affecting the resale value.

E. South Carolina Plaintiff

a) Plaintiff John Impeduglia

35. Plaintiff John Impeduglia is, and at all times relevant to this Complaint was, a resident and citizen of South Carolina. Plaintiff purchased a 2010 Volkswagen Jetta TDI from Steve White Volkswagen, an authorized Volkswagen dealer in Greenville, South Carolina, without knowledge of the “defeat device,” a Defect which caused the vehicle to obtain an EPA certification and pass emissions tests based on fraud. However, at all other times when the vehicle was not undergoing emissions tests, it emits 40 times the allowed level of pollutants, including NOx.

36. Plaintiff purchased the Volkswagen Jetta TDI for personal, family, and household use. Prior to purchasing the vehicle, Plaintiff read and relied on marketing brochures and sales materials in deciding to make the purchase, including information about the TDI “Clean Diesel” technology. For example, the sales brochure states, “Volkswagen believes in delivering a no-compromise German-tuned auto that performs, and still leaves a small carbon footprint. The Volkswagen TDI engine is cleaner than conventional diesels, emitting as much as 95% less soot than previous diesel engines, as well as a reduction in oxides of nitrogen and sulfur.” A true and accurate representation of the Volkswagen Jetta TDI’s sales brochure is attached as **Exhibit I**.

37. Plaintiff has been concerned about the “defeat device” ever since learning of its revelation in the public media.

38. Plaintiff would not have purchased or would have paid less for the vehicle had he known of the “defeat device” prior to his purchase.

39. Plaintiff is further worried the car’s resale value will drop and any repairs done to his vehicle as part of a recall could diminish its performance, also affecting the resale value.

F. Wisconsin Plaintiff

a) Plaintiff Arthur Thexton

40. Plaintiff Arthur Thexton is, and at all times relevant to this Complaint was, a resident and citizen of Wisconsin. Plaintiff purchased a 2012 Volkswagen Jetta SportWagen TDI from Zimbrick Volkswagen, an authorized Volkswagen dealer in Madison, Wisconsin, without knowledge of the “defeat device,” a Defect which caused the vehicle to obtain an EPA

certification and pass emissions tests based on fraud. However, at all other times when the vehicle was not undergoing emissions tests, it emits 40 times the allowed level of pollutants, including NOx.

41. Plaintiff purchased the Volkswagen Jetta SportWagen TDI for personal, family, and household use. Prior to purchasing the vehicle, Plaintiff read and relied on marketing brochures and sales materials in deciding to make the purchase, including information about the TDI “Clean Diesel” technology. For example, the sales brochure states, “You’d like a car that’s fuel efficient and powerful? Our German engineers read your mind. The TDI Clean Diesel engine sips fuel at a wallet-friendly rate of 42 hwy mpg without sacrificing one bit of performance.” A true and accurate representation of the Volkswagen Jetta SportWagen TDI’s sales brochure is attached as **Exhibit J**.

42. Plaintiff has been concerned about the “defeat device” ever since learning of its revelation in the public media.

43. Plaintiff would not have purchased or would have paid less for the vehicle had he known of the “defeat device” prior to his purchase.

44. Plaintiff is further worried the car’s resale value will drop and any repairs done to his vehicle as part of a recall could diminish its performance, also affecting the resale value.

G. Defendant

45. Defendant Volkswagen Group of America, Inc. (“Volkswagen”) is a corporation doing business in every U.S. state and the District of Columbia, and is organized under the laws of New Jersey, with its principal place of business at 2200 Ferdinand Porsche Dr., Herndon, Virginia 20171. Volkswagen is therefore a citizen of New Jersey and Virginia. *See* 28 U.S.C. § 1332(d)(10).

46. Volkswagen’s address for customer complaints is 2200 Ferdinand Porsche Dr., Herndon, Virginia 20171. VW’s registered agent for service of process is Volkswagen Group of America, Inc., c/o Corporation Service Company which will do business in California as CSC - Lawyers Incorporating Service, 2710 Gateway Oaks Dr., Ste. 150n, Sacramento, CA 95833.

47. Volkswagen maintains a design research center in California: Volkswagen Audi Design Center (“VADC”), 2772 Donald Douglas Loop North, Santa Monica, CA 90405.

48. Though Audi-brand vehicles are sold under a different brand name in the United States, and are generally sold as more luxurious vehicles, Audi vehicles are universally manufactured, marketed, and distributed by Volkswagen. Moreover, Audi has the same registered agent for service of process in the United States as VW and utilizes the same VADC California design studio.

49. At all relevant times, Volkswagen manufactured, distributed, sold, leased, and warranted the Affected Vehicles under the Volkswagen and Audi brand names throughout the nation. Volkswagen and/or its agents designed the Clean Diesel engines and engine control systems in the Affected Vehicles, including the “defeat device.” Volkswagen also developed and disseminated the owners’ manuals and warranty booklets, advertisements, and other promotional materials relating to the Affected Vehicles.

50. Defendant Volkswagen, including its Audi-branded vehicles, is herein referred to simply as “Volkswagen”.

III. JURISDICTION AND VENUE

51. This Court has jurisdiction over this action pursuant to the Class Action Fairness Act (“CAFA”), 28 U.S.C. § 1332(d), because at least one Class member is of diverse citizenship from one defendant, there are more than 100 Class members, and the aggregate amount in controversy exceeds \$5 million, exclusive of interest and costs.

52. This Court has personal jurisdiction over Defendant because it conducts business in Virginia, and has sufficient minimum contacts with Virginia. For example, Volkswagen’s Corporate Headquarters is in Herndon, Virginia.

53. Venue is proper in this District under 28 U.S.C. § 1391(b) because a substantial part of the events or omissions giving rise to the claims occurred and/or emanated from this District, and because Defendant has caused harm to Class members residing in this District.

IV. FACTS

54. Defendant intentionally designed and sold cars that misled consumers and regulators about the amount of pollution those cars created and the fuel efficiency they produced. Despite touting themselves as an environmentally conscientious company that produced thoughtful cars for people who cared about the environment, Defendant sold expensive cars that produced pollution at orders of a magnitude above federal and state regulations, and then intentionally and knowingly hid the truth about those cars.

A. Volkswagen Markets the Affected Vehicles as High-Performance, Eco-Friendly, and Fuel-Efficient Diesel Vehicles

55. Volkswagen designs, manufactures, markets, distributes, and warrants vehicles in the United States under the Volkswagen and Audi brand names. Volkswagen recently surpassed Toyota, becoming the world's largest automaker, with diesel engine vehicles accounting for over 20 percent of its sales.

56. Diesel vehicles are generally more fuel efficient and powerful than gasoline engines. Diesel engines, however, emit higher levels of certain pollutants as a by-product of combustion.

57. Diesel engines first became common in American passenger vehicles in the 1970s and 1980s, but gained a reputation as "dirty" because they emitted noxious gases and particulate matter. As diesel engines need to be more robust than comparable gasoline engines, diesel-powered vehicles also cost more to produce and commanded a premium price. These factors, combined with increasingly stringent emissions regulations caused diesel passenger vehicles to become unpopular in the American market.

58. In the mid-2000s, California and several other states passed new emission standards strictly regulating exhaust emissions, including oxides of nitrogen (NOx). This effectively banned the sale of diesel passenger vehicles in these states because the nature of diesel engines inherently makes NOx emissions a particularly difficult problem to resolve. Facing the implementation of similarly stringent federal regulations, Volkswagen and several

other manufacturers launched the joint BlueTec Diesel initiative to research and develop “exhaust emission treatment systems which meet even the strictest emission regulations in the US market.”

59. By the late 2000s, Volkswagen claimed to have improved diesel technology and developed an environmentally-friendly diesel engine that could meet modern emissions standards. Volkswagen marketed these new vehicles as “Clean Diesel,” arguing that its engines were much improved from the diesels of the 1970s and 1980s. Taking advantage of then-rising fuel prices, and diesel engines’ fuel-efficiency and high torque outputs, Volkswagen told consumers they could have it all—power, high fuel economy, and low emissions—if they paid a few thousand dollars more for its “clean” diesel vehicle.

60. Volkswagen attempted to address this problem with its so-called “clean diesel” vehicles. In an effort to make the Affected Vehicles more marketable and induce consumers to pay premium prices, Volkswagen claimed its clean diesel TDI (turbocharged direct injection) engines combined fuel efficiency and high performance with low emissions. The combination of these three characteristics was the primary selling point for the Affected Vehicles and was the centerpiece of Volkswagen’s advertising efforts.

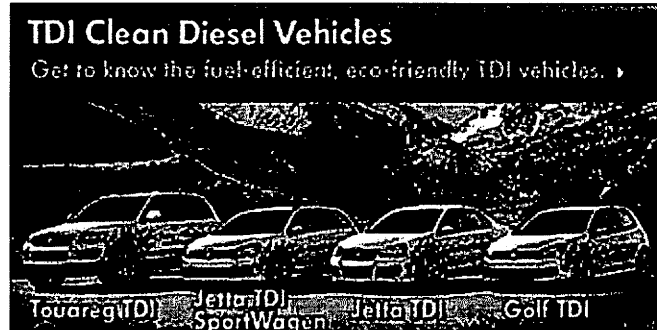
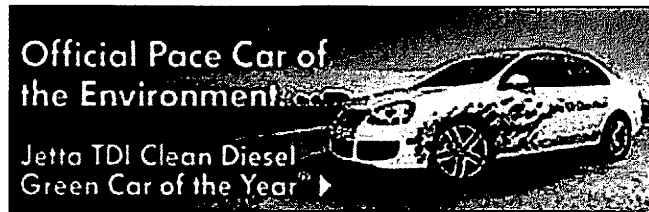
61. Volkswagen’s outward concern for the environment is put forth beyond just the model names and purported attributes of their vehicles. For example, on the “Environment” page of its website, Volkswagen Group of America states that it takes “environmental responsibility very seriously. When it comes to making our cars as green as possible, Volkswagen has an integrated strategy focused on reducing fuel consumption and emissions, building the world’s cleanest diesel engines and developing totally new power systems, which utilize new fuel alternatives.”

62. Volkswagen also embarked on a major marketing campaign emphasizing its vehicles’ low emissions and environmental friendliness. Volkswagen created various webpages, press releases, and television commercials dedicated to differentiating “Clean Diesel” from consumer perceptions of dirty diesel vehicles. In August 2008, Volkswagen kicked off the

campaign by announcing that it had developed the first diesel vehicle compliant in all fifty states under modern emission standards, its 2.0L TDI (Turbocharged Direct Injection) engine. Then CEO Stefan Jacoby stated, “We’re proud to be the first manufacturer to offer a clean diesel vehicle for sale in all fifty states,” and argued that the clean diesel Jetta model “truly offer[s] a no compromise alternative fuel driving experience, that provides the customer the best of both worlds—excellent fuel efficiency combined with a dynamic driving experience.” Below is an image of the headline from Volkswagen’s announcement:



63. Following this announcement, the diesel Audi A3 TDI and Volkswagen Jetta TDI were named the 2010 Green Car of the Year and the 2009 Green Car of the Year, respectively by Green Car Journal. Volkswagen began to promote the Jetta TDI as the “Official Pace Car of the Environment” and again described its clean diesel vehicles as the “best of both worlds, an alternative fuel vehicle with no compromises.” Volkswagen’s website specifically emphasized emissions compliance, describing how “[f]uel efficiency, performance and convenience come standard with the 50-state compliant Jetta TDI sedan and Sportswagen models, which meet the most stringent emission standards in California.” Another Volkswagen promotion suggested that clean diesel vehicles were a “new alternative for shoppers craving efficiency, low emissions, and unrivaled value all in one attractive package.” Most of all, Volkswagen tried to distance itself from consumer perceptions of dirty diesel emissions, describing how “[t]hose old realities no longer apply.” Below are images from Volkswagen’s webpage promoting the environmental friendliness of its clean diesel vehicles:

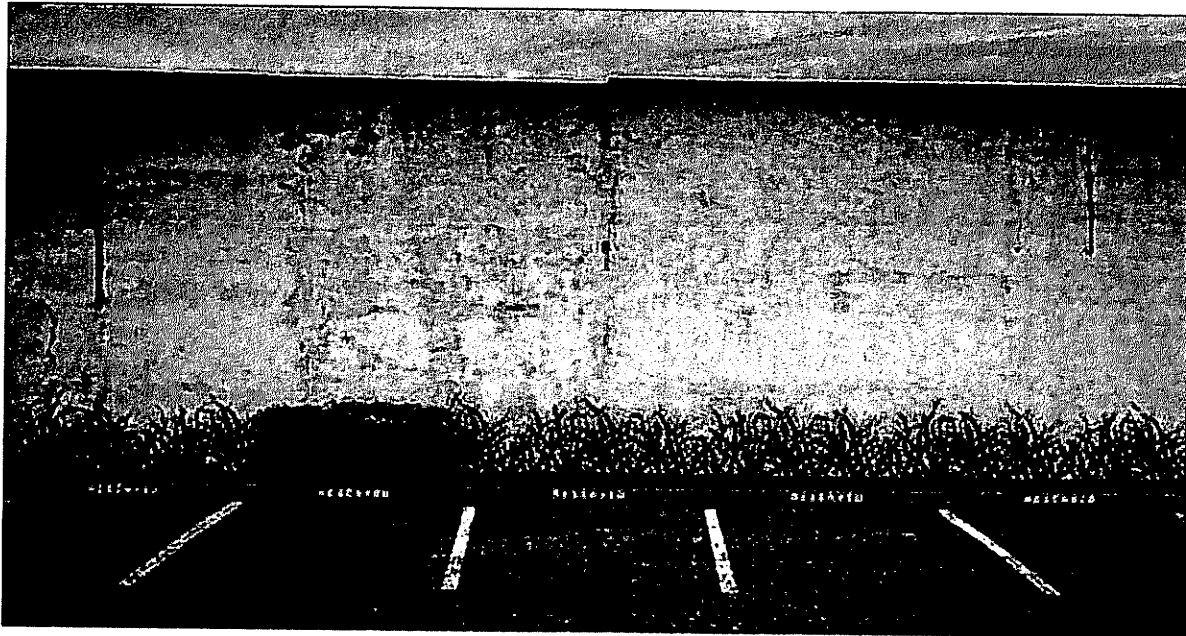


64. Some advertisements, for example, specifically emphasized the low emissions and eco-friendliness of the vehicles:

With reduced emissions.

These are not the kind of diesel engines that you find spewing sooty exhaust like an old 18-wheeler. Clean diesel vehicles meet some of the strictest standards in the world. Plus, TDI technology helps reduce sooty emissions by up to 90%, giving you a fuel-efficient and eco-conscious vehicle.¹

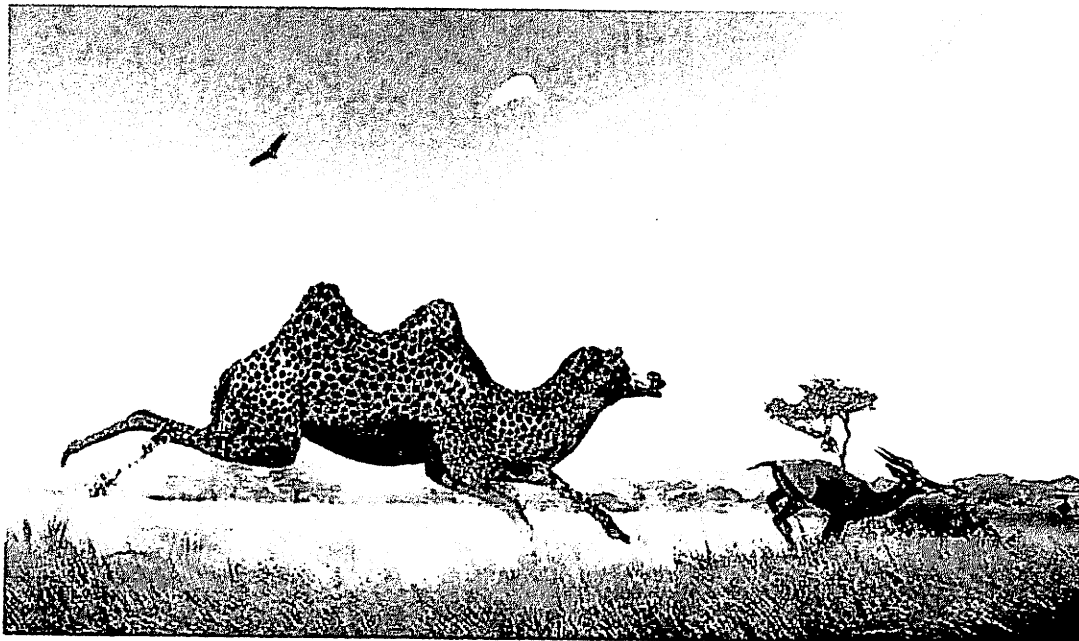




Ultra low emissions. Jetta TDI Clean Diesel.



65. Other advertisements touted the combination of fuel efficiency and power:



Volkswagen Turbo Diesel Injection.
Less fuel consumption with added engine power.



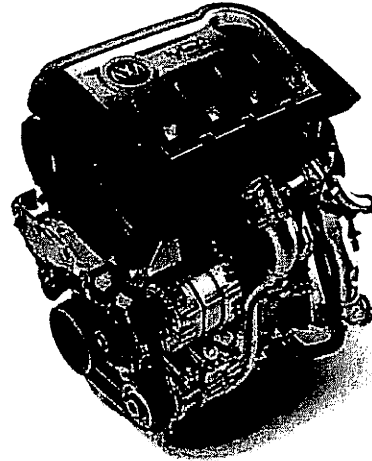
66. Additional advertisements addressed the full package, implying that in contrast to the “stinky, smoky, and sluggish” diesel vehicles of old, Volkswagen’s new diesel vehicles were clean, efficient, and powerful all at once:

This ain't your daddy's diesel.

Stinky, smoky, and sluggish. Those old diesel realities no longer apply. Enter TDI Clean Diesel. Ultra-low-sulfur fuel, direct injection technology, and extreme efficiency. We've ushered in a new era of diesel.

- Engineered to burn low-sulfur diesel fuel
- “Common Rail” direct injection system

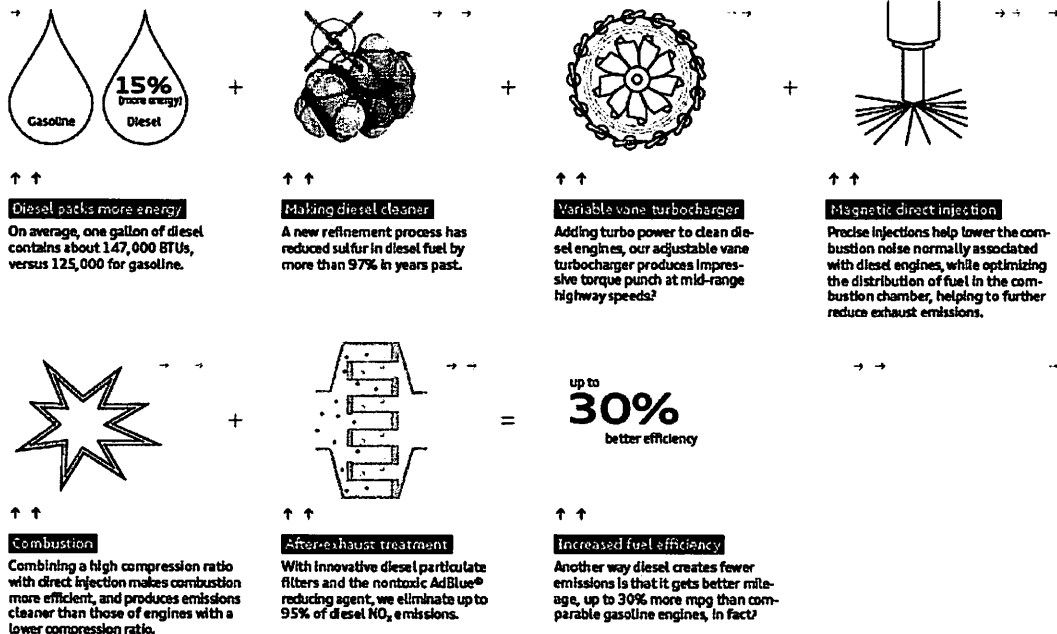
[View key fuel efficiency info](#)



TDI® clean diesel



It's been said that there's power in numbers. But in this case, that adage not only applies to the 2.0-liter TDI® clean diesel engine's 150 hp and 236 lb-ft of torque, it also refers to the numerous technological innovations, many of which Audi pioneered, that work together to make the TDI® engine one of the most advanced diesel engines in the world.



67. Volkswagen's efforts were a resounding success, as Volkswagens and Audi TDIs became the highest-selling diesel passenger cars in the United States. Unfortunately, the "clean diesel" vehicles were a sham.

B. Diesel Emissions Regulatory Framework

68. Because of the serious hazards created by nitrogen oxide emissions, both the EPA and CARB have regulated NOx.

69. The federal Clean Air Act prohibits the sale of any vehicle in the United States that does not comply with emissions regulations set by the EPA. 42 U.S.C. §7522. The current regulations, Tier 2, were implemented by the EPA between 2004 and 2009, and apply to all light-duty vehicles regardless of the fuel that they use. The Tier 2 regulations include certification levels of different levels of stringency, called certification bins. Volkswagen chose to certify Affected Vehicles to the Tier 2, Bin 5 standard, which has a maximum NOx level of .05 g/mi for a vehicle's intermediate life (5 years/50,000 miles) and .07 g/mi for a vehicle's full useful life (10 years/120,000 miles). 40 C.F.R. § 86.1811-04(c). In addition, a manufacturer's fleet average of NOx for any given model year must be under .07 g/mi. *Id.* at § 86.1811-04(d).

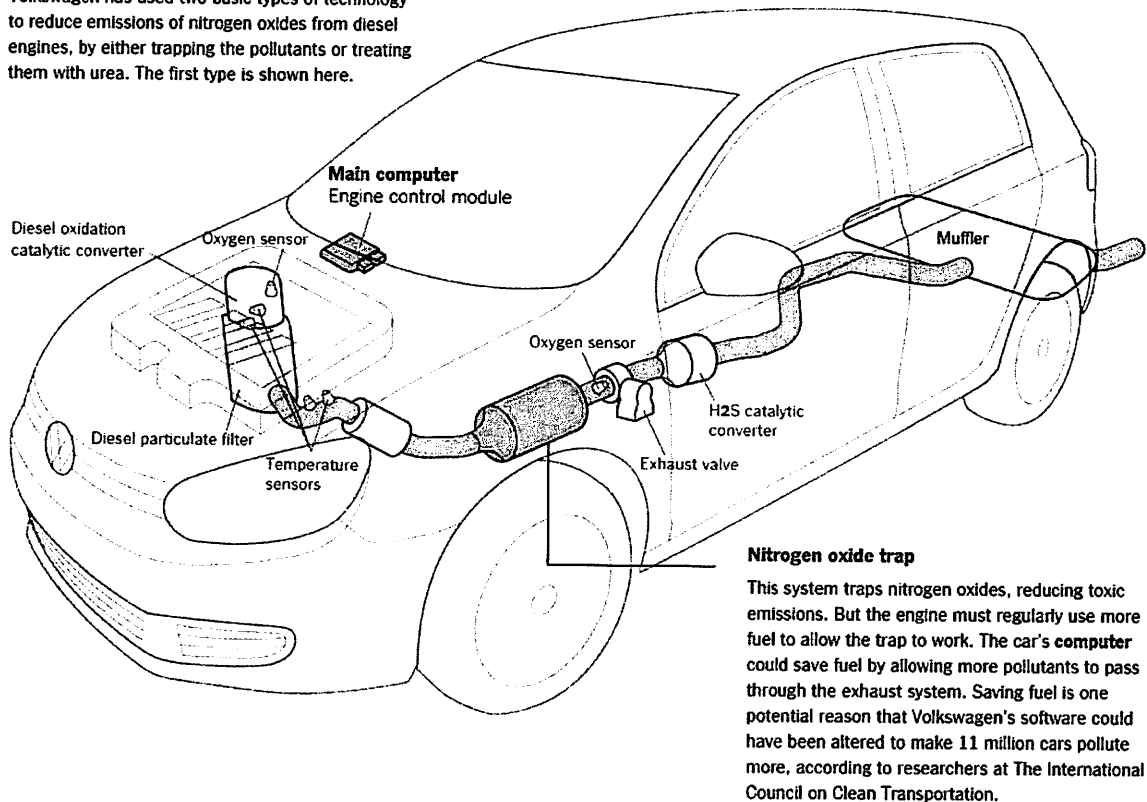
70. On the state level, CARB adopted Low-Emissions Vehicle (LEV) II emission standards that generally became applicable in the 2004 model year. *See* The California Low-Emission Vehicle Regulations, <http://www.arb.ca.gov/msprog/levprog/cleandoc/cleancomplete%20lev-ghg%20regs%201-15.pdf> (amended January 1, 2015); Cal. Code. Regs. Tit. 13 § 1961. Under the LEV II standard, NOx emissions were significantly tightened and required light-duty passenger vehicles (including Affected Vehicles) to emit no more than .05 g/mi initially, and no more than .07 g/mi over their useful life. Cal. Code. Regs. Tit. 13 § 1961.

71. To comply with EPA and CARB regulations concerning NOx, vehicle manufacturers use a variety of exhaust treatment systems to control NOx emissions. Exhaust gas recirculation (EGR) systems reintroduce some exhaust gases into the engine's intake. This lowers the peak temperature of combustion, which reduces the chance of NOx forming. Some

vehicles use a lean NOx trap, a system that relies on the power control module's ability to toggle the air-fuel ratio between rich and lean. The trap absorbs NOx from exhaust during lean air mixtures, and ultimately reduces it to nitrogen gas when the air-fuel ratio is switched to a rich mixture and back to lean. A diagram of a lean NOx trap (referred to as a Nitrogen Oxide Catalytic Converter) as used in the Volkswagen models at issue appears below:

Exhaust system of a Volkswagen Golf

Volkswagen has used two basic types of technology to reduce emissions of nitrogen oxides from diesel engines, by either trapping the pollutants or treating them with urea. The first type is shown here.



72. Federal and California regulations require manufacturers to apply for certifications that their vehicles meet applicable emission standards. 40 C.F.R. § 86.1843-01. The federal application must include a list of all auxiliary emission control devices installed on the vehicle. *Id.* at § 86.1844-01(d)(11). An auxiliary emission control device is defined as “any element of design which senses . . . any . . . parameter for the purpose of activating, modulating, delaying, or deactivating the operation of any part of the emission control system.” *Id.* at §

86.1803-01. The federal application must contain a detailed justification for each auxiliary emission control device that results in a reduction in the effectiveness of the emission control system, and a rationale for why it is not a “defeat device.” *Id.* at § 86.1844-01(d)(11).

73. Defeat devices are expressly forbidden by federal regulations. *See* EPA, Advisory Circular Number 24: Prohibition on use of Emission Control Defeat Device (Dec. 11, 1972); *see also* 40 C.F.R. §§ 86-1809-01, 86-1809-10, 86-1809-12. Stated simply, a defeat device is hardware or software that “defeats” the vehicle’s emission controls during normal vehicle operation—enabling the vehicle to produce low emissions during emissions testing, but not during normal operation. The Clean Air Act makes it a violation for any person to sell, manufacture, or install any component in a motor vehicle “where a principal effect of the part or component is to bypass, defeat, or render inoperative any device or element of design installed on or in a motor vehicle . . . in compliance with the regulations under this subchapter, and where the person knows or should know that such part or component is being offered for sale or installed for such use or put to such use.” Clean Air Act, 42 U.S.C. § 7522(a)(3)(B); 40 C.F.R. § 86.1854012(a)(3)(ii). Similarly, the EPA has specifically recognized that electronic control systems that affect the emission control system’s performance may be defeat devices. EPA, Advisory Circular Number 24-2: Prohibition on Emission Control Defeat Devices – Optional Objective Criteria (Dec. 6, 1978).

74. Every vehicle sold in the U.S. must be covered by Certificate of Conformity from the EPA. 40 C.F.R. § 86.1843-01. However, vehicles are only covered by a Certificate of Conformity if they are sold as described in the manufacturer’s application for certification. *Id.* at §86.1848-10(c)(6). Similarly, auto manufacturers must be certified by CARB in order to sell vehicles in California. Motor vehicles equipped with defeat devices, which reduce the effectiveness of the emission control system during normal driving conditions, cannot be certified.

75. Both federal and California regulations mandate that manufacturers include certain emissions-related labels on the vehicles they sell. First, the regulations require that an

C. Volkswagen Lied to Its Consumers and Deliberately Concealed the Excessive and Unlawful Levels of Pollution Emitted by Many of Its So-Called “Clean Diesel” Vehicles

77. In May 2014, West Virginia University’s Center for Alternative Fuels, Engines & Emissions published the results of a study commissioned by the International Council on Clean Transportation (“ICCT”) that found in-use emissions from two Volkswagen vehicles (a 2012 Jetta and a 2013 Passat) that were significantly higher than the Tier 2 Bin 5 NOx standard. The Jetta exceeded the standard by 15 to 35 times and the Passat exceeded it by 5 to 20 times.¹

78. Following publication of the study, the EPA and CARB began to investigate the issue. Volkswagen responded that increased emissions could be the result of unexpected technical issues or conditions. Volkswagen then issued a voluntary recall in December 2014, but testing performed by CARB and the EPA showed that there was only a limited benefit to the recall and that the vehicles still did not comply with EPA or CARB standards.

79. Thus, for years, Volkswagen failed to disclose to the public and to consumers the presence of the defeat devices in the Affected Vehicles and the true nature of its Affected Vehicles’ performance and emissions.

80. On September 18, 2015, the EPA served Volkswagen with a Notice of Violation (“NOV”) of the Clean Air Act.² The NOV explains that Volkswagen secretly installed a defeat device in certain of its diesel vehicles. As described herein, the defeat device is a complex software algorithm which enables the vehicles to bypass emissions standards by engaging the emission control function only during official emissions testing and rendering it inoperative at all other times.

81. Most modern engines, including Volkswagen’s “Clean Diesel” engines, use computerized engine control systems to monitor sensors throughout a car’s engine and exhaust systems and control operation of the car’s systems to ensure optimal performance and efficiency. These functions can include controlling fuel injection, valve and ignition timing, and,

¹ A full copy of the study is attached as **Exhibit H**.

² See **Exhibit A**.

as in Volkswagen's "Clean Diesel" engines, operating the engine's turbocharger. The engine control computer can, for example, ensure that the air-to-fuel mixture is correct based on sensor readings such as throttle position, amount of air flowing into the engine, and engine temperature.

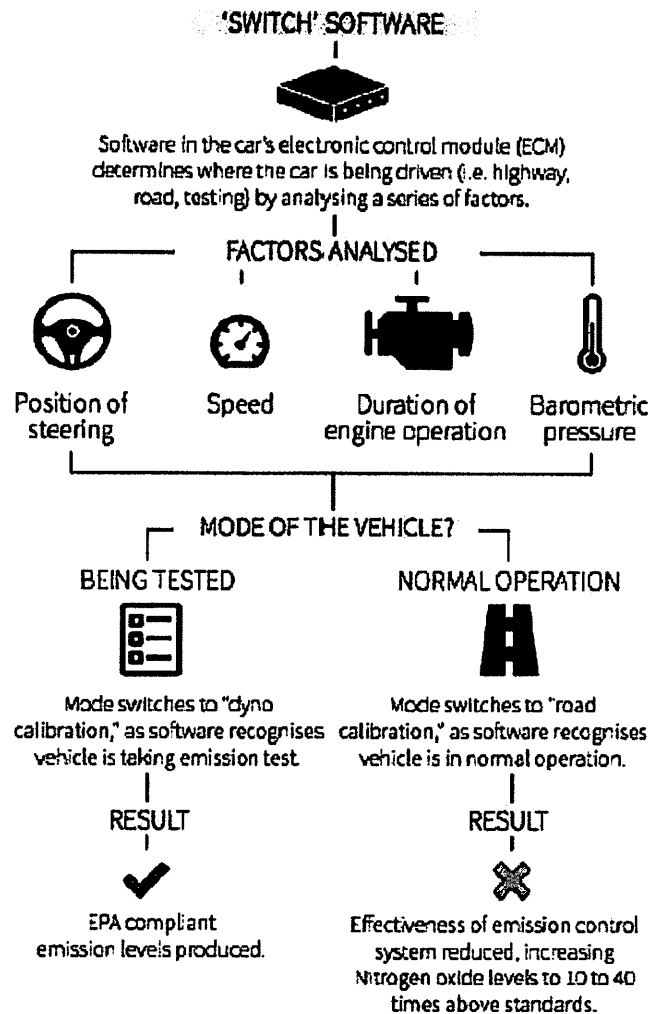
82. These engine control computers also receive data from sensors in the car's exhaust system that measure the amounts of chemical substances included in the car's exhaust. That data provides a measure of the engine's operation and efficiency, and is thus used by the engine control computer in operating the car's systems to ensure the desired performance and efficiency. Because modern cars include these sophisticated computers and sensors throughout the car's systems, emissions testing systems use a car's existing sensors to measure the presence of pollutants and track compliance with EPA and state emissions standards. Emissions testing stations plug a diagnostic device into the car's on-board diagnostics ("OBD II") port and use the car's exhaust sensors during the testing procedure to measure the substances emitted. Some states, instead of or in addition to an OBD II diagnostic device, use a measurement probe inserted into the car's exhaust pipe to measure the chemicals emitted.

83. Volkswagen programmed the engine control computers in the Affected Vehicles with software that detects when the cars are undergoing emissions testing, and then operates the car's engine and exhaust systems to ensure that emissions comply with EPA pollutant standards. When the car is not being emissions tested—that is, under the vast majority of operating conditions—the engine control systems operate the vehicle in a manner that does not comply with EPA emissions requirements.

84. The following graphic prepared by Reuters summarizes Volkswagen's defeat device software:

[continued on next page...]

How Volkswagen's defeat device works



Source: U.S. Environmental Protection Agency
J. Wang, 22/09/2015

REUTERS

85. In short, vehicles equipped with the defeat device software meet emissions standards only during testing; in normal operation they emit pollutants, including nitrogen oxides, at up to 40 times the legal limit.

86. As noted in the EPA's official press release, NOx is dangerous to public health:

NOx pollution contributes to nitrogen dioxide, ground-level ozone, and fine particulate matter. Exposure to these pollutants has been linked with a range of serious health effects, including increased asthma attacks and other respiratory illnesses that can be serious enough to send people to the hospital. Exposure to ozone and particulate matter have also been

associated with premature death due to respiratory-related or cardiovascular-related effects. Children, the elderly, and people with pre-existing respiratory disease are particularly at risk for health effects of these pollutants.³

87. Unsurprisingly, then, and as noted, defeat devices are illegal. The Clean Air Act expressly prohibits engine parts or components which “bypass, defeat, or render inoperative” the emission control system. CAA § 203 (a)(3)(B). Volkswagen’s software did just that and, in so doing, violated the Clean Air Act.

88. Volkswagen also violated the Clean Air Act by falsely certifying to the EPA that the Affected Vehicles would meet applicable federal emission standards in order to obtain the EPA- issued Certificate of Conformity, which is required to sell vehicles in the United States.

89. The California Air Resources Board made similar findings.⁴

90. As the journal Popular Mechanics reported, non-Volkswagen diesels commonly use urea injection to “neutralize” NOx emission, but those systems add weight and complexity to the engine. “Everyone wondered how VW met emissions standards while foregoing urea injection. As it turns out, they didn’t. It wasn’t magical German engineering. Just plain old fraud,” the journal reported.

91. In sum, Volkswagen couldn’t balance performance with the low pollution it promised. So it cheated.

D. Volkswagen Admitted Its Fraud

92. Volkswagen AG’s (now former) CEO Martin Winterkorn has already acknowledged the fraud and issued an apology for having “broken the trust of our customers and the public.”

93. Similarly, Volkswagen Group of America, Inc.’s CEO, Michael Horn, conceded that Volkswagen “was dishonest with the EPA, and the California Air Resources Board, and with

³ Exhibit A.

⁴ See Exhibit B.

all of you.” He went on to admit that Volkswagen “totally screwed up” and that it “must fix the cars.”

94. In a public statement released on September 22, 2015, Volkswagen admitted that there is “[a] noticeable deviation between bench test results and actual road use.”⁵

E. Volkswagen Has Reaped Considerable Profit From Its Fraud

95. Volkswagen charged premiums of several thousands of dollars for the Clean Diesel models of the Affected Vehicles. These premiums are represented in the chart below and reflect the value consumers placed on the advertised features of the Clean Diesel vehicles and paid to obtain, and which Volkswagen promised to all, but delivered to no one:

Clean Diesel Price Premium				
Mode	Bas	Mid-Level	Ton-Level	Average
VW Jetta	\$2,860.	\$1,570.	\$1,030.	\$1,820.
VW SportWagen	\$5,570.	\$1,680.	\$0.00	\$2,416.
VW Golf	\$2,400.	\$1,000.	\$1,000.	\$1,466.
VW Golf	\$2,950.	\$1,000.	\$1,000.	\$1,650.
VW Beetle	\$4,635.	\$4,920.	\$0.00	\$3,185.
VW Beetle	\$4,080.	\$530.00	\$700.00	\$1,770.
VW Passat	\$5,755.	\$2,845.	\$2,135.	\$3,578.
Audi A3	\$2,300.	\$2,300.	\$2,300.	\$2,300.
Average	\$3,818.	\$1,980.	\$1,020.	\$2,273.

96. Had Volkswagen revealed the truth about the Affected Vehicles, eco-conscious consumers would have taken their business to other automobile manufacturers.

F. Plaintiffs and Class Members Have Suffered Significant Harm as a Result of Volkswagen’s Fraud

97. Volkswagen will not be able to adequately fix the Affected Vehicles. The EPA has ordered Volkswagen to bring the Affected Vehicles into compliance with the emissions standards of the Clean Air Act, but doing so will materially compromise the vehicles’ performance and/or fuel efficiency.

98. Even if Volkswagen is able to make the Affected Vehicles EPA-compliant through a retrofit, the vehicles will no longer perform as previously represented to the public and

⁵ Exhibit E.

consumers, and Plaintiffs and Class Members will be deprived of the benefits Volkswagen promised and for which they bargained when they purchased or leased the Affected Vehicles.

99. Volkswagen failed to disclose these material facts to the public and to consumers. Had Plaintiffs and Class Members known of the defect at the time they decided to purchase or lease the Affected Vehicles, they would have declined to purchase or lease the vehicles, or would have paid considerably less than they did.

100. Experts in the automotive technology have said that disengaging the pollution controls on a diesel-fueled car can yield better performance, including increased torque and acceleration. “When the pollution controls are functioning on these vehicles, there’s a trade-off between performance and emissions,” said Drew Kodjak, executive director of the ICCT—the organization that first detected the deception. He stated, “[t]his is cutting corners.” As noted above, the ICCT, in conducting research on diesel vehicles, first noticed the discrepancy between Volkswagen’s emissions in testing laboratories and on the road. It brought the issue to the attention of the EPA, which conducted further tests on the cars, and ultimately discovered the use of the defeat device software.

101. As a result, even if Volkswagen is able to make Class Members’ affected vehicles EPA compliant, Class Members will nonetheless suffer actual harm and damages because their vehicles will no longer perform as they did when purchased and as advertised. This will necessarily result in a diminution in value of every affected vehicle and it will cause owners of affected vehicles to pay more for fuel while using their affected vehicles.

102. Indeed, Kelley Blue Book estimates that Volkswagen Clean Diesel vehicle resale values have decreased 13% since just last month.

103. Volkswagen’s customers relied on its eco-promises that it now has admitted were false. Customers, understandably, have voiced their frustration online:



Funny Guy @ffunnyguy · Sep 20

Could @VW actually buy the car ? The **lies** does piss me off. It was one of the keys reasons for me to buy #TDI 🍌



35 **Mel** @msmiscellaneous · Sep 20

Time for @VW to buy back my car & I don't mean KBB price. I don't want any part of your dirty **lies** or vehicle that I paid a premium for. #TDI

👍 6 🌟 10 ...



36 **Scott L. Sind** @_Scott_Sind · Sep 19

Will @VW buy my **TDI** Passat back now that the primary factors that influenced my purchase decision turn out to be **lies**? #VW #TDI

👍 1 🌟 5 ...



28 **Shirley Callis** @ShirleyCallis · Sep 19

I bought a Jetta **TDI** but the EPA says @VW sold me a bill of goods. #lies #recall #classaction #shameonvolkswagen #pollution #howdoyousleep

👍 1 🌟 5 ...



31 **ryanjmiller** @ryanjmiller · Sep 18

@VW So what are you going to do make your **TDI** customers (who I am) whole due to your **lies** and deception? #shameful

👍 1 🌟 5 ...

104. In sum, the Affected Vehicles do not function as reasonable consumers expect, and have lost considerable value. Moreover, Plaintiffs and Class Members will incur additional expenses at the pump as a result of decreased fuel efficiency—likely the only fix to cure the NOx emissions violation.

V. FRAUDULENT CONCEALMENT ALLEGATIONS

105. Absent discovery, Plaintiffs are unaware of, and unable through reasonable investigation to obtain, the true names and identities of those individuals associated with Volkswagen responsible for disseminating false and misleading marketing materials (and marketing materials with material omissions) regarding the Affected Vehicles. Volkswagen is necessarily in possession of all of this information. Plaintiffs' claims arise out of the Volkswagen's fraudulent concealment of the Defect and the safety hazard it poses, and its representations about the safety of the Affected Vehicles. To the extent that Plaintiffs' claims

arise from the Volkswagen's fraudulent concealment, there is no one document or communication, and no one interaction, upon which Plaintiffs base their claims. Plaintiffs allege that at all relevant times, including specifically at the time they purchased their Affected Vehicles, Volkswagen knew, or as reckless in not knowing, of the Defect. Volkswagen was under a duty to disclose the Defect based upon their exclusive knowledge of the defect; Volkswagen never disclosed the Defect to the Plaintiffs or the public at any time or place or in any manner until within the last week (and then, only partially-so).

106. Plaintiffs make the following specific fraud allegations with as much specificity as possible absent access to the information necessarily available only to Volkswagen:

(a) **Who:** Volkswagen actively concealed the Defect from Plaintiffs and the Class while simultaneously touting the safety, fuel-efficiency, eco-friendliness, and power of the Affected Vehicles.⁶ Plaintiffs are unaware of, and therefore unable to identify, the true names and identities of those specific individuals at Volkswagen responsible for such decisions.

(b) **What:** Volkswagen knew, or was reckless or negligent in not knowing, that the Affected Vehicles contain the Defect. Volkswagen concealed the Defect and made express representations about the safety, fuel-efficiency, eco-friendliness, and power of the Affected Vehicles.⁷

(c) **When:** Volkswagen concealed material information regarding the Defect at all times and made representations about the Affected Vehicles, starting no later than 2009, or at the subsequent introduction of each Affected Vehicle model, continuing through the time of sale, and on an ongoing basis. Volkswagen has, universally, not yet disclosed the full truth about the Defect in the Affected Vehicles to anyone.

(d) **Where:** Volkswagen concealed material information regarding the true nature of the Defect in every communication they had with Plaintiffs and the Class and made

⁶ See *supra* re: advertisements within this Complaint and attached Exhibits of Plaintiffs' specific vehicle sales brochures.

⁷ *Id.*

representations about the safety, fuel-efficiency, eco-friendliness, and power of the Affected Vehicles. Despite counsel's review and analysis of marketing materials, sales brochures, and auto manuals for each of the Affected Vehicles, Plaintiffs are aware of no document, communication, or other place or thing, in which Volkswagen disclosed the truth about the Defect in the Affected Vehicles to anyone outside of Volkswagen. Such information is not adequately disclosed in any sales documents, displays, advertisements, warranties, owner's manual, or on Volkswagen's websites.

(e) **How:** Volkswagen concealed the Defect from Plaintiffs and Class Members and made representations about the safety of the Affected Vehicles.⁸ Volkswagen actively concealed the truth about the existence and nature of the Defect from Plaintiffs and Class Members at all times, even though they knew about the Defect and knew that information about the Defect would be important to a reasonable consumer. Volkswagen promised in their marketing materials that Affected Vehicles have qualities that they do not have, such as the combination of safety, fuel-efficiency, eco-friendliness, and power.

(f) **Why:** Volkswagen actively concealed material information about the Defect in the Affected Vehicles for the purpose of inducing Plaintiffs and Class Members to purchase the Affected Vehicles rather than purchasing competitors' vehicles, and made representations about the safety, fuel-efficiency, eco-friendliness, and power of the Affected Vehicles.⁹ Had Volkswagen disclosed the truth, Plaintiffs and Class Members (and reasonable consumers) would not have bought the Affected Vehicles or would have paid less for them.

VI. TOLLING OF THE STATUTE OF LIMITATIONS

A. Discovery Rule Tolling

107. The tolling doctrine was made for cases of concealment like this one. For the following reasons, any otherwise-applicable statutes of limitation have been tolled by the discovery rule with respect to all claims.

⁸ *Id.*

⁹ *Id.*

108. Through the exercise of reasonable diligence, and within any applicable statutes of limitation, Plaintiffs and members of the proposed Class could not have discovered that Volkswagen was concealing and misrepresenting the true emissions levels of its vehicles, including but not limited to its use of defeat devices.

109. As reported in the *New York Times* on September 19, 2015, the International Council on Clean Transportation, a research group, first noticed the difference between Volkswagen's emissions in testing laboratories and in normal use on the road. The International Council on Clean Transportation brought the defeat device issue to the attention of the EPA. The EPA, in turn, conducted further tests on the vehicles, and ultimately uncovered the unlawful use of the defeat device software. Thus, Volkswagen's deception with respect to its Clean Diesel engines, engine control systems, and "defeat devices" was painstakingly concealed from consumers and regulators alike.

110. Plaintiffs and the other Class members could not reasonably discover, and did not know of facts that would have caused a reasonable person to suspect, that Volkswagen intentionally failed to report information within its knowledge to federal and state authorities, its dealerships, or consumers.

111. Likewise, a reasonable and diligent investigation could not have disclosed that Volkswagen had information in its sole possession about the existence of its sophisticated emissions deception and that it concealed that information, which was discovered by Plaintiffs immediately before this action was filed. Plaintiffs and other Class members could not have previously learned that Volkswagen valued profits over compliance with applicable federal and state emissions and consumer law.

B. Tolling Due To Fraudulent Concealment

112. Throughout the relevant time period, all applicable statutes of limitation have been tolled by Volkswagen's knowing and active fraudulent concealment and denial of the facts alleged in this Complaint.

113. Instead of disclosing its emissions deception, or that the emissions from the Affected Vehicles were far worse than represented, Volkswagen falsely represented that its vehicles complied with federal and state emissions standards, and that it was a reputable manufacturer whose representations could be trusted.

C. Estoppel

114. Volkswagen was under a continuous duty to disclose to Plaintiffs and the other Class members the facts that it knew about the emissions from Affected Vehicles, and of those vehicles' failure to comply with federal and state laws.

115. Although it had the duty throughout the relevant period to disclose to Plaintiffs and Class members that it had engaged in the deception described in this Complaint, Volkswagen chose to evade federal and state emissions and clean air standards with respect to the Affected Vehicles, and it intentionally misrepresented its blatant and deceptive lack of compliance with state law regulating vehicle emissions and clean air.

116. Thus, Volkswagen is estopped from relying on any statutes of limitations in defense of this action.

VII. CLASS ACTION ALLEGATIONS

117. Plaintiffs bring this action on behalf of themselves and as a class action, pursuant to the provisions of Rules 23(a), (b)(2), and (b)(3) of the Federal Rules of Civil Procedure on behalf of the following class and subclasses (collectively, the "Classes"):

The Nationwide Class

All persons or entities in the United States who are current or former owners and/or lessees of an "Affected Vehicle."

The Virginia Subclass

All persons or entities in the state of Virginia who are current or former owners and/or lessees of an "Affected Vehicle."

The Colorado Subclass

All persons or entities in the state of Colorado who are current or former owners and/or lessees of an "Affected Vehicle."

The Connecticut Subclass

All persons or entities in the state of Connecticut who are current or former owners and/or lessees of an “Affected Vehicle.”

The Florida Subclass

All persons or entities in the state of Florida who are current or former owners and/or lessees of an “Affected Vehicle.”

The South Carolina Subclass

All persons or entities in the state of South Carolina who are current or former owners and/or lessees of an “Affected Vehicle.”

The Wisconsin Subclass

All persons or entities in the state of Wisconsin who are current or former owners and/or lessees of an “Affected Vehicle.”

118. Excluded from the Class are individuals who have personal injury claims resulting from the “defeat device” in the Clean Diesel system. Also excluded from the Class are Volkswagen and its subsidiaries and affiliates; all persons who make a timely election to be excluded from the Class; governmental entities; and the judge to whom this case is assigned and his/her immediate family. Plaintiffs reserve the right to revise the Class definition based upon information learned through discovery.

119. Certification of Plaintiffs’ claims for class-wide treatment is appropriate because Plaintiffs can prove the elements of their claims on a class-wide basis using the same evidence as would be used to prove those elements in individual actions alleging the same claim.

120. This action has been brought and may be properly maintained on behalf of each of the Classes proposed herein under Federal Rule of Civil Procedure 23.

1. Numerosity: Federal Rule of Civil Procedure 23(a)(1).

121. The members of the Classes are so numerous and geographically dispersed that individual joinder of all Class members is impracticable. While Plaintiffs are informed and believe that there are not less than hundreds of thousands of members of the Classes, the precise number of Class members is unknown to Plaintiffs, but may be ascertained from Volkswagen’s

records. Class members may be notified of the pendency of this action by recognized, Court-approved notice dissemination methods, which may include U.S. mail, electronic mail, Internet postings, and/or published notice.

2. Commonality and Predominance: Federal Rule of Civil Procedure 23(a)(2) and 23(b)(3).

122. This action involves common questions of law and fact, which predominate over any questions affecting individual Class members, including, without limitation:

123. Whether Volkswagen engaged in the conduct alleged herein;

124. whether Volkswagen designed, advertised, marketed, distributed, leased, sold, or otherwise placed Affected Vehicles into the stream of commerce in the United States;

125. whether the Clean Diesel engine system in the Affected Vehicles contains a defect in that it does not comply with EPA requirements;

126. whether the Clean Diesel engine systems in Affected Vehicles can be made to comply with EPA standards without substantially degrading the performance and/or efficiency of the Affected Vehicles;

127. whether Volkswagen knew about the “defeat device” and, if so, how long Volkswagen has known;

128. whether Volkswagen designed, manufactured, marketed, and distributed Affected Vehicles with a “defeat device”;

129. whether the Affected Vehicles suffer from the Defect;

130. whether Volkswagen knew or should have known about the Defect, and, if yes, how long Volkswagen has known of the Defect;

131. whether the defective nature of the Affected Vehicles constitutes a material fact reasonable consumers would have considered in deciding whether to purchase an Affected Vehicle;

132. whether Volkswagen’s conduct violates consumer protection statutes and other laws as asserted herein;

133. whether Plaintiffs and the other Class members overpaid for their Affected Vehicles;

134. whether Volkswagen omitted and failed to disclose material facts about the Affected Vehicles;

135. whether Volkswagen's concealment of the true defective nature of the Affected Vehicles induced Plaintiffs and Class Members to act to their detriment by purchasing Affected Vehicles and whether Volkswagen's actions were in violation of the consumer fraud statutes as alleged herein;

136. whether Plaintiffs and the other Class members are entitled to equitable relief, including, but not limited to, restitution or injunctive relief; and

137. whether Plaintiffs and the other Class members are entitled to damages and other monetary relief and, if so, in what amount,

3. Typicality: Federal Rule of Civil Procedure 23(a)(3).

138. Plaintiffs' claims are typical of the other Class members' claims because, among other things, all Class members were comparably injured through Volkswagen's wrongful conduct as described above.

4. Adequacy: Federal Rule of Civil Procedure 23(a)(4).

139. Plaintiffs are adequate Class representatives because their interests do not conflict with the interests of the other members of the Class they seek to represent; Plaintiffs have retained counsel competent and experienced in complex class action litigation; and Plaintiffs intend to prosecute this action vigorously. The Class's interests will be fairly and adequately protected by Plaintiffs and their counsel.

5. Declaratory and Injunctive Relief: Federal Rule of Civil Procedure 23(b)(2).

140. Volkswagen has acted or refused to act on grounds generally applicable to Plaintiffs and the other members of the Class, thereby making appropriate final injunctive relief and declaratory relief, as described below, with respect to the Class as a whole.

6. Superiority: Federal Rule of Civil Procedure 23(b)(3).

141. A class action is superior to any other available means for the fair and efficient adjudication of this controversy, and no unusual difficulties are likely to be encountered in the management of this class action. The damages or other financial detriment suffered by Plaintiffs and the other Class members are relatively small compared to the burden and expense that would be required to individually litigate their claims against Volkswagen, so it would be impracticable for members of the Classes to individually seek redress for Volkswagen's wrongful conduct.

142. Even if Class members could afford individual litigation, the court system could not. Individualized litigation creates a potential for inconsistent or contradictory judgments, and increases the delay and expense to all parties and the court system. By contrast, the class action device presents far fewer management difficulties, and provides the benefits of single adjudication, economy of scale, and comprehensive supervision by a single court.

VIII. CAUSES OF ACTION

A. Claims Asserted on Behalf of the Nationwide Class

**COUNT I
Unjust Enrichment**

143. Plaintiffs incorporate by reference all preceding allegations as though fully set forth herein.

144. Plaintiffs bring this Count on behalf of the Nationwide Class.

145. Volkswagen has been unjustly enriched by the purchases of the Affected Vehicles by Plaintiffs and the Class Members.

146. On behalf of all Class Members, Plaintiffs seek to recover Volkswagen's unjust enrichment.

147. Plaintiffs and the Class Members unknowingly conferred a benefit on Volkswagen of which it had knowledge since it was aware of the defective nature of the Affected Vehicles and the defeat device, but failed to disclose this knowledge and misled Plaintiffs and

the Class members regarding the nature and quality of the Affected Vehicles while profiting from this omission and deception.

148. The circumstances are such that it would be inequitable, unconscionable and unjust to permit Volkswagen to retain the benefit of these profits that it unfairly has obtained from Plaintiffs and the Class members.

149. Plaintiffs and the Class members, having been damaged by Volkswagen's conduct, are entitled to recover or recoup damages as a result of the unjust enrichment of Volkswagen to their detriment.

150. Alternatively, Plaintiffs and the Class members seek to recover for Volkswagen's unjust enrichment under the substantially similar laws of the states of purchase.

B. Claims Brought on Behalf of the Virginia Subclass

**COUNT II
Fraudulent Concealment
(Common Law)**

151. Plaintiffs incorporate by reference all preceding allegations as though fully set forth herein.

152. Plaintiffs Laura McNeil and Patrick Cutler bring this Count on behalf of the Virginia Subclass.

153. Volkswagen intentionally concealed and suppressed material facts concerning the quality of the Affected Vehicles. As alleged in this Complaint, notwithstanding references in the model names of the subject vehicles as "Clean Diesel," or to their engines as "TDI Clean Diesel" engines, Volkswagen engaged in a secret scheme to evade federal and state vehicle emissions standards by installing software designed to conceal its vehicles' emissions of the pollutant nitrogen oxide, which contributes to the creation of ozone and smog. The software installed on the vehicles at issue was designed to kick-in during emissions certification testing, such that the vehicles would show far lower emissions than when actually operating on the road. The result was what Volkswagen intended: vehicles passed emissions certifications by way of deliberately

induced false readings. Reportedly, Volkswagen's deliberate, secret scheme resulted in noxious emissions from these vehicles at up to 40 times applicable standards.

154. Plaintiffs and Class members reasonably relied upon Volkswagen's false representations. They had no way of knowing that Volkswagen's representations were false and gravely misleading. As alleged herein, Volkswagen employed extremely sophisticated methods of deception. Plaintiffs and Class members did not, and could not, unravel Volkswagen's deception on their own.

155. Volkswagen concealed and suppressed material facts concerning what is evidently the true culture of Volkswagen – one characterized by an emphasis on profits and sales above compliance with federal and state clean air laws, and emissions regulations that are meant to protect the public and consumers. It also emphasized profits and sales over the trust that Plaintiffs and Class members placed in its representations. As one customer, Priya Shah, put it in a quotation cited by the *Los Angeles Times* in a September 18, 2015 article, "It's just a blatant disregard and intentional manipulation of the system. That's just a whole other level of not only lying to the government, but also lying to your consumer. People buy diesel cars from Volkswagen because they feel they are clean diesel cars." In the words of Ms. Shah, which no doubt reflect the sentiments of all other Clean Diesel vehicle buyers, "I don't want to be spewing noxious gases into the environment."

156. Volkswagen concealed and suppressed its scheme in order to boost the reputations of its vehicles and to falsely assure purchasers and lessors of its vehicles, including previously owned vehicles, that Volkswagen is a reputable manufacturer that complies with applicable law, including federal and state clean air laws and emissions regulations, and that its vehicles likewise comply with applicable law and regulations. Volkswagen's false representations were material to consumers, both because they concerned the quality of the affected vehicles, including their compliance with applicable federal and state law and regulations regarding clean air and emissions, and also because the representations played a significant role in the value of the vehicles. As Volkswagen well knew, its customers, including

Plaintiffs and Class members, highly valued that the vehicles they were purchasing or leasing were clean diesel cars, and they paid accordingly.

157. Volkswagen had a duty to disclose its emissions scheme because knowledge of the scheme and its details were known and/or accessible only to Volkswagen, because Volkswagen had exclusive knowledge as to implementation and maintenance of its scheme, and because Volkswagen knew the facts were not known to or reasonably discoverable by Plaintiffs or Class members. Volkswagen also had a duty to disclose because it made general affirmative representations about the qualities of its vehicles with respect to emissions standards, starting with references to them as *clean* diesel cars, or cars with *clean* diesel engines, which were misleading, deceptive, and incomplete without the disclosure of the additional facts set forth above regarding its emissions scheme, the actual emissions of its vehicles, its actual philosophy with respect to compliance with federal and state clean air laws and emissions regulations, and its actual practices with respect to the vehicles at issue. Having volunteered to provide information to Plaintiffs, Volkswagen had the duty to disclose not just the partial truth, but the entire truth. These omitted and concealed facts were material because they directly impact the value of the Affected Vehicles purchased or leased by Plaintiffs and Class members. Whether a manufacturer's products comply with federal and state clean air laws and emissions regulations, and whether that manufacturer tells the truth with respect to such compliance or non-compliance, are material concerns to a consumer, including with respect to the emissions certification testing their vehicles must pass. Volkswagen represented to Plaintiffs and Class members that they were purchasing *clean* diesel vehicles, and certification testing appeared to confirm this – except that, secretly, Volkswagen had subverted the testing process thoroughly.

158. Volkswagen actively concealed and/or suppressed these material facts, in whole or in part, to pad and protect its profits and to avoid the perception that its vehicles did not or could not comply with federal and state laws governing clean air and emissions, which perception would hurt the brand's image and cost Volkswagen money, and it did so at the expense of Plaintiffs and Class members.

159. On information and belief, Volkswagen has still not made full and adequate disclosures, and continues to defraud Plaintiffs and Class members by concealing material information regarding the emission qualities of its vehicles and its emissions scheme.

160. Plaintiffs and Class members were unaware of the omitted material facts referenced herein, and they would not have acted as they did if they had known of the concealed and/or suppressed facts, in that they would not have purchased purportedly “clean” diesel cars manufactured by Volkswagen, and/or would not have continued to drive their heavily polluting vehicles, or would have taken other affirmative steps in light of the information concealed from them. Plaintiffs’ and Class Members’ actions were justified. Volkswagen was in exclusive control of the material facts, and such facts were not known to the public, Plaintiffs, or Class members.

161. Because of the concealment and/or suppression of the facts, Plaintiffs and Class members have sustained damage because they own vehicles that are diminished in value as a result of Volkswagen’s concealment of the true quality and quantity of those vehicles’ emissions and Volkswagen’s failure to timely disclose the actual emission qualities and quantities of hundreds of thousands of Volkswagen- and Audi-branded vehicles and the serious issues engendered by Volkswagen’s corporate policies. Had Plaintiffs and Class members been aware of Volkswagen’s emissions scheme, and the company’s callous disregard for compliance with applicable federal and state law and regulations, Plaintiffs and Class members who purchased or leased new or previously owned vehicles would have paid less for their vehicles or would not have purchased or leased them at all.

162. The value of Plaintiffs’ and Class Members’ vehicles has diminished as a result of Volkswagen’s fraudulent concealment of its emissions scheme, which has greatly tarnished the Volkswagen and Audi brand names attached to Plaintiffs’ and Class members’ vehicles and made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay what otherwise would have been fair market value for the vehicles. In addition, Class members

are entitled to damages for loss of use, costs of additional fuel, costs of unused warranties, and other damages to be proved at trial.

163. Accordingly, Volkswagen is liable to Plaintiffs and Class members for damages in an amount to be proven at trial.

164. Volkswagen's acts were done wantonly, maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiffs' and Class members' rights and the representations that Volkswagen made to them, in order to enrich Volkswagen. To the extent permitted under applicable law, Volkswagen's conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

COUNT III
Violations of Virginia Consumer Protection Act
(Va. Code Ann. §§ 59.1-196, *et seq.*)

165. Plaintiffs incorporate by reference all preceding allegations as though fully set forth herein.

166. Plaintiffs Laura McNeil and Patrick Cutler bring this Count on behalf of the Virginia Subclass.

167. The Virginia Consumer Protection Act prohibits "... (5) misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses, or benefits; (6) misrepresenting that goods or services are of a particular standard, quality, grade, style, or model; ... (8) advertising goods or services with intent not to sell them as advertised ...; [and] (14) using any other deception, fraud, false pretense, false promise, or misrepresentation in connection with a consumer transaction[.]" VA. CODE ANN. § 59.1-200(A).

168. Defendant is a "person" as defined by VA. CODE ANN. § 59.1-198. The transactions between Plaintiffs and the other Class members on one hand and Volkswagen on the other, leading to the purchase or lease of the Affected Vehicles by Plaintiffs and the other Class members, are "consumer transactions" as defined by VA. CODE ANN. § 59.1-198, because the

Affected Vehicles were purchased or leased primarily for personal, family or household purposes.

169. In the course of Volkswagen's business, it willfully failed to disclose and actively concealed the defeat device in Affected Vehicles as described above. Accordingly, Volkswagen engaged in acts and practices violating VA. CODE ANN. § 59.1-200(A), including representing that Affected Vehicles have characteristics, uses, benefits, and qualities which they do not have; representing that Affected Vehicles are of a particular standard and quality when they are not; advertising Affected Vehicles with the intent not to sell them as advertised; and otherwise engaging in conduct likely to deceive.

170. Volkswagen's actions as set forth above occurred in the conduct of trade or commerce.

171. Volkswagen's conduct proximately caused injuries to Plaintiffs and the other Class members.

172. Plaintiffs and the other Class members were injured as a result of Volkswagen's conduct in that Plaintiffs and the other Class members overpaid for their Affected Vehicles and did not receive the benefit of their bargain, and their Affected Vehicles have suffered a diminution in value. These injuries are the direct and natural consequence of Volkswagen's misrepresentations and omissions.

173. Volkswagen actively and willfully concealed and/or suppressed the material facts regarding the defective and non-EPA compliant Clean Diesel engine system, the defeat device and the Affected Vehicles, in whole or in part, with the intent to deceive and mislead Plaintiffs and the other Class members and to induce Plaintiffs and the other Class members to purchase or lease Affected Vehicles at a higher price, which did not match the Affected Vehicles' true value. Plaintiffs and the other Class members therefore seek treble damages.

C. Claims Brought on Behalf of the Colorado Subclass

**COUNT IV
Fraudulent Concealment
(Common Law)**

174. Plaintiffs incorporate by reference all preceding allegations as though fully set forth herein.

175. Plaintiff Amy Nelson brings this Count on behalf of the Colorado Subclass.

176. Volkswagen intentionally concealed and suppressed material facts concerning the quality of the Affected Vehicles. As alleged in this Complaint, notwithstanding references in the model names of the subject vehicles as “Clean Diesel,” or to their engines as “TDI Clean Diesel” engines, Volkswagen engaged in a secret scheme to evade federal and state vehicle emissions standards by installing software designed to conceal its vehicles’ emissions of the pollutant nitrogen oxide, which contributes to the creation of ozone and smog. The software installed on the vehicles at issue was designed to kick-in during emissions certification testing, such that the vehicles would show far lower emissions than when actually operating on the road. The result was what Volkswagen intended: vehicles passed emissions certifications by way of deliberately induced false readings. Reportedly, Volkswagen’s deliberate, secret scheme resulted in noxious emissions from these vehicles at up to 40 times applicable standards.

177. Plaintiff and Class members reasonably relied upon Volkswagen’s false representations. They had no way of knowing that Volkswagen’s representations were false and gravely misleading. As alleged herein, Volkswagen employed extremely sophisticated methods of deception. Plaintiff and Class members did not, and could not, unravel Volkswagen’s deception on their own.

178. Volkswagen concealed and suppressed material facts concerning what is evidently the true culture of Volkswagen – one characterized by an emphasis on profits and sales above compliance with federal and state clean air laws, and emissions regulations that are meant to protect the public and consumers. It also emphasized profits and sales over the trust that Plaintiff and Class members placed in its representations. As one customer, Priya Shah, put it in

a quotation cited by the *Los Angeles Times* in a September 18, 2015 article, “It’s just a blatant disregard and intentional manipulation of the system. That’s just a whole other level of not only lying to the government, but also lying to your consumer. People buy diesel cars from Volkswagen because they feel they are clean diesel cars.” In the words of Ms. Shah, which no doubt reflect the sentiments of all other Clean Diesel vehicle buyers, “I don’t want to be spewing noxious gases into the environment.”

179. Volkswagen concealed and suppressed its scheme in order to boost the reputations of its vehicles and to falsely assure purchasers and lessors of its vehicles, including previously owned vehicles, that Volkswagen is a reputable manufacturer that complies with applicable law, including federal and state clean air laws and emissions regulations, and that its vehicles likewise comply with applicable law and regulations. Volkswagen’s false representations were material to consumers, both because they concerned the quality of the affected vehicles, including their compliance with applicable federal and state law and regulations regarding clean air and emissions, and also because the representations played a significant role in the value of the vehicles. As Volkswagen well knew, its customers, including Plaintiff and Class members, highly valued that the vehicles they were purchasing or leasing were clean diesel cars, and they paid accordingly.

180. Volkswagen had a duty to disclose its emissions scheme because knowledge of the scheme and its details were known and/or accessible only to Volkswagen, because Volkswagen had exclusive knowledge as to implementation and maintenance of its scheme, and because Volkswagen knew the facts were not known to or reasonably discoverable by Plaintiff or Class members. Volkswagen also had a duty to disclose because it made general affirmative representations about the qualities of its vehicles with respect to emissions standards, starting with references to them as *clean* diesel cars, or cars with *clean* diesel engines, which were misleading, deceptive, and incomplete without the disclosure of the additional facts set forth above regarding its emissions scheme, the actual emissions of its vehicles, its actual philosophy with respect to compliance with federal and state clean air laws and emissions regulations, and

its actual practices with respect to the vehicles at issue. Having volunteered to provide information to Plaintiff, Volkswagen had the duty to disclose not just the partial truth, but the entire truth. These omitted and concealed facts were material because they directly impact the value of the Affected Vehicles purchased or leased by Plaintiff and Class members. Whether a manufacturer's products comply with federal and state clean air laws and emissions regulations, and whether that manufacturer tells the truth with respect to such compliance or non-compliance, are material concerns to a consumer, including with respect to the emissions certification testing their vehicles must pass. Volkswagen represented to Plaintiff and Class members that they were purchasing *clean* diesel vehicles, and certification testing appeared to confirm this – except that, secretly, Volkswagen had subverted the testing process thoroughly.

181. Volkswagen actively concealed and/or suppressed these material facts, in whole or in part, to pad and protect its profits and to avoid the perception that its vehicles did not or could not comply with federal and state laws governing clean air and emissions, which perception would hurt the brand's image and cost Volkswagen money, and it did so at the expense of Plaintiff and Class members.

182. On information and belief, Volkswagen has still not made full and adequate disclosures, and continues to defraud Plaintiff and Class members by concealing material information regarding the emission qualities of its vehicles and its emissions scheme.

183. Plaintiff and Class members were unaware of the omitted material facts referenced herein, and they would not have acted as they did if they had known of the concealed and/or suppressed facts, in that they would not have purchased purportedly “clean” diesel cars manufactured by Volkswagen, and/or would not have continued to drive their heavily polluting vehicles, or would have taken other affirmative steps in light of the information concealed from them. Plaintiff's and Class Members' actions were justified. Volkswagen was in exclusive control of the material facts, and such facts were not known to the public, Plaintiff, or Class members.

184. Because of the concealment and/or suppression of the facts, Plaintiff and Class members have sustained damage because they own vehicles that are diminished in value as a result of Volkswagen's concealment of the true quality and quantity of those vehicles' emissions and Volkswagen's failure to timely disclose the actual emission qualities and quantities of hundreds of thousands of Volkswagen- and Audi-branded vehicles and the serious issues engendered by Volkswagen's corporate policies. Had Plaintiff and Class members been aware of Volkswagen's emissions scheme, and the company's callous disregard for compliance with applicable federal and state law and regulations, Plaintiff and Class members who purchased or leased new or previously owned vehicles would have paid less for their vehicles or would not have purchased or leased them at all.

185. The value of Plaintiff's and Class Members' vehicles has diminished as a result of Volkswagen's fraudulent concealment of its emissions scheme, which has greatly tarnished the Volkswagen and Audi brand names attached to Plaintiff's and Class members' vehicles and made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay what otherwise would have been fair market value for the vehicles. In addition, Class members are entitled to damages for loss of use, costs of additional fuel, costs of unused warranties, and other damages to be proved at trial.

186. Accordingly, Volkswagen is liable to Plaintiff and Class members for damages in an amount to be proven at trial.

187. Volkswagen's acts were done wantonly, maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiff's and Class members' rights and the representations that Volkswagen made to them, in order to enrich Volkswagen. To the extent permitted under applicable law, Volkswagen's conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

COUNT V
Violations of the Colorado Consumer Protection Act
(Colo. Rev. Stat. §§ 6-1-101, *et seq.*)

188. Plaintiffs incorporate by reference all preceding allegations as though fully set forth herein.

189. Plaintiff Amy Nelson brings this Count on behalf of the Colorado Subclass.

190. Colorado's Consumer Protection Act (the "CCPA") prohibits a person from engaging in a "deceptive trade practice," which includes knowingly making "a false representation as to the source, sponsorship, approval, or certification of goods," or "a false representation as to the characteristics, ingredients, uses, benefits, alterations, or quantities of goods." COLO. REV. STAT. § 6-1-105(1)(b), (e). The CCPA further prohibits "represent[ing] that goods ... are of a particular standard, quality, or grade ... if he knows or should know that they are of another," and "advertis[ing] goods ... with intent not to sell them as advertised." COLO. REV. STAT. § 6-1-105(1)(g), (i).

191. Defendants are each a "person" under § 6-1-102(6) of the Colorado CPA, COLO. REV. STAT. § 6-1-101, *et seq.*

192. Plaintiff and Colorado Class members are "consumers" for the purpose of COLO. REV. STAT. § 6-1-113(1)(a) who purchased or leased one or more Affected Vehicles.

193. In the course of Volkswagen's business, it willfully misrepresented and failed to disclose, and actively concealed, that the Clean Diesel Engine System was non-EPA compliant, and the use of the "defeat device" in Affected Vehicles as described above. Accordingly, Volkswagen engaged in unlawful trade practices, including representing that Affected Vehicles have characteristics, uses, benefits, and qualities which they do not have; representing that Affected Vehicles are of a particular standard and quality when they are not; advertising Affected Vehicles with the intent not to sell them as advertised; and otherwise engaging in conduct likely to deceive.

194. In purchasing or leasing the Affected Vehicles, Plaintiff and the other Colorado Subclass members were deceived by Volkswagen's failure to disclose that the Affected Vehicles

were equipped with defective Clean Diesel engine systems that failed EPA and Colorado emissions standards.

195. Plaintiff and Colorado Subclass members reasonably relied upon Volkswagen's false misrepresentations. They had no way of knowing that Volkswagen's representations were false and gravely misleading. As alleged herein, Volkswagen engaged in extremely sophisticated methods of deception. Plaintiff and Colorado Subclass members did not, and could not, unravel Volkswagen's deception on their own.

196. Volkswagen intentionally and knowingly misrepresented material facts regarding the Affected Vehicles with an intent to mislead Plaintiff and the Colorado Subclass.

197. Volkswagen knew or should have known that its conduct violated the Colorado CPA.

198. Volkswagen's actions as set forth above occurred in the conduct of trade or commerce.

199. Volkswagen's conduct proximately caused injuries to Plaintiff and the other Class members.

200. Plaintiff and the other Class members were injured as a result of Volkswagen's conduct in that Plaintiff and the other Class members overpaid for their Affected Vehicles and did not receive the benefit of their bargain, and their Affected Vehicles have suffered a diminution in value. These injuries are the direct and natural consequence of Volkswagen's misrepresentations and omissions.

201. Pursuant to Col. Rev. Stat. § 6-1-113, Plaintiff and the Colorado Subclass seek monetary relief against Volkswagen measured as the greater of (a) actual damages in an amount to be determined at trial and the discretionary trebling of such damages, or (b) statutory damages in the amount of \$500 for each Plaintiff and each Colorado Subclass member.

202. Plaintiff also seek an order enjoining Volkswagen's unfair, unlawful, and/or deceptive practices, declaratory relief, attorneys' fees, and any other just and proper relief available under the Colorado CPA.

D. Claims Brought on Behalf of the Connecticut Subclass

**COUNT VI
Fraudulent Concealment
(Common Law)**

203. Plaintiffs incorporate by reference all preceding allegations as though fully set forth herein.

204. Plaintiff Alison Russo brings this Count on behalf of the Connecticut Subclass.

205. Volkswagen intentionally concealed and suppressed material facts concerning the quality of the Affected Vehicles. As alleged in this Complaint, notwithstanding references in the model names of the subject vehicles as “Clean Diesel,” or to their engines as “TDI Clean Diesel” engines, Volkswagen engaged in a secret scheme to evade federal and state vehicle emissions standards by installing software designed to conceal its vehicles’ emissions of the pollutant nitrogen oxide, which contributes to the creation of ozone and smog. The software installed on the vehicles at issue was designed to kick-in during emissions certification testing, such that the vehicles would show far lower emissions than when actually operating on the road. The result was what Volkswagen intended: vehicles passed emissions certifications by way of deliberately induced false readings. Reportedly, Volkswagen’s deliberate, secret scheme resulted in noxious emissions from these vehicles at up to 40 times applicable standards.

206. Plaintiff and Class members reasonably relied upon Volkswagen’s false representations. They had no way of knowing that Volkswagen’s representations were false and gravely misleading. As alleged herein, Volkswagen employed extremely sophisticated methods of deception. Plaintiff and Class members did not, and could not, unravel Volkswagen’s deception on their own.

207. Volkswagen concealed and suppressed material facts concerning what is evidently the true culture of Volkswagen – one characterized by an emphasis on profits and sales above compliance with federal and state clean air laws, and emissions regulations that are meant to protect the public and consumers. It also emphasized profits and sales over the trust that Plaintiff and Class members placed in its representations. As one customer, Priya Shah, put it in

a quotation cited by the *Los Angeles Times* in a September 18, 2015 article, “It’s just a blatant disregard and intentional manipulation of the system. That’s just a whole other level of not only lying to the government, but also lying to your consumer. People buy diesel cars from Volkswagen because they feel they are clean diesel cars.” In the words of Ms. Shah, which no doubt reflect the sentiments of all other Clean Diesel vehicle buyers, “I don’t want to be spewing noxious gases into the environment.”

208. Volkswagen concealed and suppressed its scheme in order to boost the reputations of its vehicles and to falsely assure purchasers and lessors of its vehicles, including previously owned vehicles, that Volkswagen is a reputable manufacturer that complies with applicable law, including federal and state clean air laws and emissions regulations, and that its vehicles likewise comply with applicable law and regulations. Volkswagen’s false representations were material to consumers, both because they concerned the quality of the affected vehicles, including their compliance with applicable federal and state law and regulations regarding clean air and emissions, and also because the representations played a significant role in the value of the vehicles. As Volkswagen well knew, its customers, including Plaintiff and Class members, highly valued that the vehicles they were purchasing or leasing were clean diesel cars, and they paid accordingly.

209. Volkswagen had a duty to disclose its emissions scheme because knowledge of the scheme and its details were known and/or accessible only to Volkswagen, because Volkswagen had exclusive knowledge as to implementation and maintenance of its scheme, and because Volkswagen knew the facts were not known to or reasonably discoverable by Plaintiff or Class members. Volkswagen also had a duty to disclose because it made general affirmative representations about the qualities of its vehicles with respect to emissions standards, starting with references to them as *clean* diesel cars, or cars with *clean* diesel engines, which were misleading, deceptive, and incomplete without the disclosure of the additional facts set forth above regarding its emissions scheme, the actual emissions of its vehicles, its actual philosophy with respect to compliance with federal and state clean air laws and emissions regulations, and

its actual practices with respect to the vehicles at issue. Having volunteered to provide information to Plaintiff, Volkswagen had the duty to disclose not just the partial truth, but the entire truth. These omitted and concealed facts were material because they directly impact the value of the Affected Vehicles purchased or leased by Plaintiff and Class members. Whether a manufacturer's products comply with federal and state clean air laws and emissions regulations, and whether that manufacturer tells the truth with respect to such compliance or non-compliance, are material concerns to a consumer, including with respect to the emissions certification testing their vehicles must pass. Volkswagen represented to Plaintiff and Class members that they were purchasing *clean* diesel vehicles, and certification testing appeared to confirm this – except that, secretly, Volkswagen had subverted the testing process thoroughly.

210. Volkswagen actively concealed and/or suppressed these material facts, in whole or in part, to pad and protect its profits and to avoid the perception that its vehicles did not or could not comply with federal and state laws governing clean air and emissions, which perception would hurt the brand's image and cost Volkswagen money, and it did so at the expense of Plaintiff and Class members.

211. On information and belief, Volkswagen has still not made full and adequate disclosures, and continues to defraud Plaintiff and Class members by concealing material information regarding the emission qualities of its vehicles and its emissions scheme.

212. Plaintiff and Class members were unaware of the omitted material facts referenced herein, and they would not have acted as they did if they had known of the concealed and/or suppressed facts, in that they would not have purchased purportedly "clean" diesel cars manufactured by Volkswagen, and/or would not have continued to drive their heavily polluting vehicles, or would have taken other affirmative steps in light of the information concealed from them. Plaintiff's and Class Members' actions were justified. Volkswagen was in exclusive control of the material facts, and such facts were not known to the public, Plaintiff, or Class members.

213. Because of the concealment and/or suppression of the facts, Plaintiff and Class members have sustained damage because they own vehicles that are diminished in value as a result of Volkswagen's concealment of the true quality and quantity of those vehicles' emissions and Volkswagen's failure to timely disclose the actual emission qualities and quantities of hundreds of thousands of Volkswagen- and Audi-branded vehicles and the serious issues engendered by Volkswagen's corporate policies. Had Plaintiff and Class members been aware of Volkswagen's emissions scheme, and the company's callous disregard for compliance with applicable federal and state law and regulations, Plaintiff and Class members who purchased or leased new or previously owned vehicles would have paid less for their vehicles or would not have purchased or leased them at all.

214. The value of Plaintiff's and Class Members' vehicles has diminished as a result of Volkswagen's fraudulent concealment of its emissions scheme, which has greatly tarnished the Volkswagen and Audi brand names attached to Plaintiff's and Class members' vehicles and made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay what otherwise would have been fair market value for the vehicles. In addition, Class members are entitled to damages for loss of use, costs of additional fuel, costs of unused warranties, and other damages to be proved at trial.

215. Accordingly, Volkswagen is liable to Plaintiff and Class members for damages in an amount to be proven at trial.

216. Volkswagen's acts were done wantonly, maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiff's and Class members' rights and the representations that Volkswagen made to them, in order to enrich Volkswagen. To the extent permitted under applicable law, Volkswagen's conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

COUNT VII
Violations of the Connecticut Unfair Trade Practices Act
(Conn. Gen. Stat. Ann. §§ 42-110A, *et seq.*)

217. Plaintiffs incorporate by reference all preceding allegations as though fully set forth herein.

218. Plaintiff Alison Russo brings this Count on behalf of the Connecticut Subclass.

219. Plaintiff and Volkswagen are each “persons” as defined by CONN. GEN. STAT. ANN. § 42-110a(3).

220. The Connecticut Unfair Trade Practices Act (“CUTPA”) provides that “[n]o person shall engage in unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce.” CONN. GEN. STAT. ANN. § 42-110b(a). The CUTPA further provides a private right of action under CONN. GEN. STAT. ANN. § 42-110g(a).

221. By failing to disclose and actively concealing that the Clean Diesel engine systems were not EPA-compliant and used a “defeat device” in the Affected Vehicles, Volkswagen engaged in deceptive business practices prohibited by the CUTPA, including (1) representing that Affected Vehicles have characteristics, uses, benefits, and qualities which they do not have, (2) representing that Affected Vehicles are of a particular standard, quality, and grade when they are not, (3) advertising Affected Vehicles with the intent not to sell them as advertised, and (4) engaging in acts or practices which are otherwise unfair, misleading, false, or deceptive to the consumer.

222. As alleged above, Volkswagen made numerous material statements about the benefits and characteristics of the Clean Diesel engine system that were either false or misleading. Each of these statements contributed to the deceptive context of Volkswagen’s unlawful advertising and representations as a whole.

223. Volkswagen knew that the Clean Diesel engine system in the Affected Vehicles were defectively designed or manufactured, were not EPA-compliant, and were not suitable for their intended use. Volkswagen nevertheless failed to warn Plaintiff about these defects despite having a duty to do so.

224. Volkswagen owed Plaintiff a duty to disclose the defective nature of the Clean Diesel engine system in the Affected Vehicles, because Volkswagen:

- a. Possessed exclusive knowledge of the defects rendering the Affected Vehicles illegal under EPA standards;
- b. Intentionally concealed the defects associated with Clean Diesel through its deceptive marketing campaigns that it designed to hide the defects in the Clean Diesel engine system; and/or
- c. Made incomplete representations about the characteristics and performance of the Clean Diesel engine system generally, while purposefully withholding material facts from Plaintiff that contradicted these representations.

225. Volkswagen's unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiff, about the true performance and characteristics of the Clean Diesel engine system.

226. As a result of its violations of the CUTPA detailed above, Volkswagen caused actual damage to Plaintiff and, if not stopped, will continue to harm Plaintiff. Plaintiff currently owns or leases, or within the class period has owned or leased, an Affected Vehicle that is defective. Defects associated with the Clean Diesel engine system have caused the value of Affected Vehicles to decrease.

227. Plaintiff and the Class sustained damages as a result of the Volkswagen's unlawful acts and are, therefore, entitled to damages and other relief as provided under the CUTPA. 382. Plaintiff also seeks court costs and attorneys' fees as a result of Volkswagen's violation of the CUTPA as provided in CONN. GEN. STAT. ANN. § 42-110g(d). A copy of this Complaint has been mailed to the Attorney General and the Commissioner of Consumer Protection of the State of Connecticut in accordance with CONN. GEN. STAT. ANN. § 42-110g(c).

E. Claims Brought on Behalf of the Florida Subclass

**COUNT VIII
Fraudulent Concealment
(Common Law)**

228. Plaintiffs incorporate by reference all preceding allegations as though fully set forth herein.

229. Plaintiff Steven Weise brings this Count on behalf of the Florida Subclass.

230. Volkswagen intentionally concealed and suppressed material facts concerning the quality of the Affected Vehicles. As alleged in this Complaint, notwithstanding references in the model names of the subject vehicles as “Clean Diesel,” or to their engines as “TDI Clean Diesel” engines, Volkswagen engaged in a secret scheme to evade federal and state vehicle emissions standards by installing software designed to conceal its vehicles’ emissions of the pollutant nitrogen oxide, which contributes to the creation of ozone and smog. The software installed on the vehicles at issue was designed to kick-in during emissions certification testing, such that the vehicles would show far lower emissions than when actually operating on the road. The result was what Volkswagen intended: vehicles passed emissions certifications by way of deliberately induced false readings. Reportedly, Volkswagen’s deliberate, secret scheme resulted in noxious emissions from these vehicles at up to 40 times applicable standards.

231. Plaintiff and Class members reasonably relied upon Volkswagen’s false representations. They had no way of knowing that Volkswagen’s representations were false and gravely misleading. As alleged herein, Volkswagen employed extremely sophisticated methods of deception. Plaintiff and Class members did not, and could not, unravel Volkswagen’s deception on their own.

232. Volkswagen concealed and suppressed material facts concerning what is evidently the true culture of Volkswagen – one characterized by an emphasis on profits and sales above compliance with federal and state clean air laws, and emissions regulations that are meant to protect the public and consumers. It also emphasized profits and sales over the trust that Plaintiff and Class members placed in its representations. As one customer, Priya Shah, put it in

a quotation cited by the *Los Angeles Times* in a September 18, 2015 article, “It’s just a blatant disregard and intentional manipulation of the system. That’s just a whole other level of not only lying to the government, but also lying to your consumer. People buy diesel cars from Volkswagen because they feel they are clean diesel cars.” In the words of Ms. Shah, which no doubt reflect the sentiments of all other Clean Diesel vehicle buyers, “I don’t want to be spewing noxious gases into the environment.”

233. Volkswagen concealed and suppressed its scheme in order to boost the reputations of its vehicles and to falsely assure purchasers and lessors of its vehicles, including previously owned vehicles, that Volkswagen is a reputable manufacturer that complies with applicable law, including federal and state clean air laws and emissions regulations, and that its vehicles likewise comply with applicable law and regulations. Volkswagen’s false representations were material to consumers, both because they concerned the quality of the affected vehicles, including their compliance with applicable federal and state law and regulations regarding clean air and emissions, and also because the representations played a significant role in the value of the vehicles. As Volkswagen well knew, its customers, including Plaintiff and Class members, highly valued that the vehicles they were purchasing or leasing were clean diesel cars, and they paid accordingly.

234. Volkswagen had a duty to disclose its emissions scheme because knowledge of the scheme and its details were known and/or accessible only to Volkswagen, because Volkswagen had exclusive knowledge as to implementation and maintenance of its scheme, and because Volkswagen knew the facts were not known to or reasonably discoverable by Plaintiff or Class members. Volkswagen also had a duty to disclose because it made general affirmative representations about the qualities of its vehicles with respect to emissions standards, starting with references to them as *clean* diesel cars, or cars with *clean* diesel engines, which were misleading, deceptive, and incomplete without the disclosure of the additional facts set forth above regarding its emissions scheme, the actual emissions of its vehicles, its actual philosophy with respect to compliance with federal and state clean air laws and emissions regulations, and

its actual practices with respect to the vehicles at issue. Having volunteered to provide information to Plaintiff, Volkswagen had the duty to disclose not just the partial truth, but the entire truth. These omitted and concealed facts were material because they directly impact the value of the Affected Vehicles purchased or leased by Plaintiff and Class members. Whether a manufacturer's products comply with federal and state clean air laws and emissions regulations, and whether that manufacturer tells the truth with respect to such compliance or non-compliance, are material concerns to a consumer, including with respect to the emissions certification testing their vehicles must pass. Volkswagen represented to Plaintiff and Class members that they were purchasing *clean* diesel vehicles, and certification testing appeared to confirm this – except that, secretly, Volkswagen had subverted the testing process thoroughly.

235. Volkswagen actively concealed and/or suppressed these material facts, in whole or in part, to pad and protect its profits and to avoid the perception that its vehicles did not or could not comply with federal and state laws governing clean air and emissions, which perception would hurt the brand's image and cost Volkswagen money, and it did so at the expense of Plaintiff and Class members.

236. On information and belief, Volkswagen has still not made full and adequate disclosures, and continues to defraud Plaintiff and Class members by concealing material information regarding the emission qualities of its vehicles and its emissions scheme.

237. Plaintiff and Class members were unaware of the omitted material facts referenced herein, and they would not have acted as they did if they had known of the concealed and/or suppressed facts, in that they would not have purchased purportedly “clean” diesel cars manufactured by Volkswagen, and/or would not have continued to drive their heavily polluting vehicles, or would have taken other affirmative steps in light of the information concealed from them. Plaintiff's and Class Members' actions were justified. Volkswagen was in exclusive control of the material facts, and such facts were not known to the public, Plaintiff, or Class members.

238. Because of the concealment and/or suppression of the facts, Plaintiff and Class members have sustained damage because they own vehicles that are diminished in value as a result of Volkswagen's concealment of the true quality and quantity of those vehicles' emissions and Volkswagen's failure to timely disclose the actual emission qualities and quantities of hundreds of thousands of Volkswagen- and Audi-branded vehicles and the serious issues engendered by Volkswagen's corporate policies. Had Plaintiff and Class members been aware of Volkswagen's emissions scheme, and the company's callous disregard for compliance with applicable federal and state law and regulations, Plaintiff and Class members who purchased or leased new or previously owned vehicles would have paid less for their vehicles or would not have purchased or leased them at all.

239. The value of Plaintiff's and Class Members' vehicles has diminished as a result of Volkswagen's fraudulent concealment of its emissions scheme, which has greatly tarnished the Volkswagen and Audi brand names attached to Plaintiff's and Class members' vehicles and made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay what otherwise would have been fair market value for the vehicles. In addition, Class members are entitled to damages for loss of use, costs of additional fuel, costs of unused warranties, and other damages to be proved at trial.

240. Accordingly, Volkswagen is liable to Plaintiff and Class members for damages in an amount to be proven at trial.

241. Volkswagen's acts were done wantonly, maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiff's and Class members' rights and the representations that Volkswagen made to them, in order to enrich Volkswagen. To the extent permitted under applicable law, Volkswagen's conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

COUNT IX
Violations of the Florida Deceptive & Unfair Trade Practices Act
(FLA. STAT. §§ 501.201, *et seq.*)

242. Plaintiffs incorporate by reference all preceding allegations as though fully set forth herein.

243. Plaintiff Steven Weise brings this Count on behalf of the Florida Subclass.

244. Plaintiffs are “consumers” within the meaning of Florida Unfair and Deceptive Trade Practices Act, FLA. STAT. § 501.203(7).

245. Volkswagen engaged in “trade or commerce” within the meaning of FLA. STAT. § 501.203(8).

246. Florida’s Deceptive and Unfair Trade Practices Act prohibits “[u]nfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce.” FLA. STAT. § 501.204(1). Volkswagen participated in unfair and deceptive trade practices that violated the FUDTPA as described herein.

247. In the course of Volkswagen’s business, it willfully failed to disclose and actively concealed that the Clean Diesel Engine System was non-EPA compliant, and the use of the “defeat device” in Affected Vehicles as described above. Accordingly, Volkswagen engaged in unfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices as defined in FLA. STAT. § 501.204(1), including representing that Affected Vehicles have characteristics, uses, benefits, and qualities which they do not have; representing that Affected Vehicles are of a particular standard and quality when they are not; advertising Affected Vehicles with the intent not to sell them as advertised; and otherwise engaging in conduct likely to deceive.

248. In the course of its business, Volkswagen installed the “defeat device” and concealed that its Clean Diesel systems failed EPA regulations as described herein and otherwise engaged in activities with a tendency or capacity to deceive. Volkswagen also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that

others rely upon such concealment, suppression or omission, in connection with the sale of Affected Vehicles.

249. Volkswagen has known of its use of the “defeat device” and the true nature of its Clean Diesel engine system for at least six years, but concealed all of that information until recently.

250. Volkswagen was also aware that it valued profits over environmental cleanliness, efficiency, and lawfulness, and that it was manufacturing, selling and distributing vehicles throughout the United States that did not comply with EPA regulations. Volkswagen concealed this information as well.

251. By failing to disclose and by actively concealing the “defeat device” and the true cleanliness and performance of the Clean Diesel engine system, by marketing its vehicles as safe, reliable, environmentally clean, efficient, and of high quality, and by presenting itself as a reputable manufacturer that valued safety, environmental cleanliness and efficiency, and stood behind its vehicles after they were sold, Volkswagen engaged in deceptive business practices in violation of the FUDTPA.

252. In the course of Volkswagen’s business, it willfully failed to disclose and actively concealed the use of the “defeat device” and true cleanliness and efficiency of the Clean Diesel engine system and serious defects discussed above. Volkswagen compounded the deception by repeatedly asserting that the Affected Vehicles were safe, reliable, environmentally clean, efficient, and of high quality, and by claiming to be a reputable manufacturer that valued safety, environmental cleanliness and efficiency, and stood behind its vehicles once they are on the road.

495. Volkswagen’s unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiff, about the true cleanliness and efficiency of the Clean Diesel engine system, the quality of the Volkswagen and Audi brands, the devaluing of environmental cleanliness and integrity at Volkswagen, and the true value of the Affected Vehicles.

253. Volkswagen intentionally and knowingly misrepresented material facts regarding the Affected Vehicles with an intent to mislead Plaintiff and the Florida Subclass.

254. Volkswagen knew or should have known that its conduct violated the FUDTPA.

255. As alleged above, Volkswagen made material statements about the safety, cleanliness, efficiency and reliability of the Affected Vehicles and the Volkswagen and Audi brands that were either false or misleading.

256. Volkswagen owed Plaintiffs a duty to disclose the true safety, cleanliness, efficiency and reliability of the Affected Vehicles and the devaluing of environmental cleanliness and integrity at Volkswagen, because Volkswagen:

- a. Possessed exclusive knowledge that it valued profits over environmental cleanliness, efficiency, and lawfulness, and that it was manufacturing, selling and distributing vehicles throughout the United States that did not comply with EPA regulations;
- b. Intentionally concealed the foregoing from Plaintiffs; and/or
- c. Made incomplete representations about the safety, cleanliness, efficiency and reliability of the Affected Vehicles generally, and the “defeat device” and true nature of the Clean Diesel engine system in particular, while purposefully withholding material facts from Plaintiffs that contradicted these representations.

257. Because Volkswagen fraudulently concealed the “defeat device” and the true cleanliness and performance of the Clean Diesel engine system, resulting in a raft of negative publicity once the use of the “defeat device” and true characteristics of the Clean Diesel engine system finally began to be disclosed, the value of the Affected Vehicles has greatly diminished. In light of the stigma attached to those vehicles by Volkswagen’s conduct, they are now worth significantly less than they otherwise would be.

258. Volkswagen’s fraudulent use of the “defeat device” and its concealment of the true characteristics of the Clean Diesel engine system were material to Plaintiffs and the Florida Subclass. A vehicle made by a reputable manufacturer of environmentally friendly vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of

environmentally dirty vehicles that conceals its polluting engines rather than promptly remedying them.

259. Plaintiffs and the Florida Subclass suffered ascertainable loss caused by Volkswagen's misrepresentations and its concealment of and failure to disclose material information. Class members who purchased the Affected Vehicles either would have paid less for their vehicles or would not have purchased or leased them at all.

260. Volkswagen had an ongoing duty to all Volkswagen and Audi customers to refrain from unfair and deceptive acts or practices under the FUDTPA. All owners of Affected Vehicles suffered ascertainable loss in the form of diminished value of their vehicles as a result of Volkswagen's deceptive and unfair acts and practices made in the course of Volkswagen's business.

261. Volkswagen's violations present a continuing risk to Plaintiffs as well as to the general public. Volkswagen's unlawful acts and practices complained of herein affect the public interest.

262. As a direct and proximate result of Volkswagen's violations of the FUDTPA, Plaintiffs and the Florida Subclass have suffered injury-in-fact and/or actual damage.

263. Volkswagen's actions as set forth above occurred in the conduct of trade or commerce.

264. Plaintiff and the other Class members were injured as a result of Volkswagen's conduct in that Plaintiff and the other Class members overpaid for their Affected Vehicles and did not receive the benefit of their bargain, and their Affected Vehicles have suffered a diminution in value. These injuries are the direct and natural consequence of Volkswagen's misrepresentations and omissions.

F. Claims Brought on Behalf of the South Carolina Class

**COUNT X
Fraudulent Concealment
(Common Law)**

265. Plaintiffs incorporate by reference all preceding allegations as though fully set forth herein.

266. Plaintiff John Impeduglia brings this Count on behalf of the South Carolina Subclass.

267. Volkswagen intentionally concealed and suppressed material facts concerning the quality of the Affected Vehicles. As alleged in this Complaint, notwithstanding references in the model names of the subject vehicles as “Clean Diesel,” or to their engines as “TDI Clean Diesel” engines, Volkswagen engaged in a secret scheme to evade federal and state vehicle emissions standards by installing software designed to conceal its vehicles’ emissions of the pollutant nitrogen oxide, which contributes to the creation of ozone and smog. The software installed on the vehicles at issue was designed to kick-in during emissions certification testing, such that the vehicles would show far lower emissions than when actually operating on the road. The result was what Volkswagen intended: vehicles passed emissions certifications by way of deliberately induced false readings. Reportedly, Volkswagen’s deliberate, secret scheme resulted in noxious emissions from these vehicles at up to 40 times applicable standards.

268. Plaintiff and Class members reasonably relied upon Volkswagen’s false representations. They had no way of knowing that Volkswagen’s representations were false and gravely misleading. As alleged herein, Volkswagen employed extremely sophisticated methods of deception. Plaintiff and Class members did not, and could not, unravel Volkswagen’s deception on their own.

269. Volkswagen concealed and suppressed material facts concerning what is evidently the true culture of Volkswagen – one characterized by an emphasis on profits and sales above compliance with federal and state clean air laws, and emissions regulations that are meant to protect the public and consumers. It also emphasized profits and sales over the trust that

Plaintiff and Class members placed in its representations. As one customer, Priya Shah, put it in a quotation cited by the *Los Angeles Times* in a September 18, 2015 article, “It’s just a blatant disregard and intentional manipulation of the system. That’s just a whole other level of not only lying to the government, but also lying to your consumer. People buy diesel cars from Volkswagen because they feel they are clean diesel cars.” In the words of Ms. Shah, which no doubt reflect the sentiments of all other Clean Diesel vehicle buyers, “I don’t want to be spewing noxious gases into the environment.”

270. Volkswagen concealed and suppressed its scheme in order to boost the reputations of its vehicles and to falsely assure purchasers and lessors of its vehicles, including previously owned vehicles, that Volkswagen is a reputable manufacturer that complies with applicable law, including federal and state clean air laws and emissions regulations, and that its vehicles likewise comply with applicable law and regulations. Volkswagen’s false representations were material to consumers, both because they concerned the quality of the affected vehicles, including their compliance with applicable federal and state law and regulations regarding clean air and emissions, and also because the representations played a significant role in the value of the vehicles. As Volkswagen well knew, its customers, including Plaintiff and Class members, highly valued that the vehicles they were purchasing or leasing were clean diesel cars, and they paid accordingly.

271. Volkswagen had a duty to disclose its emissions scheme because knowledge of the scheme and its details were known and/or accessible only to Volkswagen, because Volkswagen had exclusive knowledge as to implementation and maintenance of its scheme, and because Volkswagen knew the facts were not known to or reasonably discoverable by Plaintiff or Class members. Volkswagen also had a duty to disclose because it made general affirmative representations about the qualities of its vehicles with respect to emissions standards, starting with references to them as *clean* diesel cars, or cars with *clean* diesel engines, which were misleading, deceptive, and incomplete without the disclosure of the additional facts set forth above regarding its emissions scheme, the actual emissions of its vehicles, its actual philosophy

with respect to compliance with federal and state clean air laws and emissions regulations, and its actual practices with respect to the vehicles at issue. Having volunteered to provide information to Plaintiff, Volkswagen had the duty to disclose not just the partial truth, but the entire truth. These omitted and concealed facts were material because they directly impact the value of the Affected Vehicles purchased or leased by Plaintiff and Class members. Whether a manufacturer's products comply with federal and state clean air laws and emissions regulations, and whether that manufacturer tells the truth with respect to such compliance or non-compliance, are material concerns to a consumer, including with respect to the emissions certification testing their vehicles must pass. Volkswagen represented to Plaintiff and Class members that they were purchasing *clean* diesel vehicles, and certification testing appeared to confirm this – except that, secretly, Volkswagen had subverted the testing process thoroughly.

272. Volkswagen actively concealed and/or suppressed these material facts, in whole or in part, to pad and protect its profits and to avoid the perception that its vehicles did not or could not comply with federal and state laws governing clean air and emissions, which perception would hurt the brand's image and cost Volkswagen money, and it did so at the expense of Plaintiff and Class members.

273. On information and belief, Volkswagen has still not made full and adequate disclosures, and continues to defraud Plaintiff and Class members by concealing material information regarding the emission qualities of its vehicles and its emissions scheme.

274. Plaintiff and Class members were unaware of the omitted material facts referenced herein, and they would not have acted as they did if they had known of the concealed and/or suppressed facts, in that they would not have purchased purportedly “clean” diesel cars manufactured by Volkswagen, and/or would not have continued to drive their heavily polluting vehicles, or would have taken other affirmative steps in light of the information concealed from them. Plaintiff's and Class Members' actions were justified. Volkswagen was in exclusive control of the material facts, and such facts were not known to the public, Plaintiff, or Class members.

275. Because of the concealment and/or suppression of the facts, Plaintiff and Class members have sustained damage because they own vehicles that are diminished in value as a result of Volkswagen's concealment of the true quality and quantity of those vehicles' emissions and Volkswagen's failure to timely disclose the actual emission qualities and quantities of hundreds of thousands of Volkswagen- and Audi-branded vehicles and the serious issues engendered by Volkswagen's corporate policies. Had Plaintiff and Class members been aware of Volkswagen's emissions scheme, and the company's callous disregard for compliance with applicable federal and state law and regulations, Plaintiff and Class members who purchased or leased new or previously owned vehicles would have paid less for their vehicles or would not have purchased or leased them at all.

276. The value of Plaintiff's and Class Members' vehicles has diminished as a result of Volkswagen's fraudulent concealment of its emissions scheme, which has greatly tarnished the Volkswagen and Audi brand names attached to Plaintiff's and Class members' vehicles and made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay what otherwise would have been fair market value for the vehicles. In addition, Class members are entitled to damages for loss of use, costs of additional fuel, costs of unused warranties, and other damages to be proved at trial.

277. Accordingly, Volkswagen is liable to Plaintiff and Class members for damages in an amount to be proven at trial.

278. Volkswagen's acts were done wantonly, maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiff's and Class members' rights and the representations that Volkswagen made to them, in order to enrich Volkswagen. To the extent permitted under applicable law, Volkswagen's conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

COUNT XI
Violations of the South Carolina Unfair Trade Practices Act
(S.C. Code Ann. § 39-5-10, *et seq.*)

279. Plaintiffs incorporate by reference all preceding allegations as though fully set forth herein.

280. Plaintiff John Impeduglia brings this Count on behalf of the South Carolina Subclass.

281. Defendant is a “person” under S.C. CODE ANN. § 39-5-10.

282. The South Carolina Unfair Trade Practices Act (“South Carolina UTPA”) prohibits “unfair or deceptive acts or practices in the conduct of any trade or commerce” S.C. CODE ANN. § 39-5-20(a). Volkswagen engaged in unfair and deceptive acts or practices and violated the South Carolina UTPA by fraudulently installing the “defeat device” to make it appear that its Clean Diesel engine systems complied with EPA regulations.

283. Volkswagen’s actions as set forth above occurred in the conduct of trade or commerce.

284. In the course of its business, Volkswagen installed the “defeat device” and concealed that its Clean Diesel systems failed EPA regulations as described herein and otherwise engaged in activities with a tendency or capacity to deceive. Volkswagen also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of Affected Vehicles.

285. Volkswagen has known of its use of the “defeat device” and the true nature of its Clean Diesel engine system for at least six years, but concealed all of that information until recently.

286. Volkswagen was also aware that it valued profits over environmental cleanliness, efficiency, and lawfulness, and that it was manufacturing, selling and distributing vehicles

throughout the United States that did not comply with EPA regulations. Volkswagen concealed this information as well.

287. By failing to disclose and by actively concealing the “defeat device” and the true cleanliness and performance of the Clean Diesel engine system, by marketing its vehicles as safe, reliable, environmentally clean, efficient, and of high quality, and by presenting itself as a reputable manufacturer that valued safety, environmental cleanliness and efficiency, and stood behind its vehicles after they were sold, Volkswagen engaged in unfair and deceptive business practices in violation of the South Carolina UTPA.

288. In the course of Volkswagen’s business, it willfully failed to disclose and actively concealed the use of the “defeat device” and true cleanliness and efficiency of the Clean Diesel engine system and serious defects discussed above. Volkswagen compounded the deception by repeatedly asserting that the Affected Vehicles were safe, reliable, environmentally clean, efficient, and of high quality, and by claiming to be a reputable manufacturer that valued safety, environmental cleanliness and efficiency, and stood behind its vehicles once they are on the road.

289. Volkswagen’s unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiff, about the true cleanliness and efficiency of the Clean Diesel engine system, the quality of the Volkswagen and Audi brands, the devaluing of environmental cleanliness and integrity at Volkswagen, and the true value of the Affected Vehicles.

290. Volkswagen intentionally and knowingly misrepresented material facts regarding the Affected Vehicles with an intent to mislead Plaintiff and the South Carolina Class.

291. Volkswagen knew or should have known that its conduct violated the South Carolina UTPA.

292. As alleged above, Volkswagen made material statements about the safety, cleanliness, efficiency and reliability of the Affected Vehicles and the Volkswagen and Audi brands that were either false or misleading.

293. 1690. Volkswagen owed Plaintiff a duty to disclose the true safety, cleanliness, efficiency and reliability of the Affected Vehicles and the devaluing of environmental cleanliness and integrity at Volkswagen, because Volkswagen:

- a. Possessed exclusive knowledge that it valued profits over environmental cleanliness, efficiency, and lawfulness, and that it was manufacturing, selling and distributing vehicles throughout the United States that did not comply with EPA regulations;
- b. Intentionally concealed the foregoing from Plaintiff; and/or
- c. Made incomplete representations about the safety, cleanliness, efficiency and reliability of the Affected Vehicles, while purposefully withholding material facts from Plaintiff and the Class that contradicted these representations.

294. Because Volkswagen fraudulently concealed the “defeat device” and the true cleanliness and performance of the Clean Diesel engine system, resulting in a raft of negative publicity once the use of the “defeat device” and true characteristics of the Clean Diesel engine system finally began to be disclosed, the value of the Affected Vehicles has greatly diminished. In light of the stigma attached to those vehicles by Volkswagen’s conduct, they are now worth significantly less than they otherwise would be.

295. Volkswagen’s fraudulent use of the “defeat device” and its concealment of the true characteristics of the Clean Diesel engine system were material to Plaintiff and the South Carolina Class. A vehicle made by a reputable manufacturer of environmentally friendly vehicles is worth more than an otherwise comparable vehicle made by a disreputable and dishonest manufacturer of polluting vehicles that conceals the amount its cars pollutes rather than make environmentally friendly vehicles.

296. Plaintiff and the South Carolina Class suffered ascertainable loss caused by Volkswagen’s misrepresentations and its concealment of and failure to disclose material information. Plaintiff who purchased the Affected Vehicles either would have paid less for their vehicles or would not have purchased or leased them at all.

297. Volkswagen's unlawful acts and practices complained of herein affect the public interest.

298. As a direct and proximate result of Volkswagen's violations of the South Carolina UTPA, Plaintiff and the South Carolina Class have suffered injury-in-fact and/or actual damage.

299. Pursuant to S.C. CODE ANN. § 39-5-140(a), Plaintiff seeks monetary relief against Volkswagen to recover for their economic losses. Because Volkswagen's actions were willful and knowing, Plaintiff's damages should be trebled. *Id.*

300. Plaintiff further alleges that Volkswagen's malicious and deliberate conduct warrants an assessment of punitive damages because Volkswagen carried out despicable conduct with willful and conscious disregard of the rights and safety of others, subjecting Plaintiff and the Class to cruel and unjust hardship as a result. Volkswagen's intentionally and willfully misrepresented the safety, cleanliness, efficiency and reliability of the Affected Vehicles, deceived Plaintiff and concealed material facts that only Volkswagen knew. Volkswagen's unlawful conduct constitutes malice, oppression, and fraud warranting punitive damages.

301. Plaintiff further seeks an order enjoining Volkswagen's unfair or deceptive acts or practices.

G. Claims Brought on Behalf of the Wisconsin Plaintiffs

**COUNT XII
Fraudulent Concealment
(Common Law)**

302. Plaintiffs incorporate by reference all preceding allegations as though fully set forth herein.

303. Plaintiff Arthur Thexton brings this Count on behalf of the Wisconsin Subclass.

304. Volkswagen intentionally concealed and suppressed material facts concerning the quality of the Affected Vehicles. As alleged in this Complaint, notwithstanding references in the model names of the subject vehicles as "Clean Diesel," or to their engines as "TDI Clean Diesel" engines, Volkswagen engaged in a secret scheme to evade federal and state vehicle emissions standards by installing software designed to conceal its vehicles' emissions of the pollutant

nitrogen oxide, which contributes to the creation of ozone and smog. The software installed on the vehicles at issue was designed to kick-in during emissions certification testing, such that the vehicles would show far lower emissions than when actually operating on the road. The result was what Volkswagen intended: vehicles passed emissions certifications by way of deliberately induced false readings. Reportedly, Volkswagen's deliberate, secret scheme resulted in noxious emissions from these vehicles at up to 40 times applicable standards.

305. Plaintiff and Class members reasonably relied upon Volkswagen's false representations. They had no way of knowing that Volkswagen's representations were false and gravely misleading. As alleged herein, Volkswagen employed extremely sophisticated methods of deception. Plaintiff and Class members did not, and could not, unravel Volkswagen's deception on their own.

306. Volkswagen concealed and suppressed material facts concerning what is evidently the true culture of Volkswagen – one characterized by an emphasis on profits and sales above compliance with federal and state clean air laws, and emissions regulations that are meant to protect the public and consumers. It also emphasized profits and sales over the trust that Plaintiff and Class members placed in its representations. As one customer, Priya Shah, put it in a quotation cited by the *Los Angeles Times* in a September 18, 2015 article, "It's just a blatant disregard and intentional manipulation of the system. That's just a whole other level of not only lying to the government, but also lying to your consumer. People buy diesel cars from Volkswagen because they feel they are clean diesel cars." In the words of Ms. Shah, which no doubt reflect the sentiments of all other Clean Diesel vehicle buyers, "I don't want to be spewing noxious gases into the environment."

307. Volkswagen concealed and suppressed its scheme in order to boost the reputations of its vehicles and to falsely assure purchasers and lessors of its vehicles, including previously owned vehicles, that Volkswagen is a reputable manufacturer that complies with applicable law, including federal and state clean air laws and emissions regulations, and that its vehicles likewise comply with applicable law and regulations. Volkswagen's false

representations were material to consumers, both because they concerned the quality of the affected vehicles, including their compliance with applicable federal and state law and regulations regarding clean air and emissions, and also because the representations played a significant role in the value of the vehicles. As Volkswagen well knew, its customers, including Plaintiff and Class members, highly valued that the vehicles they were purchasing or leasing were clean diesel cars, and they paid accordingly.

308. Volkswagen had a duty to disclose its emissions scheme because knowledge of the scheme and its details were known and/or accessible only to Volkswagen, because Volkswagen had exclusive knowledge as to implementation and maintenance of its scheme, and because Volkswagen knew the facts were not known to or reasonably discoverable by Plaintiff or Class members. Volkswagen also had a duty to disclose because it made general affirmative representations about the qualities of its vehicles with respect to emissions standards, starting with references to them as *clean* diesel cars, or cars with *clean* diesel engines, which were misleading, deceptive, and incomplete without the disclosure of the additional facts set forth above regarding its emissions scheme, the actual emissions of its vehicles, its actual philosophy with respect to compliance with federal and state clean air laws and emissions regulations, and its actual practices with respect to the vehicles at issue. Having volunteered to provide information to Plaintiff, Volkswagen had the duty to disclose not just the partial truth, but the entire truth. These omitted and concealed facts were material because they directly impact the value of the Affected Vehicles purchased or leased by Plaintiff and Class members. Whether a manufacturer's products comply with federal and state clean air laws and emissions regulations, and whether that manufacturer tells the truth with respect to such compliance or non-compliance, are material concerns to a consumer, including with respect to the emissions certification testing their vehicles must pass. Volkswagen represented to Plaintiff and Class members that they were purchasing *clean* diesel vehicles, and certification testing appeared to confirm this – except that, secretly, Volkswagen had subverted the testing process thoroughly.

309. Volkswagen actively concealed and/or suppressed these material facts, in whole or in part, to pad and protect its profits and to avoid the perception that its vehicles did not or could not comply with federal and state laws governing clean air and emissions, which perception would hurt the brand's image and cost Volkswagen money, and it did so at the expense of Plaintiff and Class members.

310. On information and belief, Volkswagen has still not made full and adequate disclosures, and continues to defraud Plaintiff and Class members by concealing material information regarding the emission qualities of its vehicles and its emissions scheme.

311. Plaintiff and Class members were unaware of the omitted material facts referenced herein, and they would not have acted as they did if they had known of the concealed and/or suppressed facts, in that they would not have purchased purportedly "clean" diesel cars manufactured by Volkswagen, and/or would not have continued to drive their heavily polluting vehicles, or would have taken other affirmative steps in light of the information concealed from them. Plaintiff's and Class Members' actions were justified. Volkswagen was in exclusive control of the material facts, and such facts were not known to the public, Plaintiff, or Class members.

312. Because of the concealment and/or suppression of the facts, Plaintiff and Class members have sustained damage because they own vehicles that are diminished in value as a result of Volkswagen's concealment of the true quality and quantity of those vehicles' emissions and Volkswagen's failure to timely disclose the actual emission qualities and quantities of hundreds of thousands of Volkswagen- and Audi-branded vehicles and the serious issues engendered by Volkswagen's corporate policies. Had Plaintiff and Class members been aware of Volkswagen's emissions scheme, and the company's callous disregard for compliance with applicable federal and state law and regulations, Plaintiff and Class members who purchased or leased new or previously owned vehicles would have paid less for their vehicles or would not have purchased or leased them at all.

313. The value of Plaintiff's and Class Members' vehicles has diminished as a result of Volkswagen's fraudulent concealment of its emissions scheme, which has greatly tarnished the Volkswagen and Audi brand names attached to Plaintiff's and Class members' vehicles and made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay what otherwise would have been fair market value for the vehicles. In addition, Class members are entitled to damages for loss of use, costs of additional fuel, costs of unused warranties, and other damages to be proved at trial.

314. Accordingly, Volkswagen is liable to Plaintiff and Class members for damages in an amount to be proven at trial.

315. Volkswagen's acts were done wantonly, maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiff's and Class members' rights and the representations that Volkswagen made to them, in order to enrich Volkswagen. To the extent permitted under applicable law, Volkswagen's conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

COUNT XIII
Violations of the Wisconsin Deceptive Trade Practices Act
(Wis. Stat. § 100.18)

316. Plaintiffs incorporate by reference all preceding allegations as though fully set forth herein.

317. Plaintiff Arthur Thexton brings this Count on behalf of the Wisconsin Subclass.

318. Volkswagen is a "person, firm, corporation or association" within the meaning of WIS. STAT. § 100.18(1).

319. Plaintiff and Wisconsin Subclass Members are members of "the public" within the meaning of WIS. STAT. § 100.18(1). Plaintiff and Wisconsin Subclass Members purchased or leased one or more Affected Vehicles.

320. The Wisconsin Deceptive Trade Practices Act ("Wisconsin DTPA") prohibits a "representation or statement of fact which is untrue, deceptive or misleading." WIS. STAT. §

100.18(1). By fraudulently installing the “defeat device” to make it appear that its Clean Diesel engine systems complied with EPA regulations, Volkswagen engaged in unfair and deceptive acts and practices and violated the Wisconsin DTPA.

321. In the course of its business, Volkswagen installed the “defeat device” and concealed that its Clean Diesel systems failed EPA regulations as described herein and otherwise engaged in activities with a tendency or capacity to deceive. Volkswagen also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of Affected Vehicles.

322. Volkswagen has known of its use of the “defeat device” and the true nature of its Clean Diesel engine system for at least six years, but concealed all of that information until recently.

323. Volkswagen was also aware that it valued profits over environmental cleanliness, efficiency, and lawfulness, and that it was manufacturing, selling and distributing vehicles throughout the United States that did not comply with EPA regulations. Volkswagen concealed this information as well.

324. By failing to disclose and by actively concealing the “defeat device” and the true cleanliness and performance of the Clean Diesel engine system, by marketing its vehicles as safe, reliable, environmentally clean, efficient, and of high quality, and by presenting itself as a reputable manufacturer that valued safety, environmental cleanliness and efficiency, and stood behind its vehicles after they were sold, Volkswagen engaged in deceptive business practices in violation of the Wisconsin DTPA.

325. In the course of Volkswagen’s business, it willfully failed to disclose and actively concealed the use of the “defeat device” and true cleanliness and efficiency of the Clean Diesel engine system and serious defects discussed above. Volkswagen compounded the deception by repeatedly asserting that the Affected Vehicles were safe, reliable, environmentally clean,

efficient, and of high quality, and by claiming to be a reputable manufacturer that valued safety, environmental cleanliness and efficiency, and stood behind its vehicles once they are on the road.

326. Volkswagen's unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiff about the true cleanliness and efficiency of the Clean Diesel engine system, the quality of the Volkswagen and Audi brands, the devaluing of environmental cleanliness and integrity at Volkswagen, and the true value of the Affected Vehicles.

327. Volkswagen intentionally and knowingly misrepresented material facts regarding the Affected Vehicles with an intent to mislead Plaintiff and the Wisconsin Subclass.

328. Volkswagen knew or should have known that its conduct violated the Wisconsin DTPA.

329. As alleged above, Volkswagen made material statements about the safety, cleanliness, efficiency and reliability of the Affected Vehicles and the Volkswagen and Audi brands that were either false or misleading.

330. Volkswagen owed Plaintiffs a duty to disclose the true safety, cleanliness, efficiency and reliability of the Affected Vehicles and the devaluing of environmental cleanliness and integrity at Volkswagen, because Volkswagen:

- a. Possessed exclusive knowledge that it valued profits over environmental cleanliness, efficiency, and lawfulness, and that it was manufacturing, selling and distributing vehicles throughout the United States that did not comply with EPA regulations;
- b. Intentionally concealed the foregoing from Plaintiffs; and/or
- c. Made incomplete representations about the safety, cleanliness, efficiency and reliability of the Affected Vehicles generally, and the use of the "defeat device" and true nature of the Clean Diesel engine system in particular, while purposefully withholding material facts from Plaintiffs that contradicted these representations.

331. Because Volkswagen fraudulently concealed the “defeat device” and the true cleanliness and performance of the Clean Diesel engine system, resulting in a raft of negative publicity once the use of the “defeat device” and true characteristics of the Clean Diesel engine system finally began to be disclosed, the value of the Affected Vehicles has greatly diminished. In light of the stigma attached to those vehicles by Volkswagen’s conduct, they are now worth significantly less than they otherwise would be.

332. Volkswagen’s fraudulent use of the “defeat device” and its concealment of the true characteristics of the Clean Diesel engine system were material to Plaintiffs and the Wisconsin Subclass. A vehicle made by a reputable manufacturer of environmentally clean vehicles is worth more than an otherwise comparable vehicle made by a disreputable and dishonest manufacturer of polluting vehicles that conceals the amount its cars pollutes rather than make environmentally friendly vehicles.

333. Plaintiff and the Wisconsin Subclass suffered ascertainable loss caused by Volkswagen’s misrepresentations and its concealment of and failure to disclose material information.

334. Volkswagen had an ongoing duty to all Volkswagen and Audi customers to refrain from unfair and deceptive acts or practices under the Wisconsin DTPA. All owners of Affected Vehicles suffered ascertainable loss in the form of the diminished value of their vehicles as a result of Volkswagen’s deceptive and unfair acts and practices that occurred in the course of Volkswagen’s business.

335. Volkswagen’s violations present a continuing risk to Plaintiffs as well as to the general public. Volkswagen’s unlawful acts and practices complained of herein affect the public interest.

336. As a direct and proximate result of Volkswagen’s violations of the Wisconsin DTPA, Plaintiff and the Wisconsin Subclass have suffered injury-in-fact and/or actual damage.

337. Plaintiff and the Wisconsin Subclass are entitled to damages and other relief provided for under WIS. STAT. § 100.18(11)(b)(2). Because Volkswagen’s conduct was

committed knowingly and/or intentionally, Plaintiff and the Wisconsin Subclass are entitled to treble damages.

338. Plaintiff and the Wisconsin Subclass also seek court costs and attorneys' fees under WIS. STAT. § 110.18(11)(b)(2).

IX. REQUEST FOR RELIEF

WHEREFORE, Plaintiffs, individually and on behalf of members of the Classes respectfully request that the Court enter judgment in their favor and against Volkswagen, as follows:

- A. Certification of the proposed Classes, including appointment of Plaintiffs' counsel as Class Counsel;
- B. An order temporarily and permanently enjoining Volkswagen from continuing the unlawful, deceptive, fraudulent, and unfair business practices alleged in this Complaint;
- C. Injunctive relief in the form of a recall or free replacement program;
- D. Costs, restitution, damages, and disgorgement in an amount to be determined at trial;
- E. Revocation of acceptance;
- F. For treble and/or punitive damages as permitted by applicable laws;
- G. An order requiring Volkswagen to pay both pre- and post-judgment interest on any amounts awarded;
- H. An award of costs and attorneys' fees; and
- I. Such other or further relief as may be appropriate.

X. JURY DEMAND

Plaintiffs demand a trial by jury.

DATED: October 9, 2015

Respectfully submitted,

By: 

LAW OFFICES OF SUSAN R. PODOLSKY

Susan R. Podolsky (Va. Bar No. 27891)
1800 Diagonal Road, Suite 600
Alexandria, VA 22314
Telephone: 571-366-1702
Facsimile: 703-647-6009
Email: spodolsky@podolskylaw.com

Local Counsel for the Plaintiffs and the Proposed Class

LABATON SUCHAROW LLP

Martis Ann Alex (*pro hac vice* application to be submitted)
Daniel R. Leathers (*pro hac vice* application to be submitted)
Brian R. Morrison (*pro hac vice* application to be submitted)
140 Broadway
New York, NY 10005
Telephone: 212-907-0700
Facsimile: 212-818-0477
Email: malex@labaton.com
dleathers@labaton.com
bmorrison@labaton.com

Counsel for the Plaintiffs and the Proposed Class

CIVIL COVER SHEET

Attachment 2

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

LAURA McNEIL, PATRICK CUTLER, AMY NELSON, ALISON RUSSO,
STEVEN WEISE, JOHN IMPEDUGLIA, and ARTHUR THEXTON

(b) County of Residence of First Listed Plaintiff Fairfax County

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Law Offices of Susan R. Podolsky, Susan R. Podolsky (Va. Bar No. 27891)
1800 Diagonal Road, Suite 600, Alexandria, VA 22314
Telephone: 571-366-1702 Email: spodolsky@podolskylaw.com

DEFENDANTS

VOLKSWAGEN GROUP OF AMERICA, INC.

County of Residence of First Listed Defendant Fairfax County

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION

(Place an "X" in One Box Only)

☐ 1 U.S. Government
Plaintiff

☐ 3 Federal Question
(U.S. Government Not a Party)

☐ 2 U.S. Government
Defendant

☒ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input checked="" type="checkbox"/> 4
Citizen of Another State	<input checked="" type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT

(Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN

(Place an "X" in One Box Only)

☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. § 1332(d)

Brief description of cause:

Class action for fraud involving defect associated with 2.0L TDI Diesel engine

VII. REQUESTED IN COMPLAINT:

☒ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$
\$5,000,000+

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE Hon. Liam O'Grady

DOCKET NUMBER

15-cv-01223, 15-cv-01225, 15-cv-01229, 15-cv-01239, 15-cv-01241, 15-cv-01261, and 15-cv-01295

DATE

10-9-15

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

Court Name: United States District Court
Division: 1
Receipt Number: 14603054583
Cashier ID: sbrown
Transaction Date: 10/09/2015
Payer Name: SUSAN R PODOLSKY

CIVIL FILING FEE
For: SUSAN R PODOLSKY
Amount: \$400.00

CHECK
Remitter: SUSAN R PODOLSKY
Check/Money Order Num: 1218
Amt Tendered: \$400.00

Total Due: \$400.00
Total Tendered: \$400.00
Change Amt: \$0.00

FILING FEE
115CV1317

EXHIBIT A



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

SEP 18 2015

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

*VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED*

Volkswagen AG
Audi AG
Volkswagen Group of America, Inc.
Thru:

David Geanacopoulos
Executive Vice President Public Affairs and General Counsel
Volkswagen Group of America, Inc.
2200 Ferdinand Porsche Drive
Herndon, VA 20171

Stuart Johnson
General Manager
Engineering and Environmental Office
Volkswagen Group of America, Inc.
3800 Hamlin Road
Auburn Hills, MI 48326

Re: Notice of Violation

Dear Mr. Geanacopoulos and Mr. Johnson:

The United States Environmental Protection Agency (EPA) has investigated and continues to investigate Volkswagen AG, Audi AG, and Volkswagen Group of America (collectively, VW) for compliance with the Clean Air Act (CAA), 42 U.S.C. §§ 7401–7671q, and its implementing regulations. As detailed in this Notice of Violation (NOV), the EPA has determined that VW manufactured and installed defeat devices in certain model year 2009 through 2015 diesel light-duty vehicles equipped with 2.0 liter engines. These defeat devices bypass, defeat, or render inoperative elements of the vehicles' emission control system that exist to comply with CAA emission standards. Therefore, VW violated section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B). Additionally, the EPA has determined that, due to the existence of the defeat

devices in these vehicles, these vehicles do not conform in all material respects to the vehicle specifications described in the applications for the certificates of conformity that purportedly cover them. Therefore, VW also violated section 203(a)(1) of the CAA, 42 U.S.C. § 7522(a)(1), by selling, offering for sale, introducing into commerce, delivering for introduction into commerce, or importing these vehicles, or for causing any of the foregoing acts.

Law Governing Alleged Violations

This NOV arises under Part A of Title II of the CAA, 42 U.S.C. §§ 7521–7554, and the regulations promulgated thereunder. In creating the CAA, Congress found, in part, that “the increasing use of motor vehicles . . . has resulted in mounting dangers to the public health and welfare.” CAA § 101(a)(2), 42 U.S.C. § 7401(a)(2). Congress’ purpose in creating the CAA, in part, was “to protect and enhance the quality of the Nation’s air resources so as to promote the public health and welfare and the productive capacity of its population,” and “to initiate and accelerate a national research and development program to achieve the prevention and control of air pollution.” CAA § 101(b)(1)–(2), 42 U.S.C. § 7401(b)(1)–(2). The CAA and the regulations promulgated thereunder aim to protect human health and the environment by reducing emissions of nitrogen oxides (NO_x) and other pollutants from mobile sources of air pollution. Nitrogen oxides are a family of highly reactive gases that play a major role in the atmospheric reactions with volatile organic compounds (VOCs) that produce ozone (smog) on hot summer days. Breathing ozone can trigger a variety of health problems including chest pain, coughing, throat irritation, and congestion. Breathing ozone can also worsen bronchitis, emphysema, and asthma. Children are at greatest risk of experiencing negative health impacts from exposure to ozone.

The EPA’s allegations here concern light-duty motor vehicles for which 40 C.F.R. Part 86 sets emission standards and test procedures and section 203 of the CAA, 42 U.S.C. § 7522, sets compliance provisions. Light-duty vehicles must satisfy emission standards for certain air pollutants, including NO_x. 40 C.F.R. § 86.1811-04. The EPA administers a certification program to ensure that every vehicle introduced into United States commerce satisfies applicable emission standards. Under this program, the EPA issues certificates of conformity (COCs), and thereby approves the introduction of vehicles into United States commerce.

To obtain a COC, a light-duty vehicle manufacturer must submit a COC application to the EPA for each test group of vehicles that it intends to enter into United States commerce. 40 C.F.R. § 86.1843-01. The COC application must include, among other things, a list of all auxiliary emission control devices (AECDs) installed on the vehicles. 40 C.F.R. § 86.1844-01(d)(11). An AECD is “any element of design which senses temperature, vehicle speed, engine RPM, transmission gear, manifold vacuum, or any other parameter for the purpose of activating, modulating, delaying, or deactivating the operation of any part of the emission control system.” 40 C.F.R. § 86.1803-01. The COC application must also include “a justification for each AECD, the parameters they sense and control, a detailed justification of each AECD that results in a reduction in effectiveness of the emission control system, and [a] rationale for why it is not a defeat device.” 40 C.F.R. § 86.1844-01(d)(11).

A defeat device is an AECD “that reduces the effectiveness of the emission control system under conditions which may reasonably be expected to be encountered in normal vehicle operation and

use, unless: (1) Such conditions are substantially included in the Federal emission test procedure; (2) The need for the AECD is justified in terms of protecting the vehicle against damage or accident; (3) The AECD does not go beyond the requirements of engine starting; or (4) The AECD applies only for emergency vehicles” 40 C.F.R. § 86.1803-01.

Motor vehicles equipped with defeat devices, such as those at issue here, cannot be certified. EPA, *Advisory Circular Number 24: Prohibition on use of Emission Control Defeat Device* (Dec. 11, 1972); *see also* 40 C.F.R. §§ 86-1809-01, 86-1809-10, 86-1809-12. Electronic control systems which may receive inputs from multiple sensors and control multiple actuators that affect the emission control system’s performance are AECDs. EPA, *Advisory Circular Number 24-2: Prohibition of Emission Control Defeat Devices – Optional Objective Criteria* (Dec. 6, 1978). “Such elements of design could be control system logic (i.e., computer software), and/or calibrations, and/or hardware items.” *Id.*

“Vehicles are covered by a certificate of conformity only if they are in all material respects as described in the manufacturer’s application for certification” 40 C.F.R. § 86.1848-10(c)(6). Similarly, a COC issued by EPA, including those issued to VW, state expressly, “[t]his certificate covers only those new motor vehicles or vehicle engines which conform, in all material respects, to the design specifications” described in the application for that COC. *See also* 40 C.F.R. §§ 86.1844-01 (listing required content for COC applications), 86.1848-01(b) (authorizing the EPA to issue COCs on any terms that are necessary or appropriate to assure that new motor vehicles satisfy the requirements of the CAA and its regulations).

The CAA makes it a violation “for any person to manufacture or sell, or offer to sell, or install, any part or component intended for use with, or as part of, any motor vehicle or motor vehicle engine, where a principal effect of the part or component is to bypass, defeat, or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with regulations under this subchapter, and where the person knows or should know that such part or component is being offered for sale or installed for such use or put to such use.” CAA § 203(a)(3)(B), 42 U.S.C. § 7522(a)(3)(B); 40 C.F.R. § 86.1854-12(a)(3)(ii). Additionally, manufacturers are prohibited from selling, offering for sale, introducing into commerce, delivering for introduction into commerce, or importing, any new motor vehicle unless that vehicle is covered by an EPA-issued COC. CAA § 203(a)(1), 42 U.S.C. § 7522(a)(1); 40 C.F.R. § 86.1854-12(a)(1). It is also a violation to cause any of the foregoing acts. CAA § 203(a), 42 U.S.C. § 7522(a); 40 C.F.R. § 86-1854-12(a).

Alleged Violations

Each VW vehicle identified by the table below has AECDs that were not described in the application for the COC that purportedly covers the vehicle. Specifically, VW manufactured and installed software in the electronic control module (ECM) of these vehicles that sensed when the vehicle was being tested for compliance with EPA emission standards. For ease of reference, the EPA is calling this the “switch.” The “switch” senses whether the vehicle is being tested or not based on various inputs including the position of the steering wheel, vehicle speed, the duration of the engine’s operation, and barometric pressure. These inputs precisely track the parameters of the federal test procedure used for emission testing for EPA certification purposes. During EPA

emission testing, the vehicles' ECM ran software which produced compliant emission results under an ECM calibration that VW referred to as the "dyno calibration" (referring to the equipment used in emissions testing, called a dynamometer). At all other times during normal vehicle operation, the "switch" was activated and the vehicle ECM software ran a separate "road calibration" which reduced the effectiveness of the emission control system (specifically the selective catalytic reduction or the lean NOx trap). As a result, emissions of NOx increased by a factor of 10 to 40 times above the EPA compliant levels, depending on the type of drive cycle (e.g., city, highway).

The California Air Resources Board (CARB) and the EPA were alerted to emissions problems with these vehicles in May 2014 when the West Virginia University's (WVU) Center for Alternative Fuels, Engines & Emissions published results of a study commissioned by the International Council on Clean Transportation that found significantly higher in-use emissions from two light duty diesel vehicles (a 2012 Jetta and a 2013 Passat). Over the course of the year following the publication of the WVU study, VW continued to assert to CARB and the EPA that the increased emissions from these vehicles could be attributed to various technical issues and unexpected in-use conditions. VW issued a voluntary recall in December 2014 to address the issue. CARB, in coordination with the EPA, conducted follow up testing of these vehicles both in the laboratory and during normal road operation to confirm the efficacy of the recall. When the testing showed only a limited benefit to the recall, CARB broadened the testing to pinpoint the exact technical nature of the vehicles' poor performance, and to investigate why the vehicles' onboard diagnostic system was not detecting the increased emissions. None of the potential technical issues suggested by VW explained the higher test results consistently confirmed during CARB's testing. It became clear that CARB and the EPA would not approve certificates of conformity for VW's 2016 model year diesel vehicles until VW could adequately explain the anomalous emissions and ensure the agencies that the 2016 model year vehicles would not have similar issues. Only then did VW admit it had designed and installed a defeat device in these vehicles in the form of a sophisticated software algorithm that detected when a vehicle was undergoing emissions testing.

VW knew or should have known that its "road calibration" and "switch" together bypass, defeat, or render inoperative elements of the vehicle design related to compliance with the CAA emission standards. This is apparent given the design of these defeat devices. As described above, the software was designed to track the parameters of the federal test procedure and cause emission control systems to underperform when the software determined that the vehicle was not undergoing the federal test procedure.

VW's "road calibration" and "switch" are AECDs¹ that were neither described nor justified in the applicable COC applications, and are illegal defeat devices. Therefore each vehicle identified by the table below does not conform in a material respect to the vehicle specifications described in the COC application. As such, VW violated section 203(a)(1) of the CAA, 42 U.S.C. § 7522(a)(1), each time it sold, offered for sale, introduced into commerce, delivered for introduction into commerce, or imported (or caused any of the foregoing with respect to) one of the hundreds of thousands of new motor vehicles within these test groups. Additionally, VW

¹ There may be numerous engine maps associated with VW's "road calibration" that are AECDs, and that may also be defeat devices. For ease of description, the EPA is referring to these maps collectively as the "road calibration."

violated section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B), each time it manufactured and installed into these vehicles an ECM equipped with the "switch" and "road calibration."

The vehicles are identified by the table below. All vehicles are equipped with 2.0 liter diesel engines.

Model Year	EPA Test Group	Make and Model(s)
2009	9VWXV02.035N	VW Jetta, VW Jetta Sportwagen
2009	9VWXV02.0U5N	VW Jetta, VW Jetta Sportwagen
2010	AVWXV02.0U5N	VW Golf, VW Jetta, VW Jetta Sportwagen, Audi A3
2011	BVWXV02.0U5N	VW Golf, VW Jetta, VW Jetta Sportwagen, Audi A3
2012	CVWXV02.0U5N	VW Beetle, VW Beetle Convertible, VW Golf, VW Jetta, VW Jetta Sportwagen, Audi A3
2012	CVWXV02.0U4S	VW Passat
2013	DVWXV02.0U5N	VW Beetle, VW Beetle Convertible, VW Golf, VW Jetta, VW Jetta Sportwagen, Audi A3
2013	DVWXV02.0U4S	VW Passat
2014	EVWXV02.0U5N	VW Beetle, VW Beetle Convertible, VW Golf, VW Jetta, VW Jetta Sportwagen, Audi A3
2014	EVWXV02.0U4S	VW Passat
2015	FVGAV02.0VAL	VW Beetle, VW Beetle Convertible, VW Golf, VW Golf Sportwagen, VW Jetta, VW Passat, Audi A3

Enforcement

The EPA's investigation into this matter is continuing. The above table represents specific violations that the EPA believes, at this point, are sufficiently supported by evidence to warrant the allegations in this NOV. The EPA may find additional violations as the investigation continues.

The EPA is authorized to refer this matter to the United States Department of Justice for initiation of appropriate enforcement action. Among other things, persons who violate section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B), are subject to a civil penalty of up to \$3,750 for each violation that occurred on or after January 13, 2009;^[1] CAA § 205(a), 42 U.S.C. § 7524(a); 40 C.F.R. § 19.4. In addition, any manufacturer who, on or after January 13, 2009, sold, offered for sale, introduced into commerce, delivered for introduction into commerce, imported, or caused any of the foregoing acts with respect to any new motor vehicle that was not covered by an EPA-issued COC is subject, among other things, to a civil penalty of up to \$37,500 for each violation.^[2] CAA § 205(a), 42 U.S.C. § 7524(a); 40 C.F.R. § 19.4. The EPA may seek, and district courts may order, equitable remedies to further address these alleged violations. CAA § 204(a), 42 U.S.C. § 7523(a).

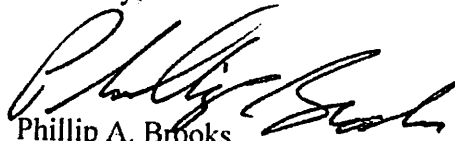
^[1] \$2,750 for violations occurring prior to January 13, 2009.

^[2] \$32,500 for violations occurring prior to January 13, 2009.

The EPA is available to discuss this matter with you. Please contact Meetu Kaul, the EPA attorney assigned to this matter, to discuss this NOV. Ms. Kaul can be reached as follows:

Meetu Kaul
U.S. EPA, Air Enforcement Division
1200 Pennsylvania Avenue, NW
William Jefferson Clinton Federal Building
Washington, DC 20460
(202) 564-5472
kaul.meetu@epa.gov

Sincerely,

A handwritten signature in black ink, appearing to read "Phillip A. Brooks".

Phillip A. Brooks
Director
Air Enforcement Division
Office of Civil Enforcement

Copy:

Todd Sax, California Air Resources Board
Walter Benjamin Fisherow, United States Department of Justice
Stuart Drake, Kirkland & Ellis LLP

EXHIBIT B

ARB LETTER TO VW



Matthew Rodriguez
Secretary for
Environmental Protection

Air Resources Board

Mary D. Nichols, Chair
8480 Telstar Avenue, Suite 4
El Monte, California 91731 • www.arb.ca.gov



Edmund G. Brown Jr.
Governor

Reference No. IUC-2015-007

September 18, 2015

Volkswagen AG
Audi AG
Volkswagen Group of America, Inc.
Through:

David Geanakopulos
Executive Vice President and General Counsel, Government Affairs
Volkswagen Group of America
2200 Ferdinand Porsche Drive
Herndon, VA 20171

Stuart Johnson
General Manager
Engineering and Environmental Office
Volkswagen Group of America
3800 Hamlin Road
Auburn Hills, MI 48326

Re: Admission of Defeat Device and California Air Resources Board's Requests

Dear Mr. Geanakopulos and Mr. Johnson:

In order to protect public health and the environment from harmful pollutants, the California Air Resources Board (CARB) rigorously implements its vehicle regulations through its certification, in use compliance, and enforcement programs. In addition to the new vehicle certification process, CARB regularly tests automobiles to ensure their emissions performance is as expected throughout their useful life, and performs investigative testing if warranted. CARB was engaged in dialogue with our European counterparts concerning high in use emissions from light duty diesels. CARB deployed a number of efforts using portable measurement systems and other approaches to increase our understanding for the California fleet. In 2014, the International Council for Clean Transportation (ICCT) and West Virginia University (WVU) identified through their test program, and brought to the CARB's and the United States Environmental Protection Agency's (EPA) attention, concerns of elevated oxides of nitrogen (NOx) emissions over real world driving. The ICCT actions were consistent and

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our website: <http://www.aes.ca.gov>

California Environmental Protection Agency

Printed on Recycled Paper

Mr. Geanakopoulos and Mr. Johnson:
September 18, 2015
Page 2

complementary to our activities. This prompted CARB to start an investigation and discussions with the Volkswagen Group of America (VW) on the reasons behind these high NOx emissions observed on their 2.0 liter diesel vehicles over real world driving conditions. As you know, these discussions over several months culminated in VW's admission in early September 2015 that it has, since model year 2009, employed a defeat device to circumvent CARB and the EPA emission test procedures.

VW initiated testing to replicate the ICCT/WVU testing and identify the technical reasons for the high on-road emissions. VW shared the results of this testing and a proposed recalibration fix for the Gen1 (Lean NOx Trap technology) and Gen2 (Selective Catalytic Reduction (SCR) technology) with CARB staff on December 2, 2014. Based on this meeting, CARB and EPA at that time agreed that VW could implement the software recall; however, CARB cautioned VW that if our confirmatory testing showed that the fix did not address the on-road NOx issues, they would have to conduct another recall. Based on this meeting, VW initiated a voluntary recall in December 2014 which, according to VW, affected approximately 500,000 vehicles in the United States (~50,000 in California). The recall affected all 2009 to 2014 model-year diesel fueled vehicles equipped with Gen1 and Gen2 technology. This recall was claimed to have fixed among other things, the increased real world driving NOx issue.

CARB commenced confirmatory testing on May 6, 2015 to determine the efficacy of the recall on both the Gen1 and Gen2 vehicles. CARB confirmatory testing was completed on a 2012 model-year Gen2 VW, test group CVWX02.0U4S, to be followed with Gen1 testing. CARB staff tested this vehicle on required certification cycles (FTP, US06 and HWFET) and over-the-road using a Portable Emission Measurement Systems (PEMS). On some certification cycles, the recall calibration resulted in the vehicle failing the NOx standard. Over-the-road PEMS testing showed that the recall calibration did reduce the emissions to some degree but NOx emissions were still significantly higher than expected.

To have a more controlled evaluation of the high NOx observed over the road, CARB developed a special dynamometer cycle which consisted of driving the Phase 2 portion of the FTP repeatedly. This special cycle revealed that VW's recall calibration did increase Diesel Exhaust Fluid (DEF) dosing upon initial startup; however, dosing was not sufficient to keep NOx emission levels from rising throughout the cycle. This resulted in uncontrolled NOx emissions despite the SCR reaching sufficient operating temperatures.

CARB shared its test results with VW on July 8, 2015. CARB also shared its results with the EPA. Several technical meetings with VW followed where VW disclosed that Gen1, Gen2 and the 2015 model-year improved SCR vehicle (known as the Gen3) had a second calibration intended to run only during certification testing. During a meeting on September 3, 2015, VW admitted to CARB and EPA staff that these vehicles were

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our website: <http://www.ca.gov>

California Environmental Protection Agency

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Mr. Geanakopoulos and Mr. Johnson:
September 18, 2015
Page 3

designed and manufactured with a defeat device to bypass, defeat, or render inoperative elements of the vehicles' emission control system. This defeat device was neither described nor justified in the certification applications submitted to EPA and CARB. Therefore, each vehicle so equipped would not be covered by a valid federal Certificate of Conformity (COC) or CARB Executive Order (EO) and would be in violation of federal and state law.

Based upon our testing and discussions with VW, CARB has determined that the previous recall did not address the high on-road NOx emissions, and also resulted in the vehicle failing certification standards. Therefore, the recall is deemed ineffective and is deemed unapproved. VW must immediately initiate discussions with CARB to determine the appropriate corrective action to rectify the emission non-compliance and return these vehicles to the claimed certified configuration. CARB program and enforcement staff is prepared to work closely with VW to find corrective actions to bring these vehicles into compliance.

CARB has also initiated an enforcement investigation of VW regarding all model-year 2009 through 2015 light-duty diesel vehicles equipped with 2.0 liter engines. We expect VW's full cooperation in this investigation so this issue can be addressed expeditiously and appropriately

Sincerely,



Annette Hebert, Chief
Emissions Compliance, Automotive Regulations and Science Division

cc: Mr. Byron Bunker, Director
Compliance Division
Office of Transportation and Air Quality
Office of Air and Radiation
U.S. Environmental Protection Agency

Mr. Linc Wehrly, Director
Environmental Protection Agency
Light-Duty Vehicle Center
2000 Traverwood Drive
Ann Arbor, MI 48105

Dr. Todd P. Sax, Chief
Enforcement Division
California Air Resources Board

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our website: <http://www.arb.ca.gov>

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Cato

Cato

C - McNeil, Laura - 2012 Jetta SportWagen.pdf
10/09/15 09:05 AM

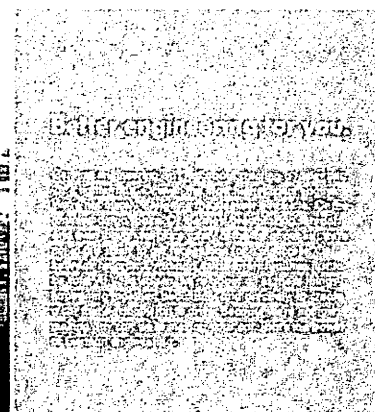
Exhibit C

2012 **Jetta SportWagen**

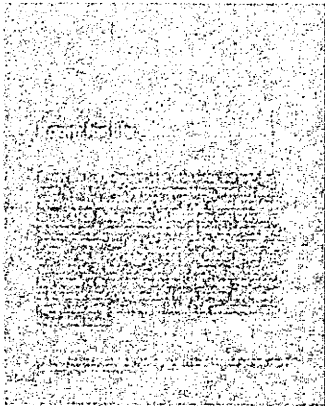


Das Auto.





The Jetta SportWagen



[illegible]

140 horsepower

236 lb.-ft torque

42 highway miles
per gallon*

609

09-76

240

170 horsepower

177 lb.-ft torque

33 highway miles
per gallon*

478 miles per
week*

Performance

Vroom to spare.

You'd like a car that's fuel efficient and powerful? Our German engineers read your mind. The TDI Clean Diesel engine sips fuel at a wallet-friendly rate of 42 mpg without sacrificing one bit of turbocharged performance. It has 140 hp and 236 lb/ft of torque for exceptional power all the time and plenty of punch to keep you going. You can even add our racing-inspired DSG* automatic transmission to take full advantage of its turbo. So if you love to drive and particularly enjoy breezing by hilly stations, you and your Jetta SportWagen will get along famously.

2. The second step is to find the maximum value of the function $f(x)$ over the interval $[a, b]$. This is done by finding the critical points of the function, i.e., the points where the derivative is zero or undefined. The maximum value is then the maximum of the function values at these critical points and at the endpoints of the interval.

Versatility

Hold on to your everything.

How much room is 64.9 cubic feet of space? It's a large-screen TV, still in its box. It's four flats of herbs and flowers, a huge bag of soil, that new hose you've been wanting, and all the tools you need to start a backyard garden. It's two wagon-puller trailers on their way to the park. And that's what you get when you fold down the rear seats in every Jetta SportWagen.





Comfort

The inside scoop.

The Jetta SportWagen comes with heated front seats, adjustable lumbar support, one-touch automatic window controls for all four windows, and optional V-Tex leatherette seating surfaces for a more premium experience. Not to mention the huge available panoramic sunroof. So if you were thinking that this sounds more luxurious than you were expecting, then welcome to the Jetta SportWagen.

Accounting system The process of identifying, measuring, recording, summarizing, and communicating in terms of money the financial transactions and events that in whole or in part affect an organization's financial position, performance, and compliance with the law.

Einzelanforderungen werden in der Regel durch die jeweilige
 Geschäftsstelle des Auftraggebers gestellt. Die Auftrags-
 erteilung erfolgt schriftlich, z. B. durch eine Bestellung,
 einen Auftrag oder eine Bestellung. Die Auftrags-
 erteilung ist an die Geschäftsstelle des Auftraggebers
 zu richten. Die Auftragserteilung ist an die Geschäfts-
 stelle des Auftraggebers zu richten. Die Auftragserteilung
 ist an die Geschäftsstelle des Auftraggebers zu richten.



Safety

Carry your valuables in a safe place.

Nobody wants to think about what happens in the event of a collision. Except for our safety engineers. That's why our comprehensive safety system is composed of a variety of active and passive safety features that work together when they're needed most. And in the event you need them, the Insurance Institute for Highway Safety (IIHS) named the Jetta SportVagen a 2011 Top Safety Pick*. So you can feel confident that when you buy a Volkswagen, you're driving home more than just a car. You're taking home total peace of mind.

*Based on IIHS 2011 Small Car Top Safety Pick award. For more information, visit www.iihs.org.

Always wear your seat belt. Please don't drink and drive. ©2011 Volkswagen of America, Inc.



ESC

Electronic Stability Control

ESC helps you maintain control of your vehicle in emergency situations by automatically applying the brakes to individual wheels when it detects a loss of steering control.



6 standard airbags



ICCS

Intelligent Cruise Control System

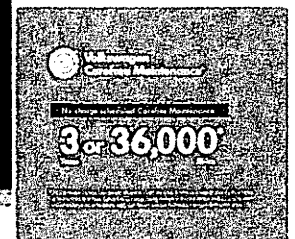
ICCS helps you maintain a safe following distance from the vehicle ahead of you in traffic. It can also bring you to a complete stop in traffic and resume your previous speed when the vehicle ahead moves.





Carefree Maintenance®

At Volvo, we care about your peace of mind. That's why we give you three years or 36,000 miles of Carefree Maintenance. It's the no-stress, care-free way to take care of your Volvo. Just follow the first 90,000 miles of Carefree Maintenance, and you'll have peace of mind for the rest of your Volvo's life. Carefree Maintenance includes everything you need to keep your Volvo running smoothly, including oil changes, tire rotations, and more. It's the Volvo way to keep your car in top shape for years to come.



	24.41	24.44	24.45		24.41	24.44	24.45
General Information				Control Path			
1. Name of the system				1. Name of the system			
2. Description of the system				2. Description of the system			
3. Purpose of the system				3. Purpose of the system			
4. Scope of the system				4. Scope of the system			
5. System architecture				5. System architecture			
6. System components				6. System components			
7. System interfaces				7. System interfaces			
8. System security				8. System security			
9. System testing				9. System testing			
10. System documentation				10. System documentation			
11. System maintenance				11. System maintenance			
12. System upgrade				12. System upgrade			
13. System decommission				13. System decommission			
14. System backup				14. System backup			
15. System recovery				15. System recovery			
16. System disaster recovery				16. System disaster recovery			
17. System business continuity				17. System business continuity			
18. System risk management				18. System risk management			
19. System compliance				19. System compliance			
20. System audit				20. System audit			
21. System review				21. System review			
22. System improvement				22. System improvement			
23. System change management				23. System change management			
24. System configuration management				24. System configuration management			
25. System version control				25. System version control			
26. System release management				26. System release management			
27. System deployment				27. System deployment			
28. System installation				28. System installation			
29. System uninstallation				29. System uninstallation			
30. System migration				30. System migration			
31. System cloning				31. System cloning			
32. System backup				32. System backup			
33. System recovery				33. System recovery			
34. System disaster recovery				34. System disaster recovery			
35. System business continuity				35. System business continuity			
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47. System uninstallation				47. System uninstallation			
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49. System cloning				49. System cloning			
50. System backup				50. System backup			
51. System recovery				51. System recovery			
52. System disaster recovery				52. System disaster recovery			
53. System business continuity				53. System business continuity			
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55. System compliance				55. System compliance			
56. System audit				56. System audit			
57. System review				57. System review			
58. System improvement				58. System improvement			
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60. System configuration management				60. System configuration management			
61. System version control				61. System version control			
62. System release management				62. System release management			
63. System deployment				63. System deployment			
64. System installation				64. System installation			
65. System uninstallation				65. System uninstallation			
66. System migration				66. System migration			



Standard

drivegear.vw.com



SE 18" Alloy

18" Alloy

18" Alloy

18" Alloy



SE 18" Alloy

18" Alloy

18" Alloy

18" Alloy



SE and TDI 18" Alloy

18" Alloy

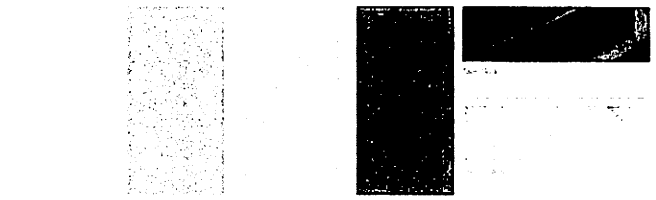
18" Alloy

18" Alloy



Paint

V-Tex Leatherette



Candy White

White Gold Metallic

Raffine Silver Metallic

Platinum Gray Metallic

Cloth



Torquedo Red

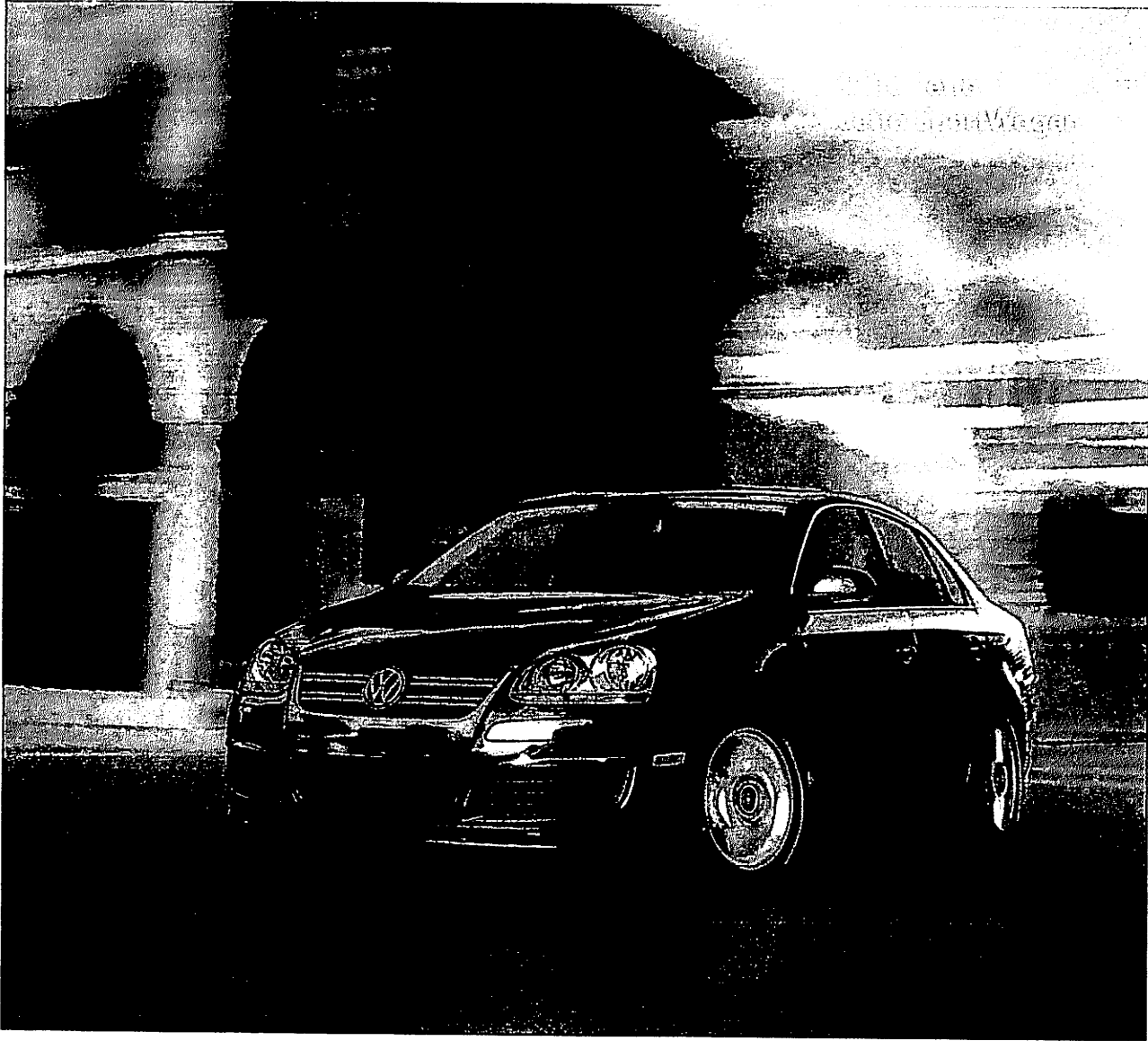
Torquedo Blue Metallic

Tellus Brown Metallic

Black

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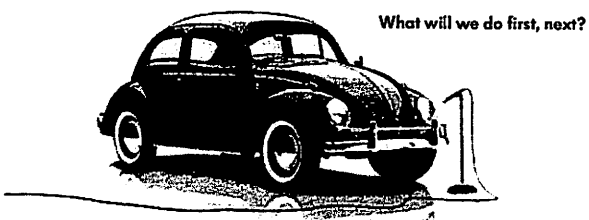
Exhibit D



Das Auto.

All around the world, it's

Did you know that a Volkswagen was named the 2009 World Car of the Year? Or that Volkswagen has ESP* standard on all 2010 vehicles? Or that we provide a Carefree Maintenance** Program** on all our 2010 cars? Or that we were the first to make clean diesel available in all 50 states? Or that we have more autos with 25 highway mpg or better than any other brand? And that we have more cars and SUVs named 2009 IIHS Top Safety Picks than Volvo? Or that the Jetta is the best-selling German-engineered sedan in America? How about that right now, the VW forest is growing in Louisiana thanks to the Volkswagen Carbon Neutral Project—the first US carbon offsetting program initiated by a car manufacturer? There may be a lot you don't know about Volkswagen. Keep turning the pages, and you'll discover why the Jetta TDI was given MotorWeek's 2009 Drivers' Choice Best of the Year Award.*

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what the people want.

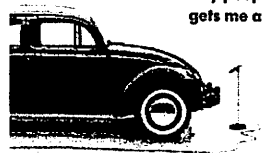


2015 Toyota Camry Hybrid Sport. Starting at \$25,400. MSRP. Excludes taxes, license, and destination charge.

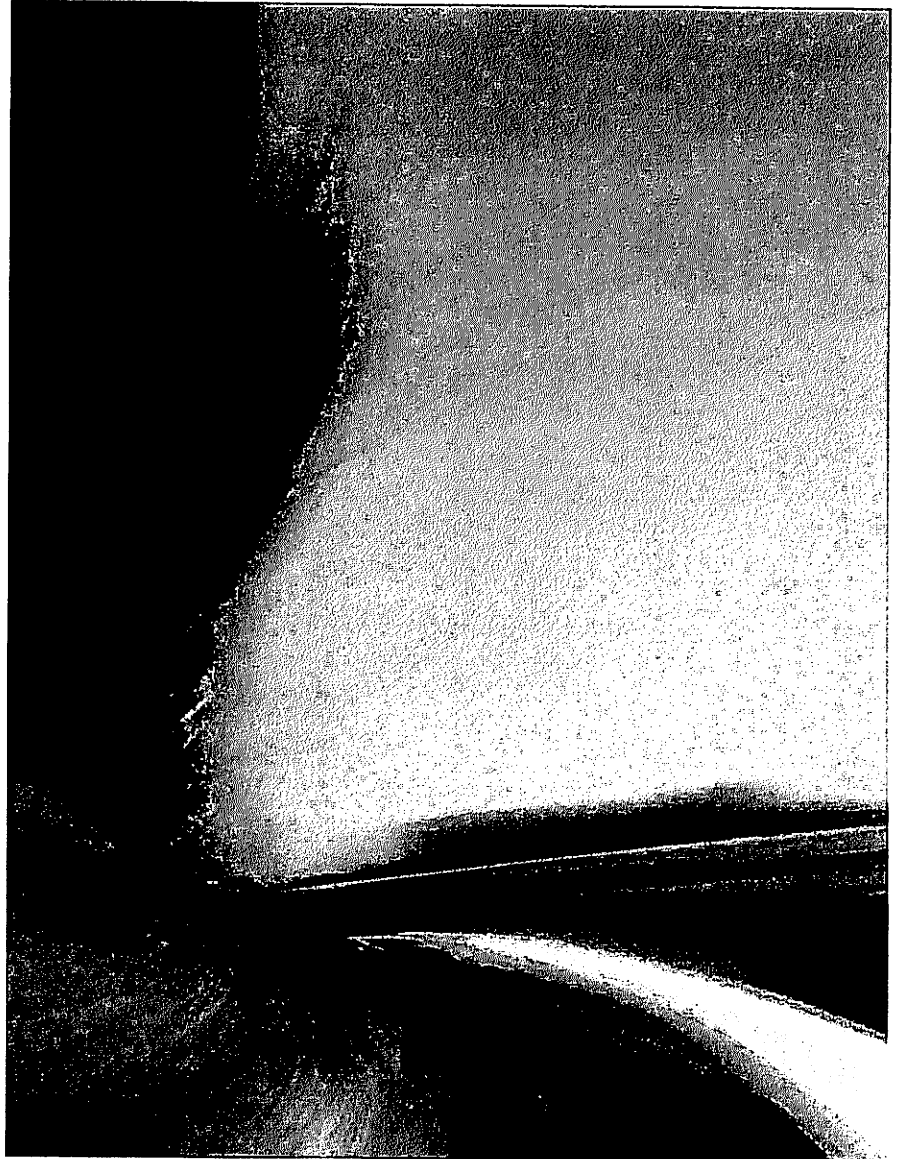
Loved by the world for a world of reasons.

Just what makes the Jetta so popular all around the world and the best-selling German-engineered sedan in America? The reasons are vast and varying. Some say it's the superior engineering. Others say it's about possessing the latest in safety technology with a standard Electronic Stabilization Program (ESP). Still others point out the availability of a clean-diesel engine. Whatever your reason may be, the Jetta provides all the wonder and joy of German engineering at a price you can feel good about. It's the automotive equivalent of having your cake and eating it, too. Really fast. German-tuned cake.

The way people love Jetta
gets me all fogged up.

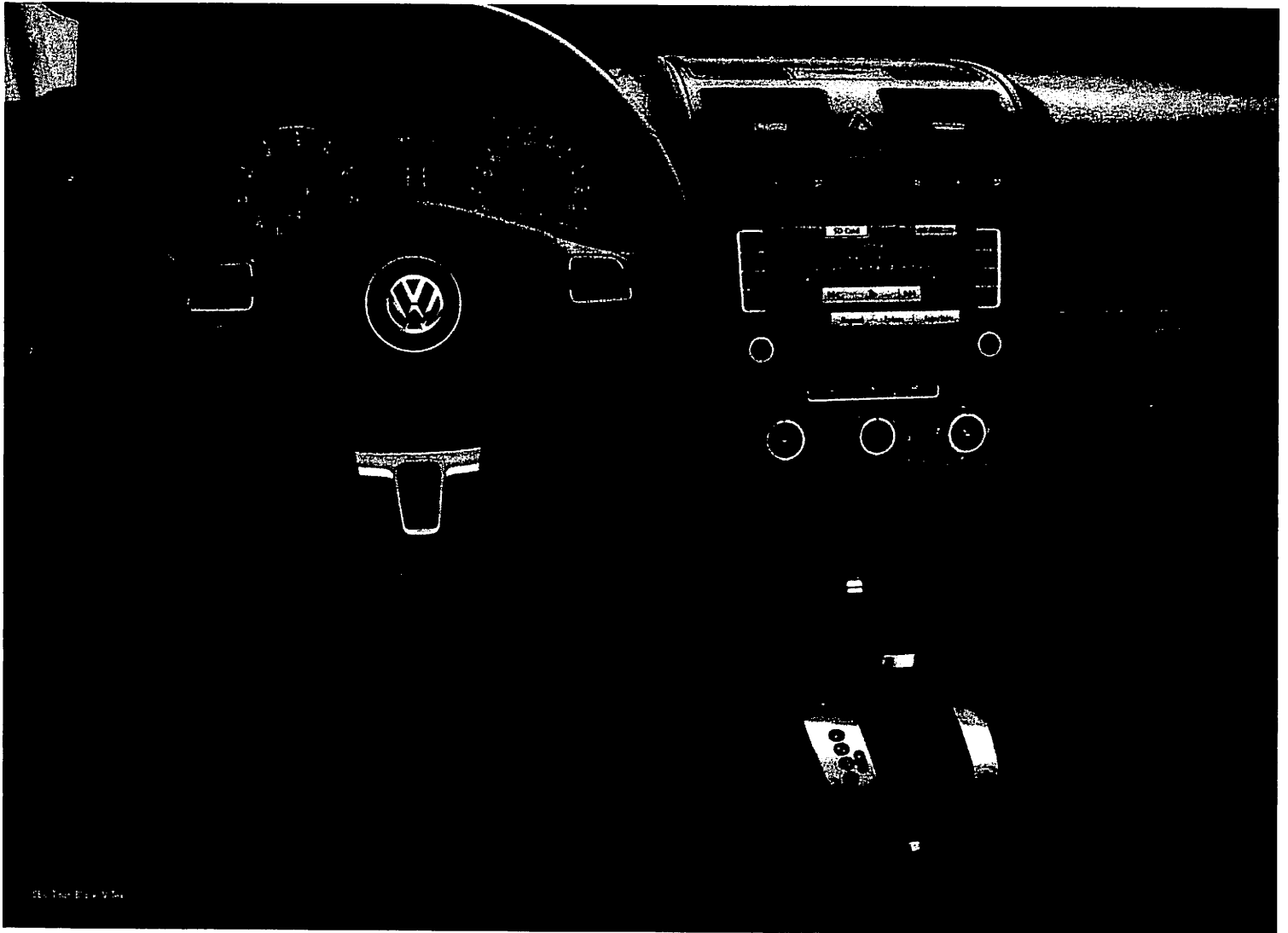


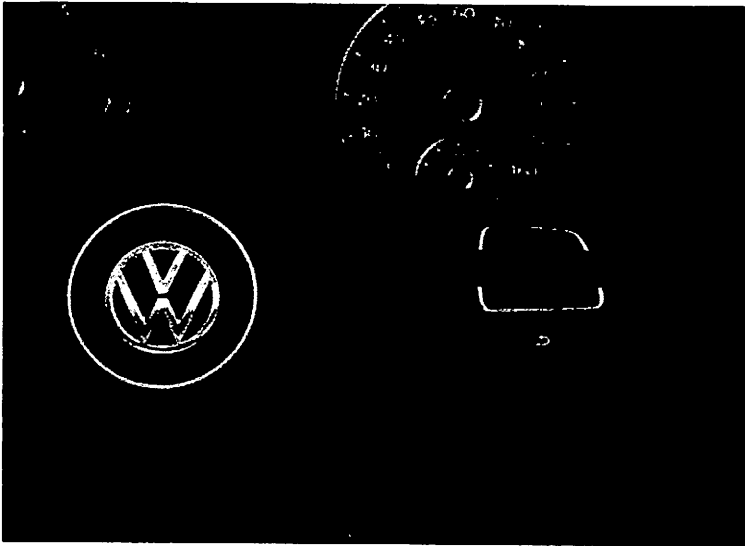
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*DL, Cedar White, Sport Styling Kit, 17" Alloy Wheels





Beautiful is on the inside.

The interior of the Volkswagen Jetta is German-engineered for ergonomics and aesthetics, with its techie white cockpit lighting, heatable front seats, and a driver and front passenger seat with power recline and adjustable lumbar support. It lets you maximize your comfort and takes the edge off as you take on curves and corners. Speaking of curves, we offer a leather-wrapped steering wheel that gives your hands an intimate connection to the impeccable steering of the Jetta. An optional sunroof lets you kiss the sky on warm days, and degree-sensitive climate control and rear A/C ventilation allow even the most quarrelsome driver/passenger combo to compromise. On the temperature at least.



Your inside is one
of my favorite sides.

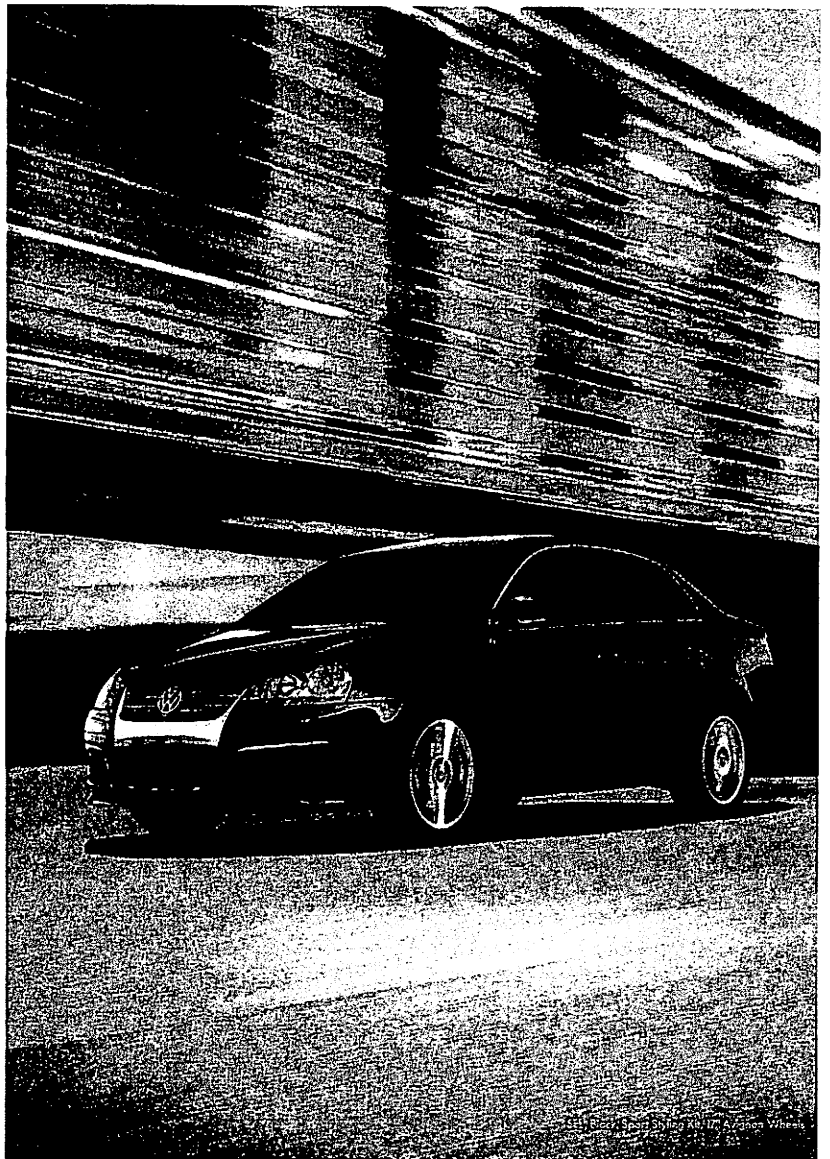




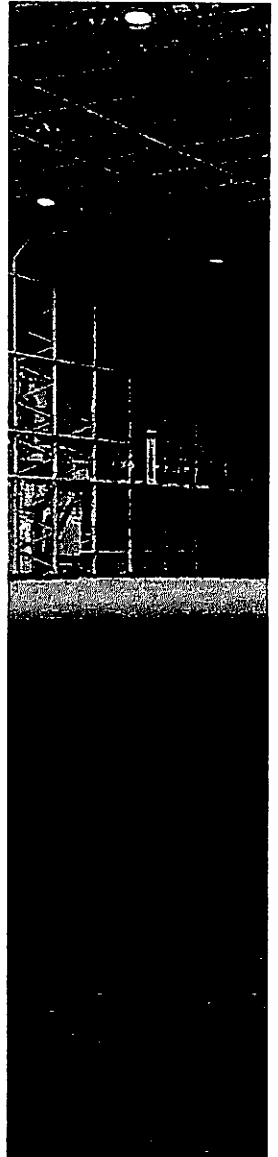
SportWagen SE, Black, Sport Styling Kit, 17" Porto Wheels

Both the Jetta and the Jetta SportWagen 2.5L offer a choice of 5-speed manual or optional 6-speed Tiptronic[®] transmission. The FDI model offers a sporty 6-speed manual or the quick-shifting, race-inspired, DSG[®] automatic transmission.

¹ The authors thank the referees for their helpful comments. The authors also thank the National Natural Science Foundation of China (Grant No. 71273052) for its financial support.



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Lower Anchors and Tethers for Children (LATCH)
A standardized child-safety seat system.

Crash-Optimized Front End
Designed to sacrifice the front of the vehicle in the event of a serious crash. The engine bay and structure of the car crumple in a pre-determined way to help keep the integrity of the cabin intact.

Airbags**
Every Jetta comes with 6 standard airbags and 2 optional rear airbags.

Safety Cell Construction and Anti-Intrusion Side Door Beams
Creates a laser-welded cocoon of safety around the passengers that is structurally reinforced in the most important areas.

5-Star Side Impact Rating[†]
The highest governmental side crash safety rating.

Electronic Differential Lock (EDL)
Wheels that have traction get more power in a less slip, more grip kind of way.

Anti-Slip Regulation (ASR) and Engine Brake Assist (EBA)
Help improve handling and prevent compression-induced skidding in slippery conditions.

Dual Front and Front Side Airbags**
Can deploy within 5 hundredths of a second.

Laser Welding and Uni-body Construction
Jetta is engineered and created using the highest standards to maintain body rigidity and safety.

Safety Belt Pre-Tensioners
In the event of a crash, the safety belts are automatically tightened in a fraction of a second.

Side Curtain Protection***
Airbags deploy down the roofline from the A-pillar to the C-pillar, to help reduce head and upper torso injury in the event of side impact.

5, F-150 Silver Metallic, 15 Black, 15 White, 15 White

Get there. And by 'there', we mean pretty much anywhere.

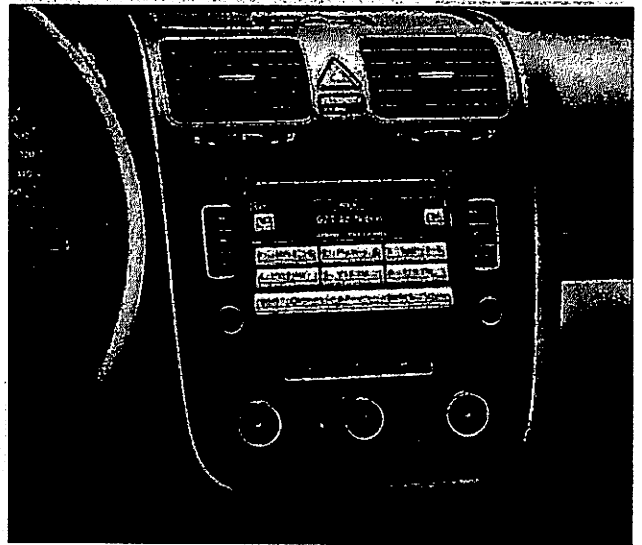
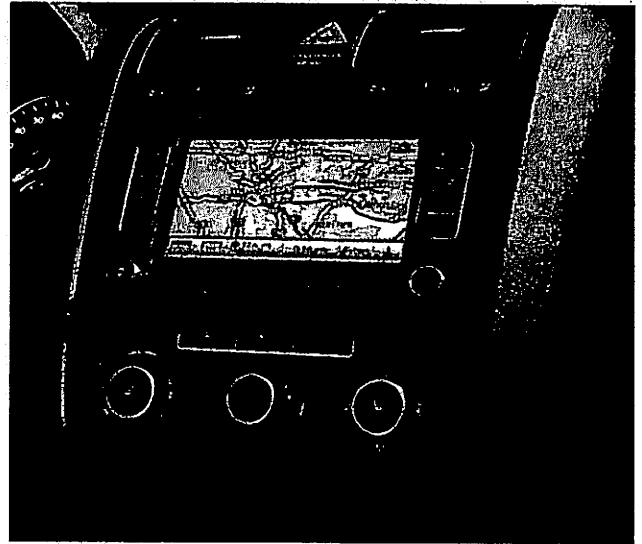
The joy of driving mingles with the joy of getting there with Jetta's optional state-of-the-art touchscreen navigation and entertainment system. The user-friendly unit combines a sophisticated radio with precise touchscreen navigation and an easy-to-read 6.5-inch monitor. A 30GB hard drive stores map data and audio files that can be brought into the device via the optical drive or SD card slot. The optical drive is capable of playing back audio CD, DVD, and DVD audio formats. In concert with the available Media Device Interface (MDI) and auxiliary input, the system can interface with practically any MP3 or USB device.¹

And while the navigation system is sure to get you where you're going, the available Bluetooth[®] Hands-Free Calling with voice control will make sure you're connected the whole way there.

We're playing your song.

Available on the Jetta and Jetta SportWagen[™] is Volkswagen's touchscreen Premium VIII radio with 6 speakers, built-in MP3 and WMA compatible 6-disc CD changer, SD Memory Card, and a generous dose of audio goodness.

Also included are 6 introductory months of SIRIUS[®] Satellite Radio with 100% commercial-free music, plus the best in sports, news, talk, and entertainment, and 3 introductory months of SIRIUS Traffic,[™] delivering real-time traffic data into the optional navigation system.



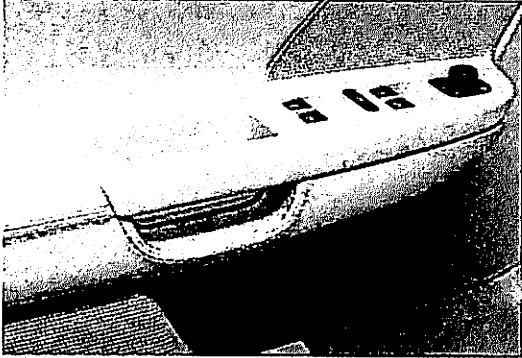
©2009 Volkswagen of America, Inc.

SIRIUS
SATELLITE RADIO



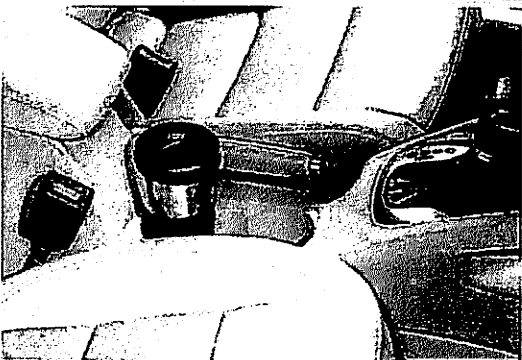
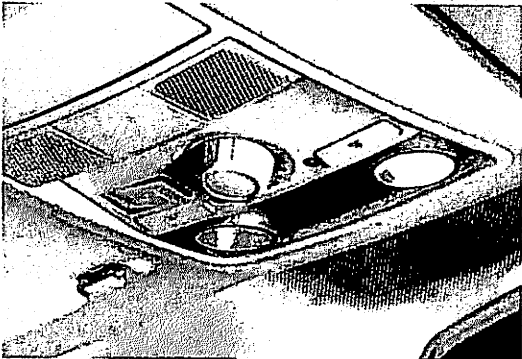


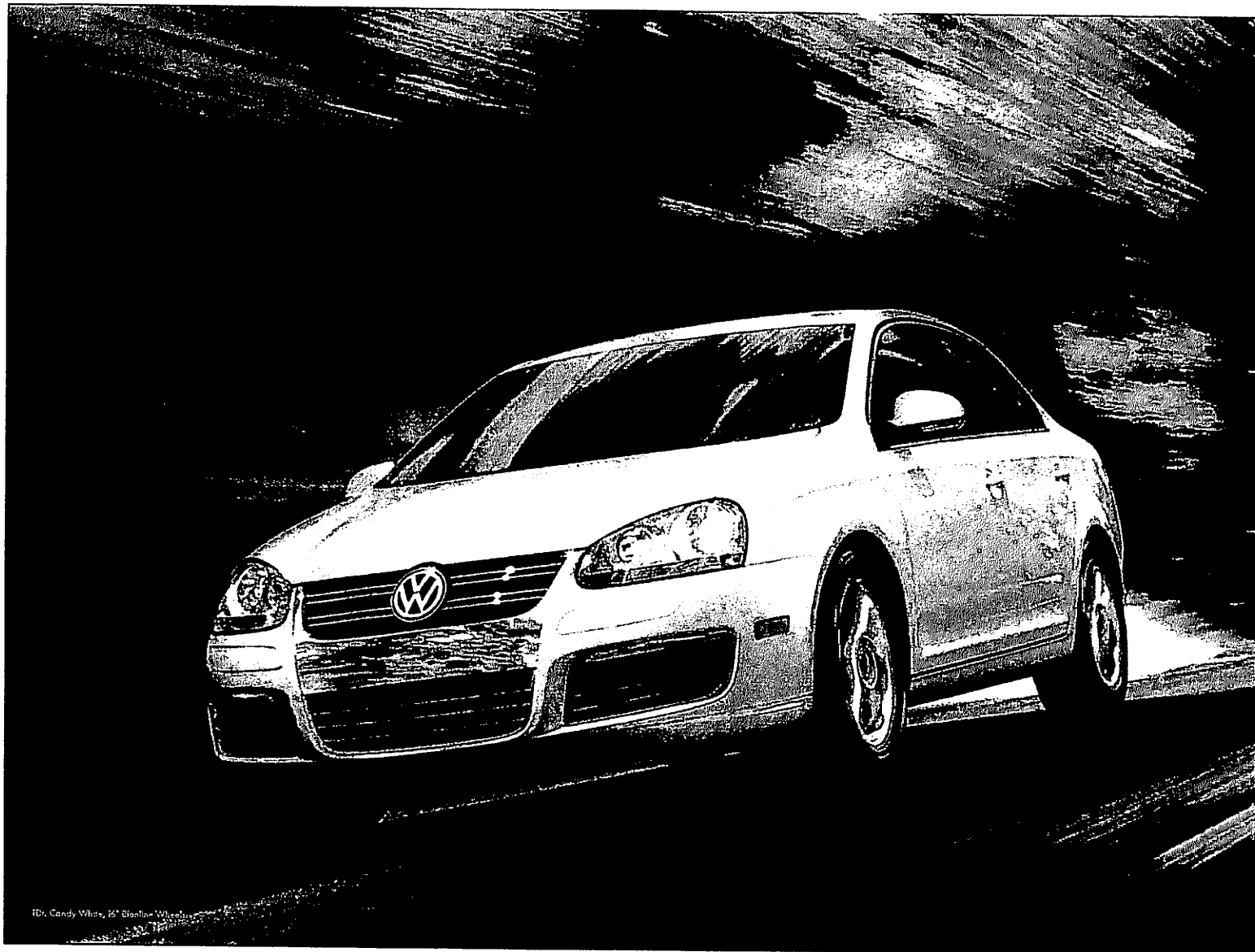
SE, Corrado Page, V.10



The people want fun in their functions.

Being the people's car means constantly thinking about versatility, inside and out. That's why the Jetta offers 60/40 split-folding rear seats and an expansive 16 cubic-foot trunk. It also offers handy door bins, a valet function for the glovebox, and an available multi-function steering wheel and trip computer. That way, everything from mileage, to trip timer, to volume controls is literally at your fingertips. Innovative features like heated washer nozzles let your windshield defy the outer elements on chilly days, and functional extras like blinking lane changers in the door mirror make sure you get where you're going safely.






Jetta, Candy White, 16" Steel Wheel

There's even a Jetta SportWagen TDI Clean Diesel, with the same astonishing clean diesel technology, plus a whopping 66.9 cubic feet of cargo room.



to the pedal.



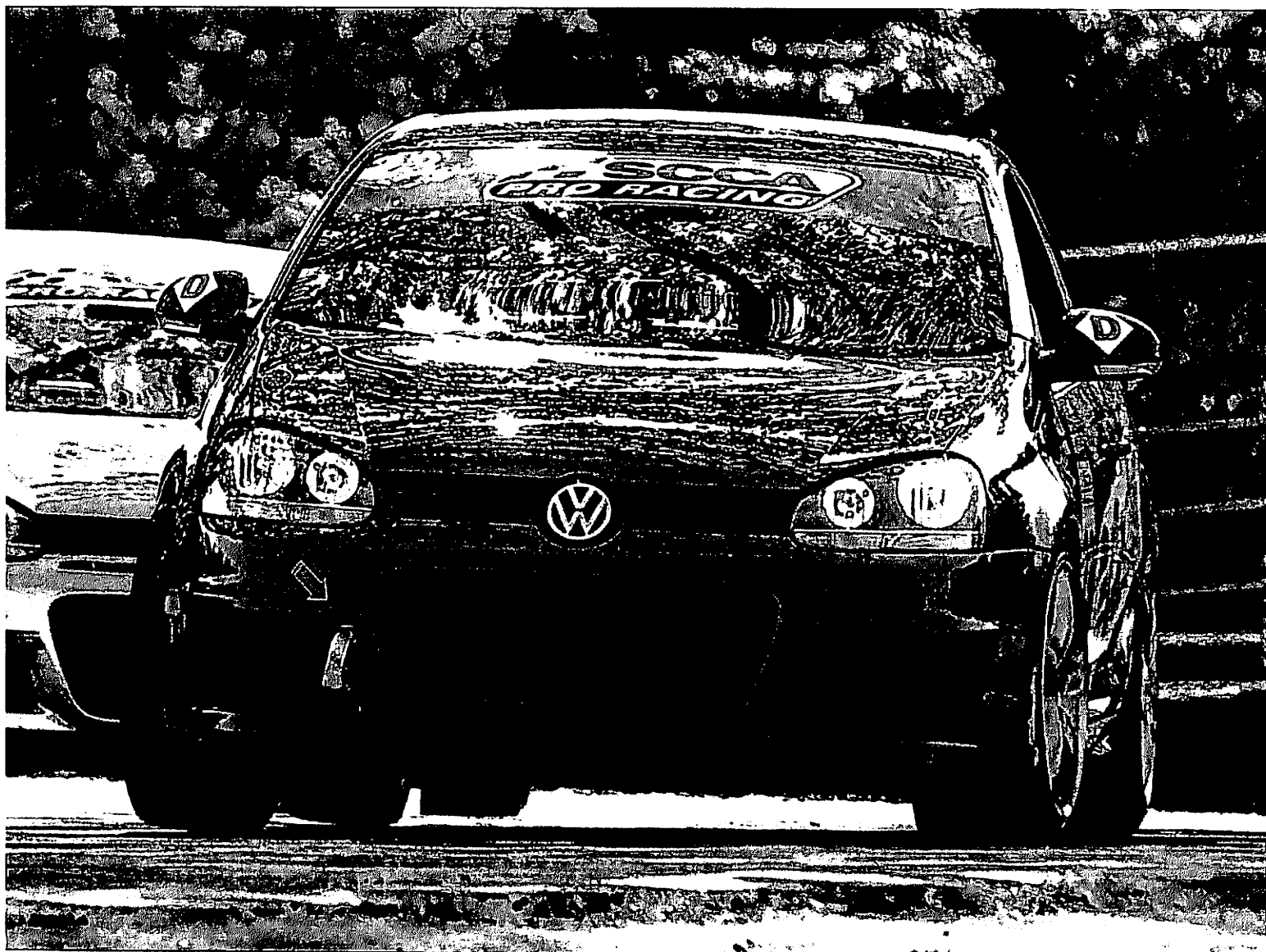
1. *Die Bedeutung der Arbeit für die Entwicklung der Persönlichkeit* (1978) ist ein Buch, das die Bedeutung der Arbeit für die Entwicklung der Persönlichkeit untersucht. Es ist ein Buch, das die Bedeutung der Arbeit für die Entwicklung der Persönlichkeit untersucht.



The people want to race and they want the environment to win.

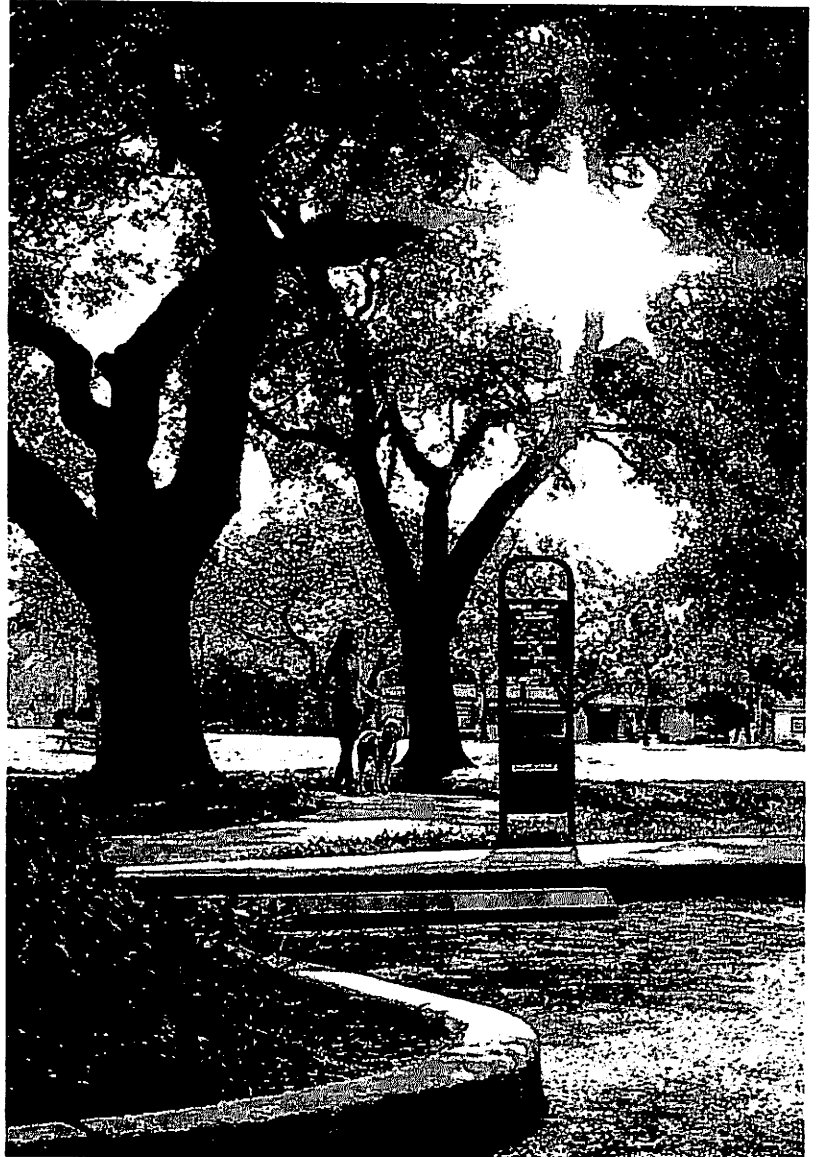
A groundbreaking new kind of auto racing is going on, made possible by Jetta TDI Clean Diesel technology. The Jetta TDI Cup was created to show the full power of diesel, and to introduce the world to the first racing series designed to be green. Each TDI Cup race features 30 of the fastest racers in the US between the ages of 16 and 26. This SCCA Pro Racing series takes TDI Clean Diesel technology from the showroom floor to the racetrack and pits drivers against one another in equally prepped, race-tuned Jettas. And, they can compete in 1-bladder-busting races on a single tank of fuel. Go, green. Go.





Plenty of room in the back, plenty of torque in the front.

It's remarkable how a vehicle designed on the other side of the world works so well for getting you to the other side of town, or a bit farther. And, with a few factory-installed options, you'll be sitting pretty no matter where you (or your best friend!) decide to go. Especially if your breed is the SportWagen, the Autobahn version of a sport sedan with a backpack. Opt for a sunroof, the upgraded Touchscreen Navigation and Entertainment System, Bluetooth connectivity, or the MDI with iPod™ cable for your Jetta. You can also choose more safety with rear side airbags.* The way we see it, the more options you choose, the more fun you'll have.



*Optional. Always use proper tie-up technique. Always wear your seat belt. Always drink responsibly. Always use proper tie-up technique. Always wear your seat belt. Always drink responsibly.



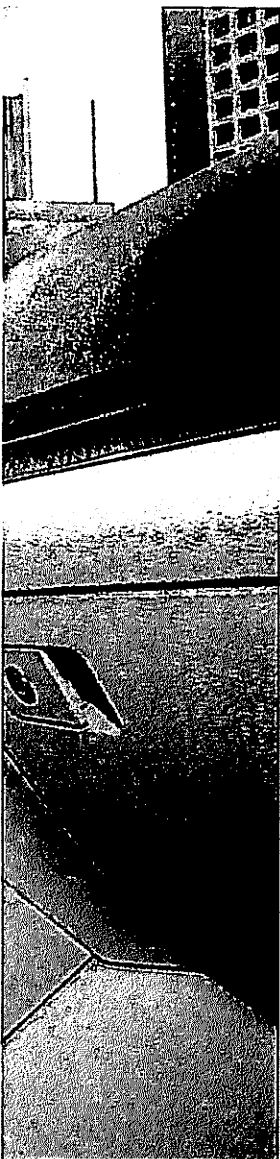
The roomiest auto you'll ever peel out with.

The 2010 Jetta SportWagen shares the same superiorly engineered DNA as its Jetta Sedan brethren, plus it offers 66.9 cubic feet of storage.* So you'll be able to take just about anything you want, just about anywhere you want. It also offers an optional 12.7 square-foot sunroof, so you can enjoy your European-inspired interior while enjoying some sunshine at the same time. What else would you expect from the people's wagon?

*With second row folded down.







Cloth



Titan Black



Latte Macchiato (Not offered on JSW)

V-Tex



Titan Black

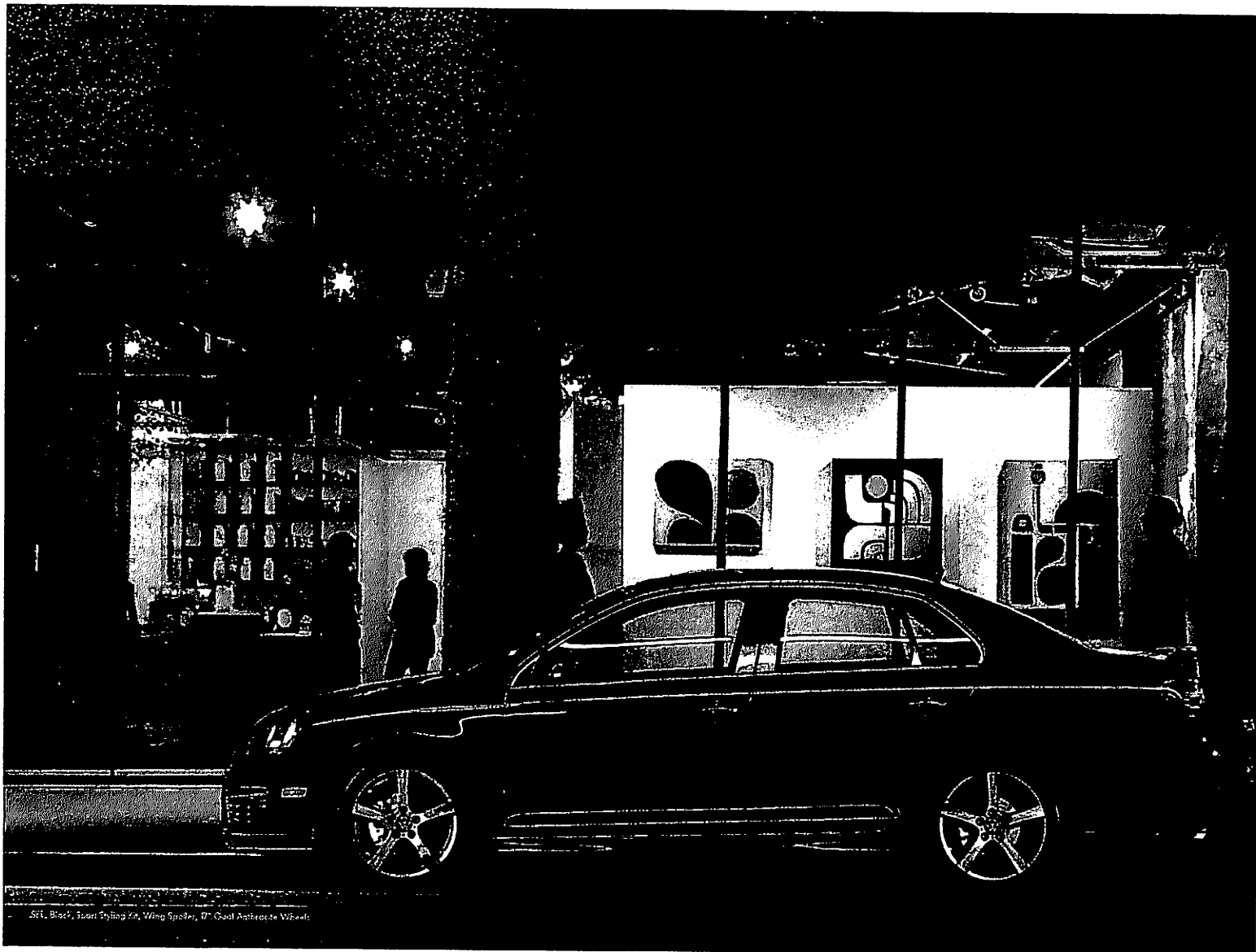
Fly by the seat of your seats.

Choose from the buttery, velvety cloth seats, or the glove-like feel and rhino-hide durability of V-Tex leatherette. Ah, that new car smell. And feel.

Latte Macchiato. Cloth never felt so smooth, warm, and comforting.

Titan Black. Think dramatically dark. Think sophistication. Titan is the new black.

Cornsilk Beige. Finally, the perfect tone of beige to suit every shade of your life.



Set, Black, Sport Styling Kit, Wing Spoiler, 18" Quad Antennae Wheels



The car for the people. The accessories for the person.

Accessorize and personalize your Jetta just how you like it with an array of accessories and factory options:

MDI with iPod Cable - Integrate your favorite MP3 player and roll while you rock.

Bluetooth Connectivity - Stay in touch while you stay in your Jetta. Connects you with your phone/PDA and your auto. Now that's a connection.

Motorsport Kit* - Now you can sport the same wicked low-profile front-end spoiler kit used on Jetta TDI Cup racecars. Hoist a checkered flag over the garage. Intimidate the Joneses.

Spoilers - These aero-goodies won't spoil anything. What they will do is help add a serious aerodynamic kick.

Body Kits - Help your Jetta hug the ground with front and rear spoilers, and side valances via the accessory body kit.

Racks** - Carry more with the basic roof rack setup. Add bike, kayak, ski, or cargo options to load up on any sport, hobby, or pastime.

Wheels - Get things rolling with optional 17" and 18" accessory wheels.

Heavy-Duty Molded Trunk Liner - It's not as tough as it sounds. It's tougher. These heavy-duty rear cargo mats stand up to spills, dirt, and anything else you try to dump on them or rub into them.

Monster Mats* - Über-tough floor mats to keep out the mucky, the yucky, and everything in between.

VW gear for VW gearheads: drivegear.vw.com



17" Cool Silver



17" Cool Anthracite



18" Black Karthaus

*Optional equipment. **Optional equipment. See dealer for details. ©2009 Volkswagen of America, Inc.

Exterior colors



Candy White



Black



Platinum Gray Metallic



Blue Graphite Metallic



Reflex Silver Metallic



White Gold Metallic



Salsa Red

EX-LS

Includes: 2.4L 170hp iVt, steel wheels with wheel covers and all-season tires; Climate single-zone climate control; 6-speaker sound system with MP3-compatible in-dash CD player/AM/FM radio and AUX-in; Heatable front seats and heated washer nozzles; Automatic power windows and door locks; 8-way partial power adjustable driver's seat with manual lumbar adjustment and power recline; 6x12V power outlets; front and rear door mats; Split-folding rear seat; Electromechanical speed-sensitive power steering system; 4-corner independent suspension; 17-wheel disc brakes; Electronic Stabilization Program (ESP), ABS, ASR, HHC, Tire Pressure Monitoring System (TPMS).

EX-L

Includes: 2.4L 170hp iVt, 16" steel wheels with wheel covers and all-season tires; Climate single-zone climate control; 6-speaker sound system with MP3-compatible in-dash CD player/AM/FM radio and AUX-in; Heatable front seats and heated washer nozzles; Automatic power windows and door locks; 8-way partial power adjustable front seats with manual lumbar adjustment and power recline; 6x12V power outlets; front and rear door mats; 60/40 split-folding rear seats with pass-through center armrest; Black trim rails; Electromechanical speed-sensitive power steering system; 4-corner independent suspension and wheel disc brakes; Electronic Stabilization Program (ESP), ABS, ASR, HHC, Tire Pressure Monitoring System (TPMS).



Includes 251.5 features, plus: 16" Sedona alloy wheels with all-season tires, 16" leatherette seating surfaces, Touchscreen Premium AM/FM radio with 10 speakers, built-in MP3 and WMA compatible 6-CD changer and SD Memory Card reader, AUX-in for portable audio players, and 6-month SIRIUS Satellite Radio trial service. Power glass sunroof with tilt, slide, tinted glass, manual sunshade, pinch protection, and driver's door power lock operated convenience closing feature. Leather-wrapped steering wheel, shift knob, and brake handle. 60/40 split-folding rear seats with pass-through center armrest. Diversity in-flow antenna. Exterior chrome window trim, chrome door handles, five-spoke system.

Includes 24.5 features, plus 16.5. Sedona alloy wheel with all-season tires. Leather-trimmed ceiling, surfaces, touch-screen Premium V6 radio with MP3-compatible interface, six CD changer, 10 speakers, and AUX-in. 6-month SIRIUS Satellite Radio trial service, Bluetooth® hands-free calling system, leather-wrapped steering wheel, shift knob, and brake handle. High-line clock, instrument cluster display, multi-function trip computer with trip time, trip length, average trip speed, average trip fuel consumption, current fuel consumption, miles to empty, compass, radio station display, and personalization functions. Exterior chrome window trim.

includes 2.5L I4 engine, plus F7 Aragona alloy wheels with all-season tires; Leather-wrapped multi-function steering wheel; Highline color-instrument cluster display; Multi-function trip computer with trip time, trip length, average trip speed, average trip fuel consumption, current fuel consumption, miles to empty, compass, radio station display, and personalization functions; 15V power outlet; Bluetooth hands-free calling system with voice control; MDI with iPod cable; Drive, color front and rearview mirrors.

Includes 2.5L, 160hp, TPI engine; A/C 2.5L SE features, plus:
 16" Bionline alloy wheels with all-season tires; Leather-wrapped
 multi-function steering wheel; Highline combi-Instrument
 cluster display; Multi-function trip computer with trip time,
 trip length, average trip speed, average trip fuel consumption,
 current fuel consumption, miles to empty, compass, radio
 station display, and personalization functions; voice-controlled
 Bluetooth Hands-Free Calling system with voice control;
 115V power outlet; Body-coloured front and rear valances;
 Sunroof is optional.

Includes: 2.0L HOHP TDI engine; All 2.5L SE features plus 16" Bionline alloy wheels with all-season tires; Leather-wrapped multi-function steering wheel; 115V power outlet.

With over 100 channels, SIRIUS Satellite Radio brings you more of what you love. Get 60 channels of 100% commercial-free music, plus all your favorite sports, news, talk, and entertainment. Everything worth listening to is now on SIRIUS.



SportsWagon, V6, Callers Choice Metallic, Sport Steering Kit, 17" Forged Wheels

SSG Reflex Silver Metallic Sport Styling Kit, 1" Coal Silver Whimsic

Specification overview

		S	SE	SEL	TDI			S	SE	SEL	TDI
Exterior						Interior					
Antenna	Roof-mounted amplified flexible black whip antenna	\$	-	-	-	Seating, Rear (Cont)	60/40 split folding rear seat with center armrest and pass-through (SportWagen only)	\$	\$	-	\$
Body	Window diversity antenna, roof-mounted satellite radio antenna (SportWagen only)	\$	\$	\$	\$	Special Features	Navigation & Entertainment System "RNS-510" with 6.5" color touchscreen in center console, includes 3-month trial SIRIUS Traffic and 6-month trial SIRIUS Satellite Radio. Built-in SD card slot allows for transferring pre-stored destinations and music from PC onto the built-in 30GB hard disk. AUX in jack for media players and optional iPod interface "MIDI"	-	O	O	O
Lights	Crash-optimized front end	\$	\$	\$	\$	Steering Wheel	Blunkit control stalk with lane change feature	\$	\$	\$	\$
Mirrors	Hakos headlamps with clear, lightweight, chip-resistant polycarbonate lenses and Daytime Running Lights (DRL)	\$	\$	\$	\$		3-spoke plastic steering wheel, height adjustable with telescopic steering column	\$	-	-	-
Roof	Power exterior mirrors, heatable with integrated turn signals	\$	\$	\$	\$		3-spoke, leather-wrapped steering wheel, height adjustable with telescopic steering column	-	\$	-	-
	Power glass sunroof with tilt, slide, tinted glass, manual sunshade, pinch protection, and driver's door power lock operated convenience closing feature (Sedan only)	O	O	-	O		3-spoke, leather-wrapped, multi-function steering wheel, height adjustable with telescopic steering column (Sedan only)	-	-	\$	\$
Wheels	Panoramic power sunroof, 12.7 sq. ft. (SportWagen only)	O	O	O	O		3-spoke, leather-wrapped, multi-function steering wheel, height adjustable with telescopic steering column (SportWagen only)	-	\$	-	\$
	Tire Pressure Monitoring System (TPMS)	\$	\$	\$	\$	Storage	2 front cupholders and soft opening, lockable glovebox	\$	\$	\$	\$
	16" steel wheels with full wheel covers	\$	-	-	-		2 rear cupholders integrated into rear center armrest (Sedan only)	-	\$	\$	\$
	16" alloy wheels with anti-theft wheel locks	O	\$	-	\$		2 rear cupholders integrated into rear center armrest (SportWagen only)	\$	\$	\$	\$
Wipers/Washers	17" alloy wheels with anti-theft wheel locks	-	-	\$	O	Upholstery	Trunk, fully carpeted/lined luggage compartment with fold-down package hook and trunk escape handle	\$	\$	\$	\$
	Windshield wipers, variable intermittent	\$	\$	\$	\$		Cloth seating surfaces	\$	-	-	-
	Heated windshield washer nozzles	\$	\$	\$	\$	Windows	V-Text leatherette seating surfaces	-	\$	\$	\$
Interior						Technical	Power windows with pinch protection. Front windows with automatic touch feature, operable from driver's side only	\$	\$	\$	\$
Air Conditioning	Climate manual single-zone climate control with pollen filter	\$	\$	\$	\$	Brakes	Anti-lock Brake System (ABS), power-assisted, front vented disc brakes with rear solid disc brakes	\$	\$	\$	\$
Alarm/Anti-Theft	Anti-theft vehicle alarm system for doors, hood, trunk, and radio; Starter interrupt, with AutoLock function and audible and visual activation	\$	\$	\$	\$	Engine	2.5L 20 valve, 100HP, in-line 6-cylinder engine, 177lb-ft of torque	\$	\$	\$	-
	Immobilizer III theft-deterrent system	\$	\$	\$	\$		2.0L 16-valve, in-line 4-cylinder turbocharged 160-hp diesel engine with common rail direct injection, 180hp, 250lb-ft of torque	-	-	-	\$
Audio	8-speaker sound system with MP3 compatible, in-dash, CD player, AM/FM radio, and AUX-in	\$	-	-	-	Steering	Electronic mechanical power steering system with variable assistance and active return	\$	\$	\$	\$
	Teach the new Premium VIII radio with MP3 compatible, in-dash, 6-disc CD changer, AUX-in for external audio source, and 10 speakers	-	\$	\$	\$	Suspension	Front MacPherson struts and rear fully independent 4-link suspension	\$	\$	\$	\$
	Bluetooth Hands-Free Calling system (Sedan only)	O	\$	\$	\$	Traction Control	Anti-lock Brake System (ABS) and Anti-Slip Regulation (ASR) with Electronic Brake Pressure Distribution (EBD)	\$	\$	\$	\$
	Bluetooth Hands-Free Calling system (SportWagen only)	O	\$	-	\$		Electronic Stabilization Program (ESP) with brake assist and disc wipe feature	\$	\$	\$	\$
	SIRIUS Satellite Radio with introductory 6-month service	-	\$	\$	\$	Transmission	Electronic Differential Lock (EDL)	\$	\$	\$	\$
	Media Device interface with iPod cable	-	O	\$	O		5-speed manual transmission**	\$	\$	-	-
Cruise Control	Cruise control	\$	\$	\$	\$		6-speed manual transmission**	-	-	-	\$
Defroster	Electric rear window defroster	\$	\$	\$	\$	Warranty	6-speed automatic transmission with Tiptronic and sport mode (Sedan only)	O	O	-	-
Instrument Cluster	Speedometer, tachometer, odometer, trip odometer, fuel gauge, coolant temperature, clock, and outside temperature	\$	\$	\$	\$		6-speed automatic transmission with Tiptronic and sport mode (SportWagen only)	O	\$	-	-
	Multi-function trip computer featuring compass, trip time, trip length, average trip speed, average trip fuel consumption, current fuel consumption, miles to empty, radio station display, and personalizing function (Sedan only)	-	-	\$	\$		6-speed automatic Direct Shift Gearbox (DSG) with Tiptronic and sport mode	-	-	-	O
	Multi-function trip computer featuring compass, trip time, trip length, average trip speed, average trip fuel consumption, current fuel consumption, miles to empty, radio station display, and personalizing function (SportWagen only)	-	\$	-	\$		12-year/unlimited mileage Limited Warranty Against Corrosion Perforation	\$	\$	\$	\$
Keys	2 radio-frequency remote transmitter keys with lock, unlock, rear trunk release, panic button for central locking, and selectable access select key feature	\$	\$	\$	\$	Roadside Assistance*	5-year/60,000-mile (whichever occurs first), Powertrain Limited Warranty	\$	\$	\$	\$
Lighter/Outlets	12V power outlets: 2 in front, 1 in trunk	\$	\$	\$	\$		3-year/36,000-mile (whichever occurs first), New Vehicle Limited Warranty	\$	\$	\$	\$
	115V power outlet	-	-	\$	\$	Dimensions					
Lighting	Center dome light with time delay and 2 reading lights, rear dome light, and luggage compartment light	\$	\$	\$	\$		Wheelbase	Jetta Sedan	Jetta SportWagen		
Locks	Automatic locking feature, doors lock when vehicle reaches 15mph; Doors unlock automatically upon airbag deployment	\$	\$	\$	\$		101.5 inches (2,578 mm)	101.5 inches (2,578 mm)			
Mirrors	Driver and front passenger visor vanity mirrors, illuminated with covers	\$	\$	\$	\$		Front Track	60.6 inches (1,540 mm)	60.7 inches (1,541 mm)		
Restraint Systems	Driver and front passenger, front and side thorax airbags supplemented restraint system*	\$	\$	\$	\$		Rear Track	59.8 inches (1,518 mm)	59.6 inches (1,511 mm)		
	Side Curtain Protection airbags, front and rear*	\$	\$	\$	\$		Length	173.3 inches (4,394 mm)	179.4 inches (4,556 mm)		
	Front seat safety belt pre-tensioners with load limiters	\$	\$	\$	\$		Width	70.1 inches (1,781 mm)	70.1 inches (1,781 mm)		
	LATCH (Lower Anchors and Tethers for Child Seats) child seat anchor points	\$	\$	\$	\$		Height	57.4 inches (1,459 mm)	59.2 inches (1,504 mm)		
Seating, Front	8-way adjustable, partial power adjustable front seats with manual lumbar adjustment and power recline	\$	\$	\$	\$		Ground Clearance	5.4 inches (137 mm)	5.4 inches (137 mm)		
Seating, Rear	60/40 split-folding rear seat	\$	-	-	-		Trunk Capacity	16 feet³ (0.5 m³)	32.8 feet³ (0.93 m³)		
	60/40 split-folding rear seat with center armrest and pass-through (Sedan only)	-	\$	\$	\$		Trunk Capacity with Rear Seats Folded Down	N/A	64.9 feet³ (1.89 m³)		

S Standard, at no additional charge O Option, at additional charge - Not Available

*Always use proper tie-down technique and tie down only in the rear cargo area. Always use proper tie-down technique and tie down only in the rear cargo area. Always use proper tie-down technique and tie down only in the rear cargo area. Always use proper tie-down technique and tie down only in the rear cargo area.

The Volkswagen Carefree Maintenance Program.*

Volkswagen is proud to offer 3 years or 36,000 miles of no-charge scheduled maintenance on the 2010 Jetta. The program includes oil and filter changes, brake checks, fluid checks, tire rotation, and airbag checks, just to name a few.



Volkswagen
Carefree Maintenance

*The 2010 Jetta 2.5L is eligible for the program. The program includes scheduled maintenance for 3 years or 36,000 miles, whichever comes first. The program includes oil and filter changes, brake checks, fluid checks, tire rotation, and airbag checks, just to name a few. The program is available at participating Volkswagen dealerships. See your dealer for details. ©2009 Volkswagen of America, Inc. All rights reserved. Volkswagen and the Volkswagen logo are registered trademarks of Volkswagen of America, Inc. in the U.S. and other countries. Jetta is a registered trademark of Volkswagen of America, Inc. in the U.S. and other countries.





Tensas River
National Wildlife Refuge
Volkswagen Forest
This forest was dedicated to the
Volkswagen Corporation and Forest
and its many partners.

Logos: Volkswagen, Tensas River National Wildlife Refuge, U.S. Forest Service, and a small illustration of a forest scene.



Mixed Sources
Product group from well-managed
forests, controlled sources and
recycled wood or fiber
www.fsc.org Cert no. SA-COC-1538
© 1996 Forest Stewardship Council

1. *Researcher's role in the study* – the role of the researcher in the study is to collect data, analyse it, and draw conclusions. The researcher is also responsible for ensuring that the study is conducted ethically and that the data is accurate and reliable.

Exhibit E


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Wolfsburg, 22 September 2015

Volkswagen AG has issued the following information:

Volkswagen is working at full speed to clarify irregularities concerning a particular software used in diesel engines. New vehicles from the Volkswagen Group with EU 6 diesel engines currently available in the European Union comply with legal requirements and environmental standards. The software in question does not affect handling, consumption or emissions. This gives clarity to customers and dealers.

Further internal investigations conducted to date have established that the relevant engine management software is also installed in other Volkswagen Group vehicles with diesel engines. For the majority of these engines the software does not have any effect.

Discrepancies relate to vehicles with Type EA 189 engines, involving some eleven million vehicles worldwide. A noticeable deviation between bench test results and actual road use was established solely for this type of engine. Volkswagen is working intensely to eliminate these deviations through technical measures. The company is therefore in contact with the relevant authorities and the German Federal Motor Transport Authority (KBA – Kraftfahrtbundesamt).

To cover the necessary service measures and other efforts to win back the trust of our customers, Volkswagen plans to set aside a provision of some 6.5 billion EUR recognized in the profit and loss statement in the third quarter of the current fiscal year. Due to the ongoing investigations the amounts estimated may be subject to revaluation.

Earnings targets for the Group for 2015 will be adjusted accordingly.

Volkswagen does not tolerate any kind of violation of laws whatsoever. It is and remains the top priority of the Board of Management to win back lost trust and to avert damage to our customers. The Group will inform the public on the further progress of the investigations constantly and transparently.

