

James E. Cecchi
Lindsey H. Taylor
CARELLA, BYRNE, CECCHI,
OLSTEIN, BRODY & AGNELLO, P.C.
5 Becker Farm Road
Roseland, New Jersey 07068
(973) 994-1700

Christopher A. Seeger
Jeffrey S. Grand
Scott Alan George
SEEGER WEISS LLP
77 Water St., 26th Fl.
New York, New York 10005
(212) 584-0700

Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

KATHLEEN O'LEARY, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

VOLKSWAGEN GROUP OF AMERICA,
INC.,

Defendant.

Civil Action No.

**COMPLAINT AND
DEMAND FOR JURY TRIAL**

Plaintiff Kathleen O'Leary ("Plaintiff"), by and through her undersigned attorneys, brings this action on behalf of herself and all others similarly situated, and alleges on information and belief except as to those allegations relating to her as follows:

INTRODUCTION

1. For over six years, Volkswagen Group of America, Inc. (“Volkswagen”) has intentionally and systematically cheated 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.

2. Volkswagen has falsely marketed its so-called “clean diesel” vehicles as high performing, fuel efficient, and environmentally-friendly.

3. The Impacted Vehicles, defined below, emit noxious pollutants at up to 40 times the legal limit allowed under federal and state laws. In order to conceal this fact from regulators and the public, Volkswagen installed sophisticated software algorithms, or defeat devices (“Defeat Devices”), in the Impacted Vehicles that causes them to alter the results on emissions tests by engaging emissions controls only when the Impacted Vehicles are undergoing official emissions testing. At all other times, the emissions controls are de-activated, and the Impacted Vehicles emit extremely high, and illegal, levels of pollutants.

4. The vehicles which are the subject matter of this Complaint (the “Impacted Vehicles”) include at least the following makes and model years sold in the United States:

- 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. The Impacted Vehicles are Volkswagen and Audi vehicles with four cylinder, Type EA 189 and EA 288 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; (b) are equipped with Defeat Devices enabling them to bypass emissions regulations; and (c) cannot deliver the advertised combination of low emissions, fuel economy, and high performance.

6. Volkswagen has admitted that the Defeat Devices were present in approximately 482,000 Impacted Vehicles sold in the United States, and more than 11 million vehicles worldwide.

JURISDICTION AND VENUE

7. Jurisdiction arises under 28 U.S.C. § 1331 based upon the federal RICO claims pursuant to 18 U.S.C. § 1961 *et seq.*, and there is supplemental jurisdiction over the state-law claims pursuant to 28 U.S.C. § 1367. Jurisdiction is also proper in this Court pursuant to the Class Action Fairness Act, 28 U.S.C. § 1332(d), because Plaintiff and many Class Members (defined below) are citizens of states different from Volkswagen's home states, and the aggregate amount in controversy exceeds \$5,000,000, exclusive of interest and costs.

8. This Court has personal jurisdiction over Volkswagen because it is incorporated in New Jersey and conducts regular and continuous business in New Jersey.

9. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 because Volkswagen is incorporated under the laws of New Jersey and a substantial part of the events and omissions giving rise to Plaintiff's claims occurred in this District. Plaintiff resides in and purchased her Impacted Vehicle in this District. Moreover, Volkswagen conducts business in this District, and

has marketed, advertised, sold and leased the Impacted Vehicles in this District, and has caused harm to Class Members residing in this District.

PARTIES

10. Plaintiff is a citizen of New Jersey, residing in Millington, New Jersey.

11. In August 2013, Plaintiff purchased a 2013 Jetta Sportswagon TDI from Douglas Motors in Summit, New Jersey.

12. Plaintiff is among those who were deceived and cheated by Volkswagen and who purchased and/or leased an Impacted Vehicle.

13. Plaintiff purchased the vehicle, and was willing to pay more for the clean diesel model, because of the advertised combination of low emissions, good fuel economy, and high torque and performance, and because of the vehicle's reputation for maintaining a high resale value for a long time.

14. Unbeknownst to Plaintiff, at the time of acquisition, the vehicle contained a Defeat Device designed to bypass emissions standards and deceive consumers and regulators, and the vehicle could not deliver the advertised combination of low emissions, high performance, and fuel economy. Any proposed "fix" to Plaintiff's Impacted Vehicle's emissions controls will result in decreased fuel economy and/or worse performance, undercutting the reason Plaintiff purchased the vehicle, and greatly diminishing its resale value.

15. Plaintiff brings this action individually, and on behalf of a Class of all persons similarly situated in the United States who purchased or leased an Impacted Vehicle, and on behalf of all persons or entities located in New Jersey that purchased or leased an Impacted Vehicle in New Jersey (collectively, "Class Members").

16. Defendant Volkswagen is a corporation doing business in all fifty states, and is organized and incorporated under the laws of New Jersey. Its principal place of business is in

Herndon, Virginia, and its Eastern Regional headquarters are located in Woodcliff Lake, New Jersey.

17. At all relevant times, Volkswagen and its parent Volkswagen Aktiengesellschaft (“Volkswagen AG”), and/or their dealerships, designed, manufactured, distributed, sold, leased and warranted the Impacted Vehicles under the Volkswagen and Audi brand names throughout the nation, and created and distributed, or caused to be created and distributed, the manuals, advertisements, and other promotional materials relating to the Impacted Vehicles.

FACTUAL BACKGROUND

18. This case arises from Volkswagen’s unprecedented, and until recently successful, efforts to cheat consumers, deceive the public, and bypass federal and state regulations.

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

19. 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.

20. Volkswagen attempted to address diesel engines’ issues with its so-called “clean diesel” vehicles. In an effort to make the Impacted 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 Impacted Vehicles and was the centerpiece of Volkswagen’s advertising efforts.

21. Some advertisements specifically emphasized the low emissions and eco-friendliness of the Impacted Vehicles; others touted the Impacted Vehicles’ combination of fuel

efficiency and power; and others claimed that Volkswagen's new diesel vehicles were clean, efficient, and powerful all at once.

22. Defendant's advertisements were distributed via the United States mail and via the internet, a means of interstate and international wire communications.

23. Volkswagen also ran advertisements on television and on the Internet. An example of a commercial touting how "clean" Volkswagen diesels is available at <https://www.youtube.com/watch?v=WNS2nvkjARk> (last visited October 4, 2015). Examples of commercials touting the fuel efficiency of Volkswagen diesels are available at <https://www.youtube.com/watch?v=a2CNHVXvNRo> and <https://www.youtube.com/watch?v=wj3if2gRWYE> (last visited October 4, 2015). An example of a commercial touting the performance of Volkswagen diesels is available at <https://www.youtube.com/watch?v=0VA51xWXZ3g> (last visited October 4, 2015).

24. Volkswagen's efforts were successful for them as Volkswagens and Audis became the highest-selling diesel passenger cars in the United States.

25. However, Volkswagen's "clean diesel" vehicle claims were false.

B. 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

26. For years, Volkswagen failed to disclose to the public and to consumers the presence of the Defeat Devices in the Impacted Vehicles and the true nature of their performance and emissions.

27. On September 18, 2015, the Environmental Protection Agency ("EPA") issued a Notice of Violation ("NOV") of the Clean Air Act to Volkswagen. The NOV explains that Volkswagen had secretly installed Defeat Devices in certain of its diesel vehicles.

28. The Defeat Device is a complex software algorithm which enables a vehicle to bypass emissions standards by engaging the emission control function only during official emissions testing and rendering it inoperative at all other times.

29. Vehicles equipped with Defeat Devices meet emissions standards only during testing; in normal operation they emit pollutants, including nitrogen oxides (“NOx”), at up to 40 times the legal limit.

30. The EPA’s official press release states , NOx is dangerous:

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.¹

31. The Clean Air Act expressly prohibits engine parts or components which “bypass, defeat, or render inoperative” the emission control system. 42 U.S.C. § 7522 (a)(3)(B).

32. Volkswagen violated the Clean Air Act.

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

34. The Defeat Device was designed by Robert Bosch GmbH (“Bosch”), a German company that is the world’s largest manufacturer of automotive components.

¹ See 2015 Press Releases, EPA, *EPA, California Notify Volkswagen of Clean Air Act Violations*, UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, (September 18, 2015), <http://yosemite.epa.gov/opa/admpress.nsf/21b8983ffa5d0e4685257dd4006b85e2/dfc8e33b5ab162b985257ec40057813b!OpenDocument>. Plaintiff requests that the Court take judicial notice of these public admissions under Fed. R. Evid. 201.

35. Bosch now claims that the Defeat Device was originally designed only for experimental purposes and that Bosch allegedly warned Volkswagen as early as 2007 that use of the software in actual conditions could violate applicable laws.

36. A group of Volkswagen engineers discovered the use of the Defeat Device in 2011 and brought it, and the fact that the device was illegal, to the attention of company management. Volkswagen apparently ignored that report and continued their fraudulent and deceptive practices.

C. Volkswagen Has Admitted Its Fraud

37. Volkswagen AG's Chief Executive Officer Martin Winterkorn has already acknowledged the fraud and issued an apology for having "broken the trust of our customers and the public."²

38. Volkswagen's Chief Executive Officer, Michael Horn, conceded that Volkswagen "was dishonest with the EPA, and the California Air Resources Board, and with all of you." He went on to admit that Volkswagen "totally screwed up" and that it "must fix the cars."

D. Volkswagen Has Reaped Considerable Profit From Its Fraud

39. Volkswagen charged premiums of several thousands of dollars for the Clean Diesel models of the Impacted Vehicles.

40. 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 but did not deliver:

² Winterkorn subsequently resigned on September 23, 2015.

Clean Diesel Price Premium				
Model	Base	Mid-Level	Top-Level	Average
VW Jetta	\$2,860.00	\$1,570.00	\$1,030.00	\$1,820.00
VW SportWagen	\$5,570.00	\$1,680.00	\$0.00	\$2,416.67
VW Golf	\$2,400.00	\$1,000.00	\$1,000.00	\$1,466.67
VW Golf SportWagen	\$2,950.00	\$1,000.00	\$1,000.00	\$1,650.00
VW Beetle	\$4,635.00	\$4,920.00	\$0.00	\$3,185.00
VW Beetle Convertible	\$4,080.00	\$530.00	\$700.00	\$1,770.00
VW Passat	\$5,755.00	\$2,845.00	\$2,135.00	\$3,578.33
Audi A3	\$2,300.00	\$2,300.00	\$2,300.00	\$2,300.00
Average	\$3,818.75	\$1,980.63	\$1,020.63	\$2,273.33

41. Had Volkswagen revealed the truth about the Impacted Vehicles, consumers would likely have taken their business to other automobile manufacturers and/or Volkswagen would not have been able to command the premiums described above.

E. Plaintiff and Class Members Have Suffered Harm

42. Volkswagen will not be able to adequately fix the Impacted Vehicles.

43. The EPA has ordered Volkswagen to bring the Impacted 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.

44. Even if Volkswagen is able to make the Impacted Vehicles EPA-compliant, the vehicles will no longer perform as previously represented to the public and consumers.

45. As a result, the Impacted Vehicles do not function as represented, and have lost considerable value. Volkswagen failed to disclose these material facts to the public and to consumers.

46. Had Plaintiff and Class Members known of the defect at the time they decided to purchase or lease the Impacted Vehicles, they would have declined to purchase or lease the vehicles, or would have paid considerably less than they did.

47. Volkswagen's deliberate deception has caused harm to Plaintiff, Class Members, and the public.

TOLLING OF THE STATUTE OF LIMITATIONS

Fraudulent Concealment

48. Volkswagen concealed its fraud from the Class.

49. Upon information and belief, Volkswagen has known of the Defeat Devices installed in the Impacted Vehicles since at least 2009 when it began installing them, and has intentionally concealed from or failed to notify Plaintiff, Class Members, and the public of the Defeat Devices and the true emissions and performance of the Impacted Vehicles.

50. The Defeat Devices could only have been installed intentionally by Volkswagen, and the only purpose of the device was to deceive regulators, consumers, and the public.

51. Despite knowing about the Defeat Devices and unlawful emissions, Volkswagen did not acknowledge the problem until after the EPA issued its NOV on September 18, 2015.

52. Any applicable statute of limitations has therefore been tolled by Volkswagen's knowledge and active concealment of the facts alleged herein.

Estoppel

53. Volkswagen was and is under a continuous duty to disclose to Plaintiff and Class Members the true character, quality, and nature of the Impacted Vehicles. Instead, it actively concealed the true character, quality, and nature of the Impacted Vehicles and knowingly made misrepresentations about their quality, reliability, characteristics, and performance.

54. Plaintiff and Class Members reasonably relied upon Volkswagen's knowing and affirmative misrepresentations and/or active concealment of these facts.

55. Based on the foregoing, Volkswagen is estopped from relying on any applicable statute of limitations in defense of this action.

Discovery Rule

56. The causes of action alleged herein did not accrue until Plaintiff and Class Members discovered that the Impacted Vehicles had the Defeat Devices and were not delivering the low emissions that were advertised and warranted by Volkswagen.

57. Plaintiff and Class Members had no realistic ability to discover the presence of the Defeat Devices, or to otherwise learn of the fraud, until it was discovered by the EPA and California Air Resources Board and revealed to the public on September 18, 2015.

CLASS ACTION ALLEGATIONS

58. Plaintiff brings this lawsuit as a class action on her own behalf and on behalf of all other persons similarly situated as members of the proposed Class, pursuant to Federal Rules of Civil Procedure 23(a) and (b)(3) and/or (b)(2) and/or c(4).

59. This action satisfies the numerosity, commonality, typicality, adequacy, predominance, and superiority requirements of those provisions.

60. The proposed classes are defined as:

Nationwide Class

All persons or entities in the United States that purchased or leased an Impacted Vehicle.

New Jersey Subclass

All persons or entities located in New Jersey that purchased or leased an Impacted Vehicle in New Jersey.

61. Excluded from the Nationwide Class and New Jersey Subclass are: (a) Volkswagen, any entity or division in which Volkswagen has a controlling interest, and their legal representatives, officers, directors, assigns, and successors; (b) the Judge to whom this case is assigned and the Judge's staff; and (c) those persons who have suffered personal injuries as a result of the facts alleged herein.

62. Plaintiff reserves the right to amend the Class definitions if discovery and further investigation reveal that either Class should be expanded, divided into additional subclasses, or modified in any other way.

Numerosity and Ascertainability

63. Although the exact number of Class Members is uncertain, the sizes of the Nationwide Class and the New Jersey Subclass are large enough that joinder is impracticable.

64. To date, approximately 482,000 vehicles identified as Impacted Vehicles have been sold or leased in the United States.

65. The disposition of the claims of these Class Members in a single action will provide substantial benefits to all parties and to the Court.

66. Class Members are readily identifiable from information and records in Volkswagen's possession, custody, or control, and/or from state vehicle registration records.

Typicality

67. Plaintiff's claims are typical of the claims of the Class Members in that the representative Plaintiff, like all Class Members, purchased or leased an Impacted Vehicle designed, manufactured, and distributed by Volkswagen.

68. The representative Plaintiff, like all Class Members, has been damaged by Volkswagen's misconduct.

69. The bases of Volkswagen's misconduct are common to all Class Members and represent a common thread of misconduct resulting in injury to all Class Members.

Adequate Representation

70. Plaintiff is a member of each Class and will fairly and adequately represent and protect the interests of the Class Members.

71. Plaintiff has retained counsel with substantial experience in prosecuting consumer class actions, including actions involving defective products generally, and defective automobile parts specifically.

72. Plaintiff and her counsel are committed to vigorously prosecuting this action on behalf of the Class and have the financial resources to do so.

73. Neither Plaintiff nor her counsel has interests adverse to those of the Class.

Predominance of Common Issues

74. There are numerous questions of law and fact common to Plaintiff and Class Members that predominate over any question affecting only individual Class Members. The answers to these common questions will advance resolution of the litigation as to all Class Members. These common legal and factual issues include:

a. whether the Impacted Vehicles contained Defeat Devices and emitted unlawful levels of pollutants under normal operation;

b. whether Volkswagen knew or should have known about the Defeat Devices and emission levels in the Impacted Vehicles;

c. whether the true nature of the Impacted Vehicles' performance, emissions levels, fuel economy, and the inclusion of the Defeat Devices constitute material facts that reasonable consumers would have considered in deciding whether to purchase an Impacted Vehicle;

d. whether Volkswagen made material misrepresentations regarding the Impacted Vehicles.

e. whether Volkswagen had a duty to disclose the true nature of the Impacted Vehicles to Plaintiff and Class Members;

f. whether Volkswagen omitted and failed to disclose material facts about the Impacted Vehicles;

g. whether Volkswagen's concealment of the true nature of the Impacted Vehicles would have induced a reasonable consumer to act to their detriment by purchasing and/or leasing the Impacted Vehicles;

h. whether Plaintiff and Class Members are entitled to a declaratory judgment; and

i. whether Plaintiff and Class Members are entitled to equitable relief, including, but not limited to, a preliminary and/or permanent injunction.

Superiority

75. Plaintiff and Class Members have all suffered and will continue to suffer harm and damages as a result of Volkswagen's unlawful and wrongful conduct. A class action is superior to other available methods for the fair and efficient adjudication of this controversy.

76. Absent a class action, most Class Members would likely find the cost of litigating their claims prohibitively high and would therefore have no effective remedy at law. Because of the relatively small size of the individual Class Members' claims, it is likely that only a few Class Members could afford to seek legal redress for Volkswagen's misconduct. Absent a class action, Class Members will continue to incur damages, and Volkswagen's misconduct will continue without remedy.

77. Class treatment of common questions of law and fact is also superior to initiating multiple individual actions or piecemeal litigation in that class treatment will conserve the resources of the courts and the litigants, and will promote consistency and efficiency of adjudication.

78. Volkswagen has acted in a uniform manner with respect to Plaintiff and Class Members.

79. Classwide declaratory, equitable, and injunctive relief is appropriate under Rule 23(b)(1) and/or (b)(2) because Volkswagen has acted on grounds that apply generally to the Class Members, and inconsistent adjudications with respect to the Volkswagen's liability would establish incompatible standards and substantially impair or impede the ability of Class Members to protect their interests.

80. Class wide relief assures fair, consistent, and equitable treatment and protection of all Class Members, and uniformity and consistency in Volkswagen's discharge of their duties to perform corrective action regarding the s.

FIRST COUNT
Common Law Fraud
(Brought on Behalf of the Nationwide Class)

81. Plaintiff hereby incorporates by reference the allegations contained in the preceding paragraphs of this Complaint.

82. Plaintiff brings this Count on behalf of the Nationwide Class.

83. Volkswagen engaged in both speaking and silent fraud, and in fraudulent and deceptive conduct.

84. As described above, Volkswagen's conduct defrauded Plaintiff and Class Members, intending and leading them to believe, through affirmative misrepresentations, omissions, suppression and concealments of material fact, that the Impacted Vehicles, marketed by Volkswagen as "clean diesel" vehicles, possessed important characteristics that they in fact did not possess—namely the combination of low emissions, high performance, and fuel economy—and inducing their purchases.

85. Volkswagen's intentional and material misrepresentations included, among other things, its advertising, marketing materials and messages, and other standardized statements claiming the Impacted Vehicles: (a) were clean and eco-friendly; and (b) combined low emissions with high performance and strong fuel economy.

86. The foregoing misrepresentations were uniform across all Class Members.

87. The same advertisements were utilized by Volkswagen respecting the Impacted Vehicles and the same marketing materials respecting the Impacted Vehicles were distributed to customers and potential customers.

88. The advertisements and marketing materials contained the same standardized general statements relating to the Impacted Vehicles' environmental friendliness, performance and fuel economy.

89. These representations directly contradicted the true nature and hidden design of the Impacted Vehicles and their actual emissions when operating under normal circumstances. Volkswagen knew the representations were false when it made them, and intended to defraud purchasers thereby.

90. Volkswagen also had a duty to disclose, rather than conceal and suppress, the full scope and extent of the emissions deception because:

a. Volkswagen had exclusive knowledge of the actual emissions in the Impacted Vehicles and concealment thereof;

b. The details regarding the actual emissions in the Impacted Vehicles and concealment thereof were known and/or accessible only to Volkswagen;

c. Volkswagen knew Plaintiff and Class Members did not know and could not reasonably discover the actual emissions in the Impacted Vehicles and the concealment thereof; and

d. Volkswagen made general representations about the qualities of the Impacted Vehicles, including statements about their performance, fuel economy, and emissions, which were misleading, deceptive and incomplete without the disclosure of the fact that Volkswagen secretly designed and installed Defeat Devices on the Impacted Vehicles that was intended to conceal the vehicles' exceedingly high and illegal emission levels from governments, consumers, and the public.

91. Volkswagen's concealment was likewise uniform across all Class Members in that Volkswagen concealed from everyone, including potential customers and regulators, the true facts relating to the emission levels of the Impacted Vehicles.

92. Volkswagen's misrepresentations and omissions were material in that they would affect a reasonable consumer's decision to purchase or lease an Impacted Vehicle.

93. Consumers paid a premium for the clean diesel Impacted Vehicles precisely because they supposedly offered low emissions and fuel economy without sacrificing performance.

94. Volkswagen's conduct, misrepresentations, omissions, concealment, and suppression undermined the core value proposition that induced consumers to purchase or lease the Impacted Vehicles, and directly affect both the quality and worth of the vehicles.

95. Volkswagen's intentionally deceptive conduct—its silent fraud and fraud by concealment—likewise induced the Impacted Vehicles' purchase by Plaintiff and Class Members, and the resulting harm and damage to them.

96. Plaintiff relied upon Volkswagen's misrepresentations and concealment of the true facts.

97. Class Members are presumed to have relied upon Volkswagen's misrepresentations and concealment of the true facts because those facts are material to reasonable consumers' purchases of the Impacted Vehicles.

98. As a result of Volkswagen's inducements, Plaintiff and Class Members have sustained significant damage, including, but not limited to, lost vehicle value and diminished vehicle quality and utility.

99. Volkswagen is therefore liable to Plaintiff and Class Members in an amount to be proven at trial.

100. Volkswagen intentionally designed and engineered its "clean diesel" vehicles to deceive and cheat regulators and its customers.

101. Volkswagen touted the performance and environmental virtues of these vehicles, while concealing and suppressing the truth about them, for the purpose of inducing Plaintiff and the Class to buy them.

102. Volkswagen's fraud caused both the purchase and the harm.

103. In order to undo this harm, Volkswagen must repair or remediate the vehicles so that they deliver everything it promised when it sold them, or undertake to buy them back from Class Members in terms that are just and equitable under principles of rescission, restitution, and benefit of the bargain.

104. Volkswagen's conduct was systematic, repetitious, knowing, intentional, and malicious, and demonstrated a lack of care and reckless disregard for the rights and interests of Plaintiff, the public, and the environment.

105. Volkswagen's conduct thus warrants an assessment of punitive damages, consistent with the actual harm it has caused, the reprehensibility of its conduct, and the need to punish and deter such conduct.

SECOND COUNT
Unjust Enrichment
(Brought on Behalf of the Nationwide Class)

106. Plaintiff hereby incorporates by reference the allegations contained in the preceding paragraphs of this Complaint.

107. Plaintiff brings this Count on behalf of the Nationwide Class.

108. Volkswagen has been unjustly enriched in that it intentionally sold or leased the Impacted Vehicles with Defeat Devices which were intended to mask the fact that the Impacted Vehicles did not comply with applicable automobile exhaust regulations and could not deliver the combination of low emissions, high performance, and fuel economy promised to consumers.

109. Plaintiff and Class Members conferred a benefit on Volkswagen by purchasing or leasing , and paying a premium for, the Impacted Vehicles.

110. When purchasing or leasing their vehicles, Plaintiff and Class Members reasonably believed that the Impacted Vehicles complied with applicable environmental regulations and, if properly tested in accordance with EPA mileage standards, would achieve the mileage stated on the window sticker of the vehicles.

111. Plaintiff and Class Members got less than what they paid for their Impacted Vehicles.

112. Volkswagen knows of and appreciates the benefit conferred by Plaintiff and Class Members and has retained that benefit notwithstanding its knowledge that the benefit is unjust.

113. Volkswagen should therefore be required to disgorge the unjust enrichment.

THIRD COUNT
Breach Of Express Warranty
(Brought on Behalf of the Nationwide Class)

114. Plaintiff hereby incorporates by reference the allegations contained in the preceding paragraphs of this Complaint.

115. Plaintiff brings this Count on behalf of the Nationwide Class.

116. By advertising the “green” and “clean” qualities of its diesel engines, Volkswagen expressly warranted to Plaintiff and Class Members that the vehicles at least complied with all applicable laws and regulations relating to exhaust emissions, as it would be impossible for an automobile to be “green” if it emitted more pollutants than were allowed by applicable environmental laws and regulations.

117. By advertising the low emissions in combination with statements regarding the performance, torque, and fuel efficiency, Volkswagen warranted to purchasers of the Impacted Vehicles that the vehicles would exhibit this combination of characteristics.

118. Such statements became the basis of the bargain for Plaintiff and Class Members because such statements are among the facts a reasonable consumer would consider material in the purchase of a vehicle.

119. Volkswagen stated that the Impacted Vehicles achieved certain fuel economy when tested in accordance with applicable EPA regulations.

120. These statements created an express warranty that the vehicle achieved the stated fuel efficiency, allowing consumers to make apples-to-apples comparisons with other vehicles.

121. Testing under EPA regulations presupposes that the vehicles comply with all laws and regulations applicable to automobiles, including environmental regulations.

122. Had the Impacted Vehicles been tested in accordance with EPA fuel efficiency standards while also complying with pollution regulations, they would have achieved significantly lower fuel efficiency than was stated on the EPA mileage sticker on the vehicle.

123. The Impacted Vehicles are not adequately labeled because they misstate that the Impacted Vehicles comply with EPA regulations, and the stated gas mileage for comparison purposes was not achieved by testing in accordance with EPA testing procedures.

124. As a result of the foregoing breaches of express warranty, Plaintiff and Class Members have been damaged.

FOURTH COUNT
Violation Of Magnuson-Moss Act, 15 U.S.C. §§ 2301, *Et Seq.* –
Implied Warranty
(Brought on Behalf of the Nationwide Class)

125. Plaintiff hereby incorporates by reference the allegations contained in the preceding paragraphs of this Complaint.

126. Plaintiff brings this Count on behalf of the Nationwide Class.

127. The Impacted Vehicles are “consumer products” within the meaning of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(1).

128. Plaintiff and Class Members are “consumers” within the meaning of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(3), because they are persons entitled under applicable state law to enforce against the warrantor the obligations of its express and implied warranties.

129. Volkswagen is a “supplier” and “warrantor” within the meaning of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(4)-(5).

130. Section 2310(d)(1) of Chapter 15 of the United States Code provides a cause of action for any consumer who is damaged by the failure of a warrantor to comply with a written or implied warranty.

131. Volkswagen provided Plaintiff and Class Members with an implied warranty of merchantability in connection with the purchase or lease of their vehicles that is an “implied warranty” within the meaning of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(7).

132. As a part of the implied warranty of merchantability, Volkswagen warranted that the Impacted Vehicles would pass without objection in the trade as designed, manufactured, and marketed, and were adequately labeled.

133. Volkswagen breached these implied warranties, as described in more detail above, and are therefore liable to Plaintiff and the Class pursuant to 15 U.S.C. § 2310(d)(1).

134. Any efforts to limit the implied warranties in a manner that would exclude coverage of the Impacted Vehicles is unconscionable, and any such effort to disclaim, or otherwise limit, liability for the Impacted Vehicles is null and void.

135. Plaintiff and Class Members have had sufficient direct dealings with either Volkswagen or its agents (dealerships) to establish privity of contract.

136. Plaintiff and Class Members are intended third-party beneficiaries of contracts between Volkswagen and its dealers, and specifically, of the implied warranties.

137. The dealers were not intended to be the ultimate consumers of the Impacted Vehicles and have no rights under the warranty agreements provided with the vehicles.

138. The warranty agreements were designed for and intended to benefit consumers.

139. Pursuant to 15 U.S.C. § 2310(e), Plaintiff is entitled to bring this class action and is not required to give Volkswagen notice and an opportunity to cure until such time as the Court

determines the representative capacity of Plaintiff pursuant to Rule 23 of the Federal Rules of Civil Procedure.

140. Plaintiff's individual claims place into controversy an amount equal to or exceeding \$25. The amount in controversy of this entire action exceeds the sum of \$50,000, exclusive of interest and costs, computed on the basis of all claims to be determined in this lawsuit.

141. Plaintiff, individually and on behalf of Class Members, seeks all damages permitted by law, including diminution in value of their vehicles, in an amount to be proven at trial.

142. Pursuant to 15 U.S.C. § 2310(d)(2), Plaintiff and Class Members are entitled to recover a sum equal to the aggregate amount of costs and expenses (including attorneys' fees based on actual time expended) determined by the Court to have reasonably been incurred by Plaintiff and Class Members in connection with the commencement and prosecution of this action.

143. Plaintiff and Class Members are also entitled to equitable relief under 15 U.S.C. § 2310(d)(1).

FIFTH COUNT
Violation Of 18 U.S.C. § 1962(c),
The Racketeer Influenced And Corrupt Organizations Act ("RICO"))
(Brought on Behalf of the Nationwide Class)

144. Plaintiff hereby incorporates by reference the allegations contained in the preceding paragraphs of this Complaint.

145. Plaintiff brings this Count on behalf of the Nationwide Class.

146. Plaintiff and Class Members are “person[s] injured in his or her business or property” by reason of Volkswagen’s violation of RICO within the meaning of 18 U.S.C. § 1964(c).

147. Volkswagen, Volkswagen AG, and Bosch are all “persons” under 18 U.S.C. § 1961(3).

148. Volkswagen, Volkswagen AG, and Bosch violated 18 U.S.C. § 1962(c) by participating in or conducting the affairs of the Clean Diesel RICO Enterprise through a pattern of repeatedly defrauding consumers.

149. The methodology of the fraud is set forth above and is described in this Count. The persons participating in the Clean Diesel RICO Enterprise and their respective roles in the Enterprise are set forth below.

150. For purposes of this Count, Volkswagen, Volkswagen AG, and Bosch undertook a fraudulent scheme to sell or lease the Impacted Vehicles through the use of false and misleading statements and omissions relating to the environmental and performance qualities of the Impacted Vehicles, through the use of the U.S. mails, and interstate and international wire, radio and television transmissions.

151. At all relevant times and as described above, Volkswagen, Volkswagen AG, and Bosch carried out their scheme to defraud Plaintiff and Class Members in connection with the conduct of an “enterprise” within the meaning of 18 U.S.C. § 1961(4).

152. The Enterprise consisted of the following persons, and others presently unknown, who constitute an “association-in-fact enterprise” within the meaning of RICO and who collectively constitute the “Clean Diesel RICO Enterprise” or “Enterprise”: (a) Volkswagen; (b) Volkswagen AG; and (c) Bosch.

153. The Clean Diesel RICO Enterprise, whose activities affected interstate and foreign commerce, is an association in fact of individuals and corporate entities within the meaning of 18 U.S.C. § 1961(4) and consists of persons associated together for the common purpose of selling the Impacted Vehicles that the members of the Clean Diesel RICO Enterprise knew did not actually comply with U.S. environmental laws, were not “green,” and could not deliver the performance and fuel efficiency promised by Volkswagen if the Impacted Vehicles had complied with U.S. environmental laws.

154. Volkswagen, Volkswagen AG and Bosch and their respective officers and employees together developed the Impacted Vehicles with the Defeat Devices and Volkswagen and Volkswagen AG developed the false, misleading and/or deceptive advertisements for them, as described above.

155. The Clean Diesel RICO Enterprise was formed in or about 2009 and continues to the present.

156. The Clean Diesel RICO Enterprise was separate and distinct from the pattern of racketeering activity.

157. The Enterprise was an ongoing organization or group and existed to advance the interests of the individual entities that comprise its membership, *i.e.*, selling or leasing the Impacted Vehicles described above.

158. The Clean Diesel RICO Enterprise members all served the common purpose of selling or leasing as many Impacted Vehicles as possible, therein maximizing their own profits and revenues and sharing the bounty derived from deceived and defrauded consumers.

159. Each member of the Clean Diesel RICO Enterprise benefited from the common purpose: Volkswagen and Volkswagen AG sold or leased more Impacted Vehicles, and received

more for those than they otherwise would have, had the impacted Vehicles been truthfully advertised, marketed and labeled; because Volkswagen and Volkswagen AG sold or leased more Impacted Vehicles, Bosch sold more components to go into the Impacted Vehicles, thus earning more profits than it would have otherwise.

160. The Clean Diesel RICO Enterprise also exists for the legitimate purpose of selling automobiles. It operates within a framework that includes the sale of other automobiles that are not infected with fraud.

161. Each member of the Enterprise performs a role in the group consistent with its structure that furthers the activities of the Clean Diesel RICO Enterprise in connection with the Enterprise members' sale of Impacted Vehicles to consumers.

162. Alternatively, the Enterprise was formed solely for the purpose of carrying out the pattern of racketeering acts described herein.

163. Through the conduct of the Enterprise, Volkswagen, Volkswagen AG, and Bosch undertook a fraudulent scheme to sell the Impacted Vehicles based upon the false and misleading misrepresentations and omissions set forth herein.

164. Through this scheme, Volkswagen, Volkswagen AG, and Bosch and others agreed to utilize the false and misleading representations and omissions relating to the Impacted Vehicles in a conscious and deliberate effort to sell Impacted Vehicles at a premium price, while in fact, the Impacted Vehicles were not "green", and could not achieve the advertised performance and fuel efficiency had they complied with applicable environmental laws.

165. Alternatively, the Impacted Vehicles sold or leased through the Clean Diesel RICO Enterprise had significantly less value than consumers paid for them because they were

illegal to sell or lease in the first instance and now have significantly lower resale or residual value as a result of the fraud becoming public.

166. In furtherance of the scheme, Volkswagen and Volkswagen AG engaged in thousands of acts of mail fraud and wire fraud, each of which constitute “racketeering activity,” as that term is defined in 18 U.S.C. § 1961(1).

167. Those acts of mail fraud and wire fraud include generally distributing the false and misleading marketing materials described herein via mail, television, radio, and the Internet to members of the public as well as communicating among themselves with respect to the scheme via interstate and international email and telephone with the common purpose of selling or leasing the Impacted Vehicles to an unsuspecting public based upon the fraudulent and deceptive representations and omissions described above.

168. In addition to the foregoing, each download or view of an advertisement or video on the internet constituted a separate offense of wire fraud.

169. As a direct result of the foregoing violations of 18 U.S.C. § 1962(d), Plaintiff and Class Members have been injured in their business and/or property in multiple ways, including that they paid for Impacted Vehicles which did not, and could not, provide the benefits promised in the advertisements and other promotional materials associated with the vehicles and incurred resulting out-of-pocket losses.

170. But for the predicate acts described above – Volkswagen and Volkswagen AG’s numerous false and misleading statements (and marketing and advertising containing omissions) sent via the U.S. mail and interstate wires – Plaintiff and Class Members would not have paid as high a price as they did for the Impacted Vehicles, or would not have purchased or leased the Impacted Vehicles.

171. The RICO violations described herein have directly and proximately caused injuries and damages to Plaintiff and Class Members, and Plaintiff and Class Members are entitled to bring this action for three times their actual damages, as well as injunctive and/or equitable relief and costs and reasonable attorneys' fees pursuant to 18 U.S.C. §§ 1964(a) and 1964(c).

SIXTH COUNT
Violation Of The New Jersey Consumer Fraud Act
(N.J.S.A. 56:8-1 *Et Seq.*)
(Brought on Behalf of the New Jersey Subclass)

172. Plaintiff hereby incorporates by reference the allegations contained in the preceding paragraphs of this Complaint.

173. Plaintiff brings this Count on behalf of the New Jersey Subclass.

174. The New Jersey Consumer Fraud Act (N.J.S.A. 56:8-1 *et seq.*) ("NJCFA") states, in relevant part:

[A]ny unconscionable commercial practice, deception, fraud, false pretense, false promise, misrepresentation, or the knowing concealment, suppression, or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale or advertisement of any merchandise. . . .is declared to be an unlawful practice..."

N.J.S.A. 56:8-2.

175. Plaintiff and New Jersey Subclass Members are consumers who purchased and/or leased Impacted Vehicles for personal, family, or household use.

176. The advertisement, promotion, distribution, supply, sale, or lease of the Impacted Vehicles is a "sale or advertisement" of "merchandise" governed by the NJCFA.

177. Prior to Plaintiff's and New Jersey Subclass Members' purchase or lease of the Impacted Vehicles, Volkswagen violated the NJCFA by making:

a. uniform representations that its diesel vehicles were of a particular standard, quality, or grade when they were and are not, and that they would perform as represented when they did not, as set forth above; and

b. false and/or misleading statements about the capacity and characteristics of the Impacted Vehicles, as set forth above, that were unfair, deceptive, or otherwise fraudulent, had and continue to have the capacity to, and did, deceive the public and cause injury to Plaintiff and New Jersey Subclass Members.

178. Volkswagen, in its communications with and disclosures to the Plaintiff and New Jersey Subclass Members, intentionally concealed or otherwise failed to disclose that the Impacted Vehicles included Defeat Devices designed to cheat emissions testing, that the true emissions of those Vehicles were far higher than claimed, and that the Vehicles were incapable of achieving the advertised combination of low emissions, high performance, and fuel efficiency.

179. Plaintiff and New Jersey Subclass Members reasonably expected that the Impacted Vehicles complied with the represented and claimed emissions both prior to and at the time of purchase or lease, and reasonably expected that Volkswagen did not use software or any other device or system to cheat emissions testing.

180. These representations and affirmations of fact made by Volkswagen, and the facts it concealed or failed to disclose, are material facts that were likely to deceive reasonable consumers, and that reasonable consumers would, and did, rely upon in deciding whether or not to purchase or lease an Impacted Vehicle. Moreover, Volkswagen intended for consumers, including Plaintiff and New Jersey Subclass Members, to rely on these material facts.

181. Volkswagen had exclusive knowledge that the Impacted Vehicles had and have the defects set forth above which gave rise to a duty to disclose these facts. Volkswagen breached that duty by failing to disclose these material facts.

182. The injury to consumers by this conduct greatly outweighs any alleged countervailing benefits to consumers or competition under all circumstances. There is a strong public interest in reducing emission levels, as well as truthfully advertising emission levels.

183. Had Plaintiff and New Jersey Subclass Members known about Volkswagen's use of the Defeat Devices, and/or that the Impacted Vehicles did not comply with Volkswagen's advertised emissions and did not operate as advertised, they would not have purchased and/or leased the Impacted Vehicles or would have paid less than they did for them.

184. As a direct and proximate result of Volkswagen's actions, Plaintiff and New Jersey Subclass Members have suffered ascertainable loss and other damages.

WHEREFORE, Plaintiff, individually and on behalf of all others similarly situated, requests that the Court enter judgment against Volkswagen, as follows:

A. an order certifying the proposed Nationwide Class, designating Plaintiff as the named representative of the Nationwide Class, and designating the undersigned as Class Counsel;

B. an order certifying the proposed New Jersey Subclass, designating Plaintiff as the named representative of the New Jersey Subclass, and designating the undersigned as Class Counsel;

C. a declaration that Volkswagen is financially responsible for notifying all Class Members about the true nature of the Impacted Vehicles;

D. an order enjoining Volkswagen to desist from further deceptive distribution, sales, and lease practices with respect to the Impacted Vehicles, and directing Volkswagen to permanently, expeditiously, and completely repair the Impacted Vehicles;

E. an order compelling Volkswagen to buy back the Impacted Vehicles on fair and equitable terms;

F. an award to Plaintiff and the Class Members of compensatory, exemplary, punitive, and statutory penalties and damages, including interest, in an amount to be proven at trial;

G. an award to Plaintiff and the Class Members for the return of the purchase prices of the Impacted Vehicles, with interest from the time it was paid, for the reimbursement of the reasonable expenses occasioned by the sale, for damages and for reasonable attorney fees;

H. a declaration that Volkswagen must disgorge, for the benefit of Plaintiff and the Class Members, all or part of the ill-gotten profits received from the sale or lease of the Impacted Vehicles, and make full restitution to Plaintiff and Class Members;

I. an award of treble damages pursuant to 18 U.S.C. §§ 1964(a) and 1964(c);

J. an award of treble damages pursuant to N.J.S.A. 56:8-19;

K. an award of attorneys' fees and costs, as allowed by law;

L. an award of pre-judgment and post-judgment interest, as provided by law;

M. leave to amend this Complaint to conform to the evidence produced at trial; and

N. such other relief as may be appropriate under the circumstances.

CARELLA, BYRNE, CECCHI,
OLSTEIN, BRODY & AGNELLO, P.C.
Attorneys for Plaintiff

By: /s/ James E. Cecchi
JAMES E. CECCHI

Christopher A. Seeger
Jeffrey S. Grand
Scott Alan George
SEEGER WEISS LLP

77 Water St., 26th Fl.
New York, New York 10005
(212) 584-0700

DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff demands a trial by jury of any and all issues in this action so triable of right.

CARELLA, BYRNE, CECCHI,
OLSTEIN, BRODY & AGNELLO, P.C.
Attorneys for Plaintiff

By: /s/ James E. Cecchi
JAMES E. CECCHI

Christopher A. Seeger
Jeffrey S. Grand
Scott Alan George
SEEGER WEISS LLP
77 Water St., 26th Fl.
New York, New York 10005
(212) 584-0700

CIVIL COVER SHEET

JS 44 (Rev. 11/04)

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

Kathleen O'Leary

DEFENDANTS

Volkswagen Group of America, Inc.

(b) County of Residence of First Listed Plaintiff Morris
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

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

(c) Attorney's (Firm Name, Address, and Telephone Number)
Carella, Byrne, Cecchi, Olstein, Brody & Agnello, 5 Becker Farm Road,
Roseland, New Jersey 07068

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 type="checkbox"/> 4 |
| Citizen of Another State | <input 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	<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	<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"/> 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"/> 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 checked="" 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 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	CIVIL RIGHTS	PRISONER PETITIONS			
<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	<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	<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			
		<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			

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):
 18 U.S.C. sec. 1961 et seq.
 Brief description of cause:
 This is a claim relating to non-EPA compliant vehicles

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 **DEMAND \$** _____
 CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE Linares DOCKET NUMBER 15-6985

DATE 10/09/2015 SIGNATURE OF ATTORNEY OF RECORD 

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____