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

CHRISTOPHER SPRINGFIELD, 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 Christopher Springfield (“Plaintiff”), individually and on behalf of all others similarly situated, alleges 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.

NATURE OF THE ACTION

1. This action is about an unprecedented case of criminal fraud perpetrated on consumers and regulators by one of the world’s largest auto manufacturers.

2. Since 2009, over 482,000 diesel Volkswagen and Audi vehicles sold in the United States were sold with a “defeat device” to create the impression of high fuel efficiency and high performance with extremely low emissions. A “defeat device” is nothing less than a software trick that was deliberately designed by Volkswagen’s engineers to make the engine more cleanly when emission testing was being conducted, but otherwise to run more powerfully and fuel efficiently (at the expense of being clean). Volkswagen marketed vehicles with these defeat devices as “green” and environmentally friendly, when in fact these representations were hollow. Volkswagen’s vehicles possessed none of the promised attributes.

3. According to the United States Environmental Protection Agency (“EPA”), Volkswagen installed its “defeat device” on Type EA 189 and EA 288 diesel 2.0 liter turbo engines in the following vehicles: 2009-2015 Volkswagen Jetta; 2009-2015 Volkswagen Beetle; 2009-2015 Volkswagen Golf; 2014-2015 Volkswagen Passat; and 2009-2015 Audi A3. Additional vehicles and model years may be added to this list as new facts are discovered.

4. Volkswagen not only intentionally misrepresented the ability of the vehicles to deliver high performance and fuel economy with low and legally mandated emissions, but Volkswagen created a way to make it appear to regulators as if the vehicles at issue delivered on this promise and complied with law.

5. The defeat devices that Volkswagen designed and installed worked by switching on the full emissions control systems only when the car’s emission systems were undergoing testing. When switched on the defeat device reduced the vehicles’ performance, limiting acceleration, torque and fuel efficiency to clean up its act.

6. When the defeat devices were not activated – *i.e.*, when occasional emissions testing was not being performed – the vehicles delivered the promised fuel efficiency and

performance at the expense of the “clean” emissions claims made by the defendants and required by government regulators. During normal operation the vehicles emitted between 10 and 40 times as much pollution into the environment as is allowed under the Clean Air Act and state regulations.

7. Volkswagen’s violations of the Clean Air Act and various state regulations are detailed in a Notice of Violation the EPA issued to Volkswagen, as well as a letter from the California Air Resources Board (“CARB”), copies of which are attached to this Complaint as Exhibits A and B, respectively.

8. Once the existence of the defeat devices became known, the scandal spread worldwide. The Type EA 189 and EA 288 engines have been installed in approximately 11 million vehicles worldwide, including those sold under Volkswagen’s Volkswagen, Audi, Skoda and SEAT brands.

9. Volkswagen immediately admitted that the subject automobiles contained the defeat device. At a press conference on Monday, September 22, 2015, the head of Volkswagen’s U.S. operations, Michael Horn, stated “[W]orst of all, we were dishonest to our customers. We totally screwed up.”

10. In addition, Volkswagen announced that it was suspending sales of the subject vehicles in the United States until the defeat devices were removed from the vehicles and the vehicles were actually legal to sell within the United States.

11. On September 23, 2015, one day after admitting that 11 million Volkswagen-made cars have software that dupes official emissions tests, Martin Winterkorn, Volkswagen’s CEO, resigned from his post, stating: “I am shocked by the events of the past few days

Above all, I am stunned that misconduct on such a scale was possible in the Volkswagen Group.”

PARTIES

12. Plaintiff Christopher Springfield is citizen of California, residing in San Diego, San Diego County, California.

13. Plaintiff purchased a 2011 Volkswagen Jetta Sportwagen TDI from Norm Reeves Volkswagen in Irvine, CA in April 2015. Plaintiff still owns the vehicle.

14. Defendant Volkswagen Group of America is a New Jersey corporation with its principal place of business at 2200 Ferdinand Porsche Drive, Herndon, Virginia 20171, and Eastern Regional headquarters located in Woodcliff Lakes, New Jersey.

15. At all relevant times, Volkswagen manufactured, distributed, sold, leased and warranted the vehicles with defeat devices under the Volkswagen and Audi names throughout the United States. The defeat device, engine, and engine control systems were all designed by Volkswagen or its agents. Volkswagen also developed and distributed its owners’ manuals, warranty materials, advertisements and other promotional materials related to the vehicles containing defeat devices.

JURISDICTION AND VENUE

16. 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 a citizen of a state other than that of Defendant, there are more than one hundred Class Members, and the aggregate amount in controversy exceeds \$5 million, exclusive of interest and costs.

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

18. Venue is proper in this District under 28 U.S.C. 1391(b) because Defendant is incorporated under the laws of New Jersey and because Defendant has caused harm to Class Members residing in this District.

DEFENDANT'S MISCONDUCT TOLLS THE STATUTE OF LIMITATIONS

A. Discovery Rule Tolling

19. Plaintiff and Members of the proposed Class could not have discovered that Volkswagen concealed and misrepresented the true emissions levels of its vehicles through the use of defeat devices.

20. Volkswagen's efforts to deceive consumers and regulators were the result of painstaking concealment and fraud with respect to Volkswagen's CleanDiesel engines, engine control systems and defeat devices.

21. Neither Plaintiff nor Class Members could reasonably discovered, or have reason to suspect, that Volkswagen intentionally concealed information within its knowledge from federal and state regulators, Volkswagen's dealerships, and consumers. Indeed, the whole purpose of the defeat devices was to engage when the vehicles were being tested for exhaust emissions with the intent of concealing the fact that the exhaust emissions actually exceeded amounts allowed by applicable regulations.

22. Thus, even a reasonable and diligent investigation by consumers could not have discovered that Volkswagen solely possessed information about the existence of its sophisticated emissions fraud scheme. Plaintiff and Class Members had no way of learning that Volkswagen was flouting applicable federal and state emissions standards as well as consumer law.

B. Tolling Due To Fraudulent Concealment

23. All applicable statutes of limitation have been tolled by Volkswagen's active fraudulent concealment of the facts alleged in this Complaint.

24. Rather than disclosing the vehicles' true performance, fuel economy, emissions, and compliance with federal and state emission standards, Volkswagen actively concealed and misrepresented them through the use of defeat devices.

C. Estoppel

25. Volkswagen was under a continuous duty to disclose to consumers, including Plaintiff and the other Class Members, the facts that it knew about the emissions, fuel economy and performance of the vehicles equipped with defeat devices, and of those vehicles' inability to comply with federal and state emission standards.

26. Volkswagen violated this duty and unlawfully circumvented federal and state emission standards through the use of defeat devices, and Volkswagen intentionally misrepresented the ability of the subject vehicles to comply with state and federal law regulating vehicle emissions and clean air.

27. Volkswagen is therefore estopped from relying on any statutes of limitation defenses in this action.

FACTUAL BACKGROUND

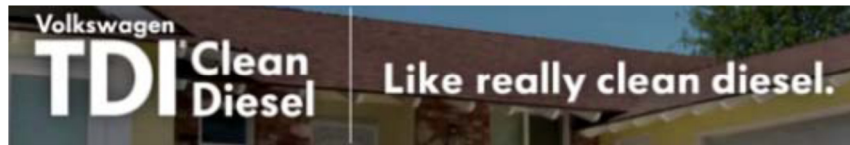
28. Volkswagen designed and sold cars that were designed to, and did, mislead consumers and regulators about the vehicles' emissions, fuel efficiency and performance. Despite touting the "green" benefits of its diesel vehicles, Volkswagen sold cars that produced pollution up to 40 times higher than advertised, and then intentionally concealed the truth about those cars through a sophisticated scheme involving defeat devices.

A. Volkswagen Sold the “Green” Diesel Image To Consumers.

29. For years, Volkswagen advertised its diesel vehicles as fuel efficient cars with low emissions. Consumers have responded to these advertisements, making Volkswagen the largest seller of diesel passenger vehicles in the United States.

30. While under 1% of automobiles sold in the U.S. are powered by diesel engines, approximately 23% of those sold by Volkswagen are diesels, with those vehicles making up the bulk of diesel automobile sales in the U.S.

31. Part of Volkswagen’s success owes to the promotion of their diesel cars as “clean” and “green” vehicles. In fact, “CleanDiesel” is a marketing term used by Volkswagen to market the vehicles at issue in this action.¹ Below is a promotional advertisement contained on Volkswagen’s website:



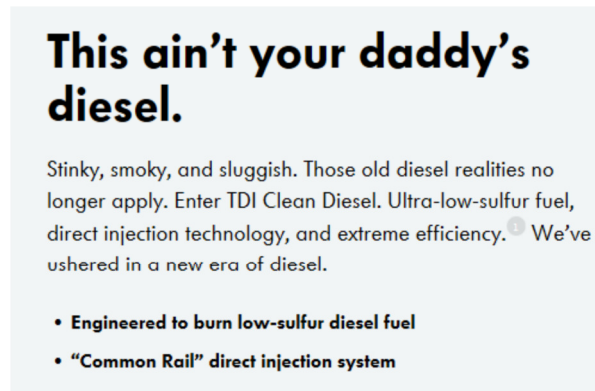
32. Volkswagen’s website boasts that the Audi A3 TDI and VW Jetta TDI were named the 2010 Green Car of the Year and the 2009 Green Car of the Year, respectively.

33. Volkswagen also supported and directed a website to promote its “green” diesel technology, www.clearlybetterdiesel.org, which states that Volkswagen’s technology reduces smog and “meets the highest standards in all 50 states, thanks to . . . innovative engine technology that burns cleaner.”

34. Not only did Volkswagen market its diesel-engine vehicles as “clean,” but it marketed them as more environmentally friendly than other cars containing diesel engines.

¹ An example of a commercial touting how “clean” Volkswagen diesels is available at <https://www.youtube.com/watch?v=WNS2nvkjARk> and (last visited September 22, 2015)

Below is an from Volkswagen’s webpage promoting the environmental friendliness of the its diesel-engine vehicles compared to other diesel-engine cars:



35. In addition to touting the low emissions of the subject vehicles, Volkswagen touted the fuel efficiency of the vehicles, in that they could achieve over 40 miles per gallon of fuel and travel over 800 miles on a tank of fuel.²

36. Further, Volkswagen recently began promoting the performance of its diesel powered automobiles, to overcome the consumer perception that diesel automobiles were slow and sluggish.³

B. Discovery of the Volkswagen’s “Defeat Device” by the EPA and California Air and Resources Board (“CARB”).

37. In May 2014, West Virginia University’s Center for Alternative Fuel, Engines & Emissions (“CAFEE”) published the results of a study commissioned by the International Council for Clean Transportation (“ICCT”). ICCT tested the emission levels of certain diesel vehicles under normal driving conditions, and found that the levels of nitrogen oxide emissions

² 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 September 22, 2015).

³ An example of such a commercial is available at <https://www.youtube.com/watch?v=0VA51xWXZ3g>, (last visited September 22, 2015)

by two of Volkswagen’s diesel models—the 2012 Volkswagen Jetta and the 2013 Volkswagen Passat—were significantly higher than permitted by federal regulation.⁴

38. Below is a table from the CAFEE report showing that the emission levels of nitrogen oxide measured by the ICCT were well above the standard permitted by the EPA⁵:

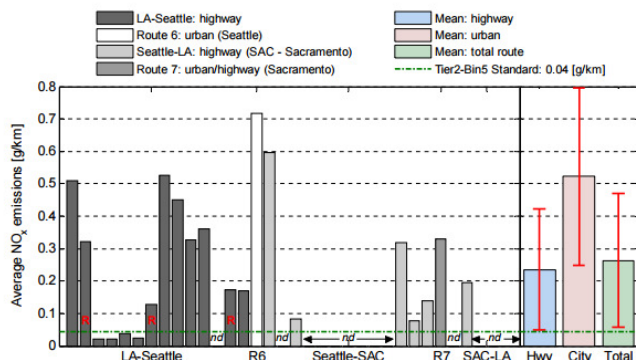


Figure 4.17: Average NO_x emissions of test vehicle over cross-multi-state driving route portions compared to US-EPA Tier2-Bin5 emissions standard; repeat test variations are presented as ±1σ, 'R' designates segments including a DPF regeneration event, 'nd' - no data available

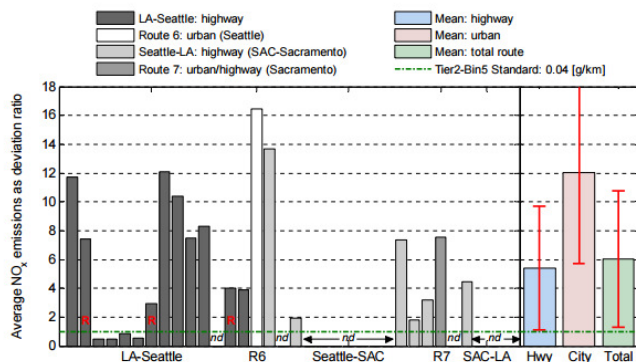


Figure 4.18: Average NO_x emissions of test vehicle over cross-multi-state driving route portions expressed as deviation ratio; repeat test variations are presented as ±1σ, 'R' designates segments including a DPF regeneration event, 'nd' - no data available

⁴ See Ltr. From Phillip A. Brooks, Environmental Protection Agency, to David Geanacopoulous and Stuart Johnson, Volkswagen Group of America, Inc. at 4, Sept. 18, 2015 (available at <http://www3.epa.gov/otaq/cert/documents/vw-nov-cao-09-18-15.pdf>).

⁵ See Gregory J. Thompson, In-Use Emission Testing of Light-Duty Diesel Vehicles in the United States, CENTER FOR ALTERNATIVE FUELS ENGINES & EMISSIONS, WEST VIRGINIA UNIVERSITY at 79, May, 15, 2014 (available at http://www.theicct.org/sites/default/files/publications/WVU_LDDV_in-use_ICCT_Report_Final_may2014.pdf).

39. CAFEE and ICCT notified both the EPA and CARB of its results, which prompted CARB to initiate discussions with Volkswagen, and conduct an investigation into the reasons behind the elevated nitrogen oxide emissions.⁶

40. Over the course of the year, Volkswagen asserted to CARB and the EPA that the increased emissions were attributed to various technical issues and unexpected in-use conditions. Volkswagen issued a recall in December 2014 to address the issue.⁷

41. On May 6, 2015, CARB, in coordination with the EPA, commenced confirmatory testing to determine the efficacy of the recall. Testing performed in both laboratory settings and during normal vehicle operation revealed that the recall showed only a limited benefit. Among other findings, CARB's testing of the diesel vehicles "resulted in the vehicle failing the NOx [nitrogen oxide] standard," showed that nitrogen-oxide emissions were "significantly higher than expected," and "resulted in uncontrolled NOx emissions."⁸

42. None of the potential technical issues suggested by VW explained the consistently higher test results recorded during CARB's testing.⁹ Ultimately, Volkswagen admitted to CARB and the EPA that its vehicles "were designed and manufactured with a defeat device to bypass, defeat, or render inoperative elements of the vehicles' control system."¹⁰

⁶ See Ltr. from Annette Hebert, California Environmental Protection Agency, to David Geanacopoulos and Stuart Johnson, Volkswagen Group of America (Sept. 18, 2015) at 1-2 (available at http://www.arb.ca.gov/newsrel/in_use_compliance_letter.htm).

⁷ See Ltr. From Phillip A. Brooks, *supra* n.4, at 4.

⁸ See Ltr. from Anette Heber, *supra* n.6, at 2.

⁹ See Ltr. from Phillip A. Brooks, *supra* n.4, at 4.

¹⁰ See Ltr. from Anette Heber, *supra* n.6, at 3.

C. Volkswagen Intentionally Concealed Its Vehicles' Excessive And Illegal Pollution Emissions.

43. On September 18, 2015, the EPA issued a Notice of Violation (“NOV”) to Volkswagen. The NOV details how Volkswagen installed sophisticated software in the Volkswagen and Audi diesel vehicles that detects when the vehicle is undergoing official emissions testing and turns full emissions controls on only during the tests. At all other times that the vehicle is in operation, the emissions controls are deactivated, permitting pollution to be freely released into the environment at levels that far exceed those allowed by federal and state clean air regulators. This software produced and used by Volkswagen is a “defeat devices” as defined in the Clean Air Act.

44. Volkswagen programmed the engine control computers in the vehicles with defeat devices to detect when cars are undergoing emissions testing. When testing is occurring, the defeat device alters the vehicle’s engine and exhaust systems such that emissions standards are met. When testing is not being performed the engine control systems operate the vehicle in a way that does not comply with EPA omissions requirements.

45. Volkswagen knew that the Defeat Device bypassed, defeated, or rendered inoperative elements of the vehicle to evade emission standards. This is apparent given that the defeat device tracked the parameters of the federal test procedure and caused the emission control system to operate at its highest levels under such conditions, but at lower levels when the vehicle was not undergoing official testing.

46. Moreover, under normal operating conditions, the engines produce more power and higher fuel efficiency than they would if they complied with EPA emissions requirements.

47. Because of this software, Volkswagen's diesel vehicles can seemingly meet emissions standards while emitting nitrogen oxides (NOx) at up to 40 times the standard allowed under federal and state laws and regulations during the normal operation of the vehicles.

48. The Clean Air Act sets emissions standards for vehicles and requires vehicle manufacturers to certify to the EPA that vehicles sold in the United States meet applicable federal emissions standards. All vehicles sold in the United States must be covered by an EPA-issued certificate of conformity. Under federal law, cars equipped with defeat devices, which reduce the effectiveness of emissions control systems during normal driving conditions, cannot be certified. Volkswagen violated the Clean Air Act, defrauded its customers, and engaged in unfair competition by manufacturing and selling vehicles with defeat devices that allowed for higher levels of emissions than were certified by the EPA.

49. On September 22, 2015, Volkswagen AG (the parent company of Volkswagen Group of America, Inc.) issued a statement, admitting that it used a defeat device in certain diesel-engine vehicles, therefore violating the emission standards of the EPA: "Volkswagen is working at full speed to clarify irregularities concerning a particular software used in diesel engines. A noticeable deviation between bench test results and actual road use was established solely for this type of engine."¹¹

50. German auto supplier Bosch admitted that it supplied Volkswagen with many of the components used to install the defeat device in diesel-engine vehicles.¹²

¹¹ See Statement, VOLKSWAGEN AG, Sept. 22, 2015 (available at http://www.volkswagenag.com/content/vwcorp/info_center/en/news/2015/09/Ad_hoc_US.bin.html/downloadfilelist/downloadfile/downloadfile/file/Ad-hoc+Release.pdf).

¹² See "Report: Volkswagen Knew of 'Defeat Devices' Eight Years Before EPA Action," CONSUMERIST, Sept. 28, 2015 (available at <http://consumerist.com/2015/09/28/report-volkswagen-knew-of-defeat-devices-eight-years-before-epa-action/>).

51. In 2007, Bosch sent Volkswagen an internal letter warning them that using software to defeat emission standards would be illegal.¹³ Likewise, in 2011, a Volkswagen technician raised concerns with the company that using the defeat device was illegal, but was ignored.¹⁴

52. On September 20, 2015, Volkswagen AG CEO Dr. Martin Winterkorn issued a statement, saying “I personally am deeply sorry that we have broken the trust of our customers and the public. We at Volkswagen will do everything that must be done in order to re-establish the trust that so many people have placed in us, and we will do everything necessary in order to reverse the damage this has caused.”¹⁵

53. On September 23, 2015, Martin Winterkorn resigned from the company. Mr. Winterkorn said he was stunned by the scale of the misconduct.¹⁶

54. On September 21, 2015, Michael Horn, President and CEO of Defendant Volkswagen of America, stated at the launch of Volkswagen’s new Passat “[L]et’s be clear about this: our company was dishonest with the EPA and the California Air Resources Board, and with all of you. In my German words, we’ve totally screwed up. We must fix those cars, and prevent this from ever happening again, and we have to make things right.” Mr. Horn continued “You

¹³ See “10 things to know as VW's emissions scandal enters its 2nd week,” FORTUNE, Sept. 28, 2015 (available at <http://fortune.com/2015/09/28/winterkorn-criminal-probe-fraud-10-things-to-know-as-vws-emissions-scandal-starts-its-2nd-week/>).

¹⁴ See “Report: Volkswagen Knew of ‘Defeat Devices’ Eight Years Before EPA Action,” *supra* n.12.

¹⁵ See Statement of Prof. Dr. Martin Winterkorn, CEO of Volkswagen AG, Sept. 20, 2015 (available at <http://media.vw.com/release/1066/>).

¹⁶ See “Volkswagen CEO Resigns, Saying He's ‘Shocked’ By Emissions Scandal,” NPR, Sept. 23, 2015 (available at <http://www.npr.org/sections/thetwo-way/2015/09/23/442818919/volkswagen-ceo-resigns-saying-he-s-shocked-at-emissions-scandal>).

can be sure that we will continue not only to correct this TDI issue, and to straighten things out, and to pay what we have to pay.”¹⁷

55. On September 29, 2015 the House Energy and Commerce Committee directed Volkswagen to submit documents and internal communications about use of the defeat device, and about how the EPA discovered the defeat device. Chairman Fred Upton stated “It seems Volkswagen had a dirty little secret, and it’s not just consumers who are feeling betrayed ... There are many unanswered questions, and we will get the facts and the answers that the American people deserve.”¹⁸ Volkswagen Charged A Premium For Its “Clean” And “Green” Diesel Technology.

56. Volkswagen charged substantial premiums for vehicles equipped with defeat devices.

57. The table below sets forth the price premium for each comparable base, mid-level, and premium trim for each affected model:

Model	Base	Mid-level	Premium
VW Jetta	\$2,860	\$4,300	\$6,315
VW Beetle	\$4,635	n/a	\$2,640
VW Golf	\$2,950	\$1,000	\$1,000
VW Passat	\$5,755	\$4,750	\$6,855
Audi A3	\$2,805	\$3,095	\$2,925

¹⁷ See “Volkswagen’s US Boss: We Totally Screwed Up,” CNBC, Sept. 22, 2015 (*available at* <http://www.cnbc.com/2015/09/21/volkswagen-us-ceo-screwed-up-on-eca-emissions-diesel-test-rigging.html>).

¹⁸ See “House Committee Wants VW Docs on Emissions Software,” LAW360, Sept. 29, 2015 (*available at* <http://www.law360.com/articles/708838/house-committee-wants-vw-docs-on-emissions-software>).

58. As of September 23, 2015, Volkswagen's website no longer listed the prices for the diesel-model vehicles containing a defeat device.

D. Volkswagen's Misconduct Has Injured Class Members.

59. Despite the EPA ordering Volkswagen to recall vehicles equipped with defeat devices, purchasers of the subject vehicles have and will continue to suffer significant harm. First, the only way for Volkswagen to make the vehicles comply with emissions standards will be to significantly reduce the vehicles' horsepower, torque and fuel efficiency. According to Drew Kodjak, executive director of the International Council on Clean Transportation, "[w]hen the pollution controls are functioning on these vehicles, there's a trade-off between performance and emissions."¹⁹ Thus, if made EPA compliant, Class Members will suffer actual harm and damages because their vehicles will no longer perform as advertised and warranted.

60. Second, Class Members' vehicles will suffer from a significant diminution value by being made EPA compliant, because not only did Class Members overpay for their vehicles, but they will be forced to pay much more to fuel their less fuel efficient vehicles.

61. Owners of vehicles equipped with defeat devices have suffered losses of money or property because of Volkswagen's unfair, deceptive, and/or fraudulent business practices, and its failures to disclose the true emissions of the vehicles.

62. Had Plaintiff and the Class Members known of the defeat device at the time they purchased or leased their vehicles, they would not have purchased or leased their vehicles, or they would have paid less than they did. Even if Volkswagen recalls the defeat device vehicles and degrades the engine performance of the vehicles to make them compliant with EPA

¹⁹ See Coral Davenport and Jack Ewing, "VW Is Said to Cheat on Diesel Emission; U.S. to Order Big Recall," Sept. 18, 2015 (available at http://www.nytimes.com/2015/09/19/business/volkswagen-is-ordered-to-recall-nearly-500000-vehicles-over-emissions-software.html?_r=0).

standards, Plaintiff and Class Members will be forced to spend more on fuel and will not receive the advertised performance of their vehicles. The recalled vehicles will be worth less in the used marketplace because of their decrease in performance and efficiency, which means that owners of these vehicles will not be able to recoup the expected value of these vehicles in the future.

PLAINTIFF'S FACTS

63. Plaintiff purchased a 2011 Volkswagen Jetta Sportwagen TDI from Norm Reeves Volkswagen in Irvine, CA in April 2015. Plaintiff still owns the vehicle.

64. Plaintiff purchased the car because he was interested in fuel efficiency. He was concerned that a diesel engine would contribute to pollution of the environment, but his research revealed that the Volkswagen Jetta Sportwagen TDI had a “clean” diesel engine. Plaintiff relied on Volkswagen’s statement that the Volkswagen Jetta Sportwagen TDI was a clean, low-emission vehicle, in deciding to purchase the vehicle.

65. Plaintiff would not have purchased the vehicle if he had known that the emissions were much higher than advertised and the engine was not “clean.” Plaintiff is concerned that if he repairs the vehicle it will cost him more for fuel and he will experience degraded performance. He is also concerned that regardless of whether he has the vehicle repaired, it will lose and has lost value.

CLASS ACTION ALLEGATIONS

66. Plaintiff brings this action on behalf of himself and as a class action, pursuant to the Rules 23(a), (b)(2), and (b)(3) of the Federal Rules of Civil Procedure on behalf of the following Class and Subclass (collectively, the “Class”):

The Nationwide Class

All persons or entities in the United States who are current or former owners and/or lessees of a Volkswagen or Audi vehicle with a Type EA 189 or EA 288 diesel 2.0 liter turbo engine, including, without limitation: 2009-2015

Volkswagen Jetta; 2009-2015 Volkswagen Beetle; 2009-2015 Volkswagen Golf; 2013-2015 Volkswagen Passat; and 2009-2015 Audi A3.

The California Subclass

All persons or entities who purchased or leased a Volkswagen or Audi vehicle with a Type EA 189 or EA 288 diesel 2.0 liter turbo engine in California, including, without limitation: 2009-2015 Volkswagen Jetta; 2009-2015 Volkswagen Beetle; 2009-2015 Volkswagen Golf; 2013-2015 Volkswagen Passat; and 2009-2015 Audi A3.

67. Excluded from the Class are individuals who have personal injury claims resulting from the defeat device in the Class Vehicles. 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 or her immediate family. Plaintiff reserves the right to revise the Class definition based upon information learned through discovery.

68. Certification of Plaintiff's claims for class-wide treatment is appropriate because Plaintiff can prove the elements of their claims on a class-wide basis as would be used to prove those elements individual actions alleging the same claim.

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

70. Plaintiff reserves the right to revise the definitions of the Class or Subclass based upon information learned through discovery.

71. **Numerosity.** The Class Members are so numerous and geographically dispersed that individual joinder of all Class Members is impracticable. While Plaintiff believes that there not less than hundreds of thousands of Class Members, the precise number of Class Members is unknown at this time, 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, or published notice.

72. **Commonality.** This action involves common questions of law and fact, which predominate over any questions affecting individual Class Members, including:

- a. Whether Volkswagen engaged in the conduct alleged herein;
 - b. Whether Volkswagen designed, advertised, marketed, distributed, leased, sold, or otherwise placed defeat device vehicles into the stream of commerce in the United States;
 - c. Whether the CleanDiesel engine system in the Class Vehicles contains a defect in that it does not comply with EPA requirements;
 - d. Whether the CleanDiesel engine systems in the subject vehicles can be made to comply with EPA standards without substantially degrading the performance or efficiency of the vehicles;
 - e. Whether Volkswagen knew about the defeat device and, if so, how long it possessed this knowledge;
 - f. Whether Volkswagen designed, manufactured, and distributed the subject vehicles with a defeat device;
 - g. Whether Volkswagen's conduct violates consumer protection statutes, warranty laws, and other laws as asserted herein;
 - h. Whether Plaintiff and the other Class Members overpaid for their vehicles;
 - i. Whether Plaintiff and the other Class Members are entitled to equitable relief, including, but not limited to, restitution or other injunctive relief;
- and

- j. Whether Plaintiff and the other Class Members are entitled to damages and other monetary relief and, if so, in what amount.

73. **Typicality.** Plaintiff's 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.

74. **Adequacy.** Plaintiff is an adequate Class representative because his interests do not conflict with the interests of the other Class Members he seeks to represent; Plaintiff has retained counsel competent and experienced in complex class action litigation, and Plaintiff intends to prosecute this action vigorously. The Class's interests will be fairly and adequately protected by Plaintiff and his counsel.

75. **Declaratory and Injunctive Relief: Federal Rule of Civil Procedure 23(b)(2).** Volkswagen has acted or refused to act on grounds generally applicable to Plaintiff and the other Class Members, thereby making appropriate final injunctive relief and declaratory relief, as described below, with respect to the Class as a whole.

76. **Superiority.** 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 Plaintiff 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 Class Members individually to seek redress for Volkswagen's wrongful conduct.

77. Should individual Class Members be required to bring separate actions, this Court and/or courts throughout the United States would be confronted with a multiplicity of lawsuits

burdening the court system while also creating the risk of inconsistent rulings and contradictory judgments. In contrast to proceeding on a case-by-case basis, in which inconsistent results will magnify the delay and expense to all parties and the court system, this class action presents far fewer management difficulties while providing unitary adjudication, economies of scale and comprehensive supervision by a single court.

COUNT I
Common Law Fraud
(On Behalf of the Nationwide Class)

78. Plaintiff repeats the allegations set forth above as if fully set forth herein.

79. Plaintiff brings this claim on behalf of the Nationwide Class.

80. Volkswagen engaged in both speaking and silent fraud, and in fraudulent and deceptive conduct, throughout the Class Period. 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 Class 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.

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

82. The foregoing misrepresentations were uniform for all Class Members. The same advertisements were shown to all Class Members of the public generally and the same marketing materials were distributed to customers and potential customer, and all of the materials contained

the same standardized statements relating to the Class Vehicles' environmental friendliness, performance and fuel economy.

83. These representations directly contradicted the true nature and hidden design of the Class 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.

84. 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 Class Vehicles and concealment thereof;
- b. The details regarding the actual emissions in the Class 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 Class Vehicles and concealment thereof; and
- d. Volkswagen made general representations about the qualities of the Class 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 device software on the Class Vehicles that was intended to conceal the vehicles' exceedingly high and illegal emission levels from governments, consumers, and the public.

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

86. Volkswagen's misrepresentations and omissions were material in that they would affect a reasonable consumer's decision to purchase or lease a Class Vehicle. Consumers paid a premium for the clean diesel Class Vehicles precisely because they supposedly offered low emissions and fuel economy without sacrificing performance. Volkswagen's conduct, misrepresentations, omissions, concealment, and suppression, undermined the core value proposition that induced consumers to purchase or lease the Class Vehicles, and directly affect both the quality and worth of the vehicles.

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

88. Plaintiff relied upon Volkswagen's misrepresentations and concealment of the true facts. Class Members are presumed to have relied upon Volkswagen's misrepresentations and concealment of the true facts because those facts are material to a reasonable consumer's purchase the Class Vehicles.

89. 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. If Plaintiff and Class Members had known about the defeat device and the unlawful emissions at the time of acquisition, they would not have acquired the Class Vehicles. Indeed, the Class Vehicles could not have been marketed or sold to any reasonable

consumer had existence of the defeat device been disclosed. Volkswagen is therefore liable to Plaintiff and Class Members in an amount to be proven at trial.

90. Volkswagen intentionally designed and engineered its “clean diesel” vehicles to deceive and cheat regulators and its customers. 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. Volkswagen’s fraud caused both the purchase and the harm. 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.

91. 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. Volkswagen’s conduct thus warrants an assessment of punitive damages at the highest level allowed by applicable law, consistent with the actual harm it has caused, the reprehensibility of its conduct, and the need to punish and deter such conduct.

COUNT II
Breach of Express Warranty
(On Behalf of the Nationwide Class)

92. Plaintiff repeats the allegations set forth above as if fully set forth herein.

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

94. Such statements became the basis of the bargain for Plaintiff and other purchasers of the Class Vehicles because such statements are among the facts a reasonable consumer would consider to be material in the purchase of a vehicle.

95. In fact, in ordinary driving conditions, the Class Vehicles did not comply with applicable environmental regulations, emitting between 10 and 40 times the amount of pollutants allowed. As such, it was unlawful for Volkswagen to sell the Vehicles to the public.

96. In addition, Volkswagen stated that the vehicles achieved certain a fuel efficiency in terms of miles per gallon of fuel when tested in accordance with applicable EPA regulations. Those statements created an express warranty that, under EPA test conditions, the vehicle achieved the stated fuel efficiency for purposes of making apples-to-apples comparisons with other vehicles.

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

98. In fact, had the Class 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.

99. As a result of the foregoing breaches of express warranty, Plaintiff and other Class Members have been damaged in that they purchased a vehicle that was unlawful to have been sold in the first instance, and, even if lawfully sold, was less valuable than what they paid for the Class Vehicles because the Vehicles do not comply with applicable environmental regulations and cost more to operate because, if they are repaired to conform with applicable environmental regulations, they will be less efficient to operate and incur higher fuel costs.

COUNT III
Breach of Implied Warranty of Merchantability
(On Behalf of the Nationwide Class)

100. Plaintiff repeats the allegations set forth above as if fully set forth herein.

101. Section 2-314 of the Uniform Commercial Code provides that, unless disclaimed, there is an implied warranty of merchantability with respect to the goods being purchased.

102. Among the warranties included within the implied warranty of merchantability is that the goods would pass without objection in the trade under the contract description, and are adequately labeled.

103. For the reasons set forth above, the Class Vehicles would not pass without objection in the trade because the retail sale by the manufacturer of a vehicle that contains a defeat device is unlawful.

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

105. As a result of the foregoing breaches of warranty, Plaintiff and other Class Members have been damaged in that they purchased a Vehicle that was unlawful to have been sold in the first instance, and, even if lawfully sold, was less valuable than what they paid for the Vehicles because the Vehicles do not comply with applicable environmental regulations and cost more to operate because, if they are repaired to conform with applicable environmental regulations, they will be less efficient to operate and incur higher fuel costs.

COUNT IV
Magnuson-Moss Act (15 U.S.C. §§ 2301, *et seq.*) – Implied Warranty
(On Behalf of the Nationwide Class)

106. Plaintiff repeats the allegations contained in the foregoing paragraphs as if fully set forth herein.

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

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

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

110. 15 U.S.C. § 2310(d)(1) 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.

111. Volkswagen provided Plaintiff and the other 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). As a part of the implied warranty of merchantability, Volkswagen warranted that the Class Vehicles would pass without objection in the trade as designed, manufactured, and marketed, and were adequately labeled.

112. ***Manufacturer’s Warranty.*** Volkswagen provided Plaintiff and each member of the Class who purchased a new Class Vehicle with a Manufacturer’s Warranty, which provides “bumper-to-bumper” limited express warranty coverage for a minimum of 3 years or 36,000

miles, whichever comes first. This warranty covers emissions related repairs. This warranty is directly applicable to the Class Vehicles.

113. ***Federal Emissions Warranty.*** Consistent with federal law, Volkswagen provided Plaintiff and the Class with a “performance warranty” and a “design and defect warranty.” In the event that a vehicle fails an emissions test, these warranties cover all emissions related parts for 2 years or 24,000 miles (whichever comes first), with the catalytic converter, engine control unit, and onboard diagnostic device covered for 8 years or 80,000 miles (whichever comes first). These warranties are directly applicable to the Class Vehicles.

114. ***California Emissions Warranty.*** California law requires additional warranty coverage beyond that required by federal law. Under California law, all emissions related performance and parts are covered for 3 years or 50,000 miles (whichever comes first), and a vehicle-specific list of more expensive emissions related parts is covered for 7 years or 70,000 miles (whichever comes first). In addition, the 8 year or 80,000 mile coverage for the catalytic converter, engine control unit, and onboard diagnostic device required by Federal law also applies. 13 Cal. Code. Regs. § 2038; see CAL. HEALTH & SAFETY CODE § 43205. The California Emissions Warranty provisions described here are directly applicable to the Class Vehicles.

115. 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).

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

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

118. Nonetheless, privity is not required here because Plaintiff and other Class Members are intended third-party beneficiaries of contracts between Volkswagen and its dealers, and specifically, of the implied warranties. The dealers were not intended to be the ultimate consumers of the Class Vehicles and have no rights under the warranty agreements provided with the Class Vehicles; the warranty agreements were designed for and intended to benefit consumers.

119. Pursuant to 15 U.S.C. § 2310(e), Plaintiff is entitled to bring this class action and are not required to give the Vehicle Manufacturer Defendants 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.

120. The amount in controversy of Plaintiff's individual claims meets or exceeds the sum of \$25.00. The amount in controversy of this action exceeds the sum of \$50,000.00, exclusive of interest and costs, computed on the basis of all claims to be determined in this lawsuit. Plaintiff, individually and on behalf of the other Class Members, seeks all damages permitted by law, including diminution in value of their Class Vehicles, in an amount to be proven at trial. In addition, pursuant to 15 U.S.C. § 2310(d)(2), Plaintiff and the other 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 the other Class Members in connection with the commencement and prosecution of this action.

121. Further, Plaintiff and the Class are also entitled to equitable relief under 15 U.S.C. § 2310(d)(1).

COUNT V
Unjust Enrichment
(On Behalf of the Nationwide Class)

122. Plaintiff repeats the foregoing allegations as if fully set forth herein.

123. Volkswagen has been unjustly enriched in that it intentionally sold vehicles with defeat devices which were intended to mask the fact that the Class Vehicles did not comply with applicable automobile exhaust regulations and, in fact, emitted between 10 and 40 times the pollutant allowed by those regulations.

124. When purchasing their vehicles, Plaintiff and other Class Members reasonably believed that the Class Vehicles complied with applicable environmental regulations and, if properly tested in accordance with EPA mileage standards, would achieve for comparison purposes the mileage stated on the window sticker of the vehicles.

125. Plaintiff and other Class Members got less than what they paid for in that the Class Vehicles did not comply with applicable environmental regulations, nor was the EPA mileage stated on the sticker usable for comparison purposes for other vehicles.

126. The foregoing did not occur by happenstance or conditions out of Volkswagen's control. In fact, the Vehicles were deliberately designed to comply with environmental regulations only when being tested and were known and intended by Volkswagen to not comply with applicable regulations under ordinary driving conditions.

COUNT VI
Breach of Implied Warranties in Violation of the Song-Beverly Consumer Warranty Act
(Cal. Civ. Code Section 1790, *et seq.*)
(On Behalf of the California Subclass)

127. Plaintiff repeats the foregoing allegations as if fully set forth herein.

128. Plaintiff and Class Members who purchased the Class Vehicles in California are "buyers" within the meaning of Cal. Civ. Code §1791(b).

129. The Class Vehicles are “consumer goods” within the meaning of Cal. Civ. Code §1791(a).

130. Volkswagen is a “manufacturer” and/or “distributor” of the Class Vehicles within the meaning of Cal. Civ. Code §§1791(e) and (j).

131. Volkswagen made implied warranties to Plaintiff and Class Members within the meaning of Cal. Civ. Code §1791.1.

132. Volkswagen impliedly warranted to Plaintiff and Class Members who purchased and/or leased the Class Vehicles that they were “merchantable” within the meaning of Cal. Civ. Code §§1791.1(a) & 1792.

133. The Class Vehicles are not merchantable as a result of the inclusion of the defeat device. Moreover, Volkswagen breached these implied warranties, as described in more detail above, and is therefore liable to Plaintiff and the Class Members.

134. The Class Vehicles are not of the quality that a buyer would expect and are not merchantable. Because the Class Vehicles are not merchantable, Volkswagen breached the implied warranty of fitness within the meaning of Cal. Civ. Code §§1791.1(b) and 1792.1.

135. As a proximate result of Volkswagen’s breach of the implied warranties of merchantability and fitness, Plaintiff and Class Members sustained damages. Pursuant to Cal. Civ. Code §§1791.1(d), 1794(a), and (b)(2), Plaintiff and Class Members are entitled to damages and other legal and equitable relief including, at their election, the purchase/lease price of the Vehicles or any diminution in value. Plaintiff and Class Members are also entitled to costs and attorneys’ fees pursuant to Cal. Civ. Code §1794.

COUNT VII
Violation of the Consumers Legal Remedies Act (“CLRA”)
(Cal. Civ. Code Section 1750, *et seq.*)
(On Behalf of the California Subclass)

136. Plaintiff repeats the foregoing allegations as if fully set forth herein.

137. Volkswagen is a “person” under Cal. Civ. Code §1761(c).

138. Plaintiff and Class Members are “consumers” under Cal. Civ. Code §1761(d).

139. Plaintiff and Class Members engaged in “transactions” under Cal. Civ. Code §1761(e), including the purchase or lease of Vehicles from Volkswagen.

140. As set forth herein, Volkswagen’s acts, policies, and practices undertaken in transactions intended to result and which did result in the sale or lease of Vehicles, violate sections 1770(a)(5), (a)(7), (a)(9), (a)(14), and (a)(16) of the CLRA in that: (a) Volkswagen represented that its Class Vehicles have characteristics, uses, or benefits which they do not have; (b) Volkswagen represented that its Class Vehicles are of a particular standard, quality, or grade, but are of another; (c) Volkswagen advertised its Class Vehicles with intent not to sell/lease them as advertised; (d) Volkswagen represented that a transaction conferred or involved rights, remedies, or obligations which it did not have or involve; and (e) Volkswagen represented that its Class Vehicles were supplied in accordance with a previous representation when they were not.

141. The existence of the defeat device is a material fact. Plaintiff and Class Members were unaware of the defeat device when they purchased or leased their Class Vehicles. Consumers value reliability and dependability of automobiles, especially concerning emissions in the Class Vehicles. Had they known of the defeat device, Plaintiff and Class Members would not have purchased or leased their Class Vehicles, or would have done so only at lower prices.

142. Reasonable consumers expect that Class Vehicles, as “clean diesel” vehicles, possess important characteristics that they in fact did not possess, namely the combination of low emissions, high performance, and fuel economy.

143. Volkswagen had a duty to disclose the defeat device in Class Vehicles for various reasons, including that: (a) the defeat device’s existence is contrary to Volkswagen’s representations and consumers’ expectations; (b) Volkswagen’s concealment and/or failure to disclose the defeat device was likely to deceive reasonable consumers; (c) Volkswagen intentional concealment of the defeat device was intended to defraud consumers; and (d) Volkswagen’s concealment of the defeat device harmed Plaintiff and Class Members.

144. As a proximate result of Volkswagen’s conduct described above, Plaintiff and Class Members have suffered harm.

145. Pursuant to the provisions of Cal. Civ. Code §1780, Plaintiff and Class Members seek: (a) an order enjoining Volkswagen from the unlawful practices described herein, (b) a declaration that Volkswagen’s conduct violates the CLRA, and (c) attorneys’ fees and costs of litigation.

146. Pursuant to the provisions of Cal. Civ. Code Section 1780, Plaintiff will be notifying Volkswagen in writing of the CLRA violations and request that Volkswagen cure the violations. Should Volkswagen not comply with Plaintiff’s request, Plaintiff intends to amend his complaint and seek damages under the CLRA.

COUNT VIII
Violation of California Unfair Competition Law
(Cal. Bus. & Prof. Code Section 17200, *et seq.*)
(On Behalf of the California Subclass)

147. The Plaintiff repeats the foregoing allegations as if fully set forth herein.

148. Volkswagen's acts and practices, as alleged in this Complaint, constitute unlawful, unfair and/or fraudulent business practices, in violation of the Unfair Competition Law, Cal. Bus. & Prof. Code §17200, *et seq.*

149. The business practices engaged in by Volkswagen that violate the Unfair Competition Law include failing to disclose the defeat device at the point of sale, the point of repair, or otherwise.

150. Volkswagen engaged in unlawful business practices by violating the CLRA; the Magnuson-Moss Warranty Act, 15 U.S.C. §2301 *et seq.*; the TREAD (Transportation Recall Enhancement, Accountability, and Documentation Act) Act, codified at 49 U.S.C. §30101, *et seq.*, by failing to timely disclose the defeat device to NHTSA or consumers; and by engaging in conduct, as alleged herein, that breached implied warranties.

151. Volkswagen engaged in unfair business practices by, among other things: (a) engaging in conduct that is immoral, unethical, oppressive, unscrupulous, or substantially injurious to Plaintiff and Class Members; (b) engaging in conduct that undermines or violates the stated policies underlying the CLRA; the Magnuson-Moss Warranty Act, 15 U.S.C. §2301 *et seq.*; the TREAD Act, codified at 49 U.S.C. §30101, *et seq.*, each of which seeks to protect consumers against unfair business practices and to promote a basic level of honesty and reliability in the marketplace; and (c) engaging in conduct that causes a substantial injury to consumers, not outweighed by any countervailing benefits to consumers or to competition, which the consumers could not have reasonably avoided.

152. Volkswagen engaged in fraudulent business practices by engaging in conduct that was and is likely to deceive consumers acting reasonably under the circumstances.

153. As a direct and proximate result of Volkswagen's unlawful, unfair, and fraudulent business practices as alleged herein, Plaintiff and Class Members suffered injury-in-fact and lost money or property, in that they purchased/leased Class Vehicles they otherwise would not have purchased/leased, and are left with Class Vehicles of diminished value and utility because of the incorporation of the defeat device. Meanwhile, Volkswagen has sold and leased more Class Vehicles than it otherwise could have and charged inflated prices for them, unjustly enriching itself thereby.

154. Plaintiff and Class Members are entitled to equitable relief including restitution of all fees, disgorgement of all profits accruing to Volkswagen because of its unfair, fraudulent, and deceptive practices, attorneys' fees and costs, declaratory relief, and a permanent injunction enjoining Volkswagen from its unfair, fraudulent, and deceitful activity.

WHEREFORE, Plaintiff, individually and on behalf of the Class Members respectfully requests that the Court enter judgment in their favor and against Volkswagen, as follows:

- A. Certification of the proposed Class, including appointment of Plaintiff's counsel as Class Counsel;
- B. An order temporarily and permanently enjoining Volkswagen from continuing the unlawful, deceptive, fraudulent, and unfair business practices alleged in the Complaint.
- C. Injunctive relief in the form of a buy back, recall or free replacement program;
- D. Costs, restitution, actual damages, punitive damages and disgorgement in an amount to be determined at trial;
- E. Revocation of acceptance;
- F. Damages under the Magnuson-Moss Warranty Act;
- G. For treble- or punitive damages as permitted by law;

H. An order requiring Volkswagen to pay both pre- and post-judgment interests on any amounts awarded;

I. An award of costs and attorneys' fees; and

J. Such other or further relief as may be appropriate.

DEMAND FOR JURY TRIAL

The undersigned hereby demands a trial by jury as to all issues so triable.

DATED: September 30, 2015

CARELLA, BYRNE, CECCHI,
OLSTEIN, BRODY & AGNELLO P.C.

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

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Attorneys for Plaintiff and the Proposed Classes

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

Christopher Springfield

DEFENDANTS

Volkswagen Group of America, Inc.

(b) County of Residence of First Listed Plaintiff San Diego

(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
- 2 U.S. Government Defendant
- 3 Federal Question (U.S. Government Not a Party)
- 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 checked="" 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	<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 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		
			LABOR	FEDERAL TAX SUITS
			<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	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

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. sec. 1332(d)

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:**

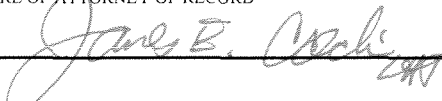
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

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

DATE
 09/30/2015

SIGNATURE OF ATTORNEY OF RECORD



FOR OFFICE USE ONLY

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