

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA**

BETSY WEITZMAN, SETH ALLISON, )  
CAREN GOLDSTEIN, GERTRUDE )  
PUNARO THOMAS, and CRISTIN ) No.  
WEBSTER, on behalf of themselves and all )  
others similarly situated, ) CLASS ACTION COMPLAINT  
)  
Plaintiffs, )  
) JURY TRIAL DEMANDED  
)  
v. )  
)  
VOLKSWAGEN GROUP OF AMERICA, )  
INC., )  
)  
Defendant. )

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Plaintiffs, Betsy Weitzman, Seth Allison, Caren Goldstein, Gertrude Punaro Thomas, and Cristin Webster, by their counsel, individually and on behalf of all others similarly situated, for their class action complaint, allege as follows based upon personal knowledge where applicable, the investigation of their counsel, information on belief, and publicly available information:

**OVERVIEW OF THE ACTION**

1. This consumer class action arises from Defendant Volkswagen Group of America, Inc. (“Volkswagen”)’s intentional violation of environmental laws, and deliberate misrepresentations to its customers, which have a reach that is, unfortunately, historic in scope.
2. For years, Volkswagen has aggressively advertised and promoted “Clean Diesel” engines that, until recently, were the key selling point for a number of popular vehicles sold under the Volkswagen and Audi brands.
3. It has recently come to light that such engines are not at all “clean” or “green,” as advertised and promoted by Volkswagen. Instead of delivering on its promise to sell environmentally-conscious, fuel efficient, and powerful vehicles, Volkswagen engaged in mass

deception that misled regulators and consumers, and harmed consumers as well as the environment.

4. The U.S. Environmental Protection Agency (“EPA”) and state regulators have enacted and enforced laws designed to protect citizens from pollution and in particular, certain chemicals and agents known to cause disease in humans. Automobile manufacturers must abide by these laws and regulations, but, Volkswagen, after years of cover up, has admitted that it did not.

5. Volkswagen purposefully evaded federal and state laws by deploying a nefarious technology defined as a “defeat device,” under the Clean Air Act, 42 U.S.C. § 7401, *et seq.*, which was used to cheat government-mandated emissions testing. During such testing, Volkswagen’s diesel vehicles armed with the defeat device would produce relatively low and compliant levels of emissions, but, outside of the testing context, the vehicles would behave quite differently, and spew pollutants at levels as much as forty times greater than legal emissions levels.

6. Volkswagen has deployed its egregious defeat device in at least the following Volkswagen models, as well as the Audi A3, beginning with vehicles for the 2009 model year (“MY”): MY 2009-2015 VW Jetta; MY 2009-2015 VW Beetle; MY 2009-2015 VW Golf; MY 2012-2015 VW Passat; and MY 2009-2015 Audi A3.

7. There is no dispute that Volkswagen engaged in this scheme. At a press conference on Monday, September 22, 2015, Defendant’s CEO, Michael Horn, stated “[W]orst of all, we were dishonest to our customers. We totally screwed up.” As Martin Winterkorn, former CEO of the parent company of the Volkswagen Group, apologized, “I personally am deeply sorry that we have broken the trust of our customers and the public.”

8. A coalition of attorneys general from at least 40 states and the District of Columbia are investigating whether Volkswagen committed consumer fraud and environmental violations, with attorneys general in California and Texas pursuing their own investigations. Criminal investigations have also begun in Europe.

9. Indeed, on the same day (October 8, 2015) that German police raided offices at Volkswagen Group's headquarters in Wolfsburg, Germany and at executives' residences in connection with their investigation into the scandal, Horn, as head of Volkswagen's U.S. operations, appeared before the House of Representatives' Energy and Commerce Committee.

10. In his written testimony, CEO Horn admitted that Volkswagen had "broken the trust of its customers," along with that of the "public and regulators."

11. "On behalf of our company, and my colleagues in Germany," Horn further testified, "I would like to offer a sincere apology for Volkswagen's use of a software program that served to defeat the regular emissions testing regime." Horn even admitted that the software had been installed "for the express purpose of beating [emissions] tests."

12. While Horn stated that "we at Volkswagen take full responsibility for our actions," he also testified that potential software "fixes" may take months or years to implement, depending on the model. Moreover, Volkswagen, through Horn's testimony or otherwise, is yet to make clear how any such "fix" might affect engine performance and fuel economy. Nor has Volkswagen's purported acceptance of responsibility included measures to address the vast economic harms to its customers.

13. By manufacturing and selling cars with defeat devices that allowed for higher levels of emissions than what was certified to the EPA, and higher levels than state and federal

regulations allow, Volkswagen violated the Clean Air Act and state regulations, defrauded its customers, and engaged in unfair competition.

14. This class action is brought to remedy the vast harms that Volkswagen has inflicted upon its customers. Plaintiffs seek damages, injunctive relief, and equitable relief.

### **PARTIES**

15. Plaintiff Betsy Weitzman resides in Conshohocken, Pennsylvania. In March 2014, Plaintiff Weitzman purchased a new, 2014 VW Jetta TDI CleanDiesel from Ardmore VW, an authorized Volkswagen dealer in Ardmore, Pennsylvania. Plaintiff still owns this vehicle.

16. Plaintiff Seth Allison resides in Glen Elyn, Illinois. In March 2014, Plaintiff Allison purchased a new 2013 VW Jetta Sportwagen TDI CleanDiesel from the Autobarn City Volkswagen, an authorized Volkswagen dealer in Chicago, Illinois. Plaintiff still owns this vehicle.

17. Plaintiff Caren Goldstein resides in Philadelphia, Pennsylvania. In August 2011, Plaintiff Goldstein purchased a new 2011 VW Jetta Sportwagen TDI CleanDiesel from Volkswagen of Langhorne (now known as “Piazza Volkswagen of Langhorne”), an authorized VW dealer in Langhorne, Pennsylvania. Plaintiff still owns this vehicle.

18. Plaintiff Gertrude Punaro Thomas resides in Arlington, Virginia. Plaintiff Thomas purchased a new 2011 Jetta TDI CleanDiesel from Stohlman VW, an authorized Volkswagen dealer in Vienna, Virginia. Plaintiff still owns the vehicle.

19. Plaintiff Cristin Webster resides in Marblehead, Massachusetts. In July 2013, Plaintiff Webster purchased a used 2010 VW Jetta Sportwagen TDI CleanDiesel from Patrick Volkswagen, an authorized Volkswagen dealer in Auburn, Massachusetts. Plaintiff still owns this vehicle.

20. Defendant Volkswagen Group of America is a New Jersey corporation with its principal place of business in Herndon, Virginia, and its Eastern Regional headquarters located in Woodcliff Lakes, New Jersey.

21. 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**

22. This Court has jurisdiction over this action pursuant to the Class Action Fairness Act, 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 100 class members, and the aggregate amount in controversy exceeds \$5 million, exclusive of interest and costs.

23. Venue is proper in this District under 28 U.S.C. § 1391(b) because Defendant is subject to personal jurisdiction in the District, regularly conducts business in the District, and has caused harm to putative class members residing in the District.

**CLASS ACTION ALLEGATIONS**

24. Plaintiffs bring this action on behalf of themselves and as a class action, pursuant to the provisions of Rules 23(a), (b)(2), and (b)(3) of the Federal Rules of Civil Procedure, on behalf of the following class (the “Class”):

All persons in the United States who are current or former owners and/or lessees of a “Defeat Device Vehicle.” Defeat Device Vehicles include: MY 2009-2015 VW Jetta; MY 2009-2015 VW Beetle; MY 2009-2015 VW Golf; MY 2012-2015 VW Passat; and MY 2009-2015 Audi A3.

Excluded from the Class are Volkswagen and its subsidiaries and affiliates, and the judge to whom this case is assigned and his or her immediate family.

25. The members of the Class are readily ascertainable but are so numerous that joinder is impracticable. The exact number and names of the members of the Class are presently unknown to Plaintiffs, but can be easily ascertained through discovery, with approximately 483,000 affected vehicles sold in the United States.

26. There are questions of law and fact common to the Class, and such questions predominate over individual questions. Defendant pursued a common course of conduct toward the Class as alleged. This action arises out of a common nucleus of operative facts. Common questions include:

- a. Whether Volkswagen designed, advertised, marketed, distributed, leased, sold, or otherwise placed vehicles containing a defeat device into the stream of commerce in the United States;
- b. Whether the Clean Diesel engine system in the affected vehicles contains a defect in that it does not comply with EPA requirements and other environmental laws and regulations;

- c. Whether the Clean Diesel engine systems in the affected vehicles can be made to comply with EPA standards, and whether such compliance will impact the performance or fuel efficiency of the vehicles;
- d. Whether Volkswagen's conduct violates consumer protection statutes, warranty laws, and other laws as asserted herein;
- e. Whether Plaintiffs and the Class overpaid for their vehicles;
- f. Whether any recall program implemented by Volkswagen can provide Plaintiffs and the Class with the benefit of their bargain or whether further relief and damages are necessary to make Plaintiffs and the Class whole;
- g. Whether any "fixes" implemented by Volkswagen come at the expense of performance or fuel economy, causing further harm to Plaintiffs and the Class;
- h. Whether Plaintiffs and the Class are entitled to equitable relief, including, but not limited to, restitution or other injunctive relief; and
- i. Whether Plaintiffs and the Class are entitled to damages and other monetary relief and, if so, in what amount.

27. Plaintiffs will fairly and adequately represent the interests of the Class. Plaintiffs have no interests that are antagonistic to those of the Class. Plaintiffs have the ability to assist and adequately protect the rights and interests of the Class during the litigation. Further, Plaintiffs are represented by counsel who are competent and experienced in consumer class action litigation.

28. This class action is not only the appropriate method for the fair and efficient adjudication of the controversy, but is, in fact, the superior method to all other available methods because:

- a. the joinder of thousands of geographically diverse individual class members is impracticable, cumbersome, unduly burdensome, and a waste of judicial and/or litigation resources;
- b. there is no special interest by class members in individually controlling prosecution of separate causes of action;
- c. Class members' individual claims are relatively modest compared with the expense of litigating the claim, thereby making it impracticable, unduly burdensome, expensive, if not totally impossible, to justify individual class members' addressing their losses;
- d. when Defendant's liability has been adjudicated, the claims of all class members can be determined by the Court and administered efficiently in a manner that is far less erroneous, burdensome, and expensive than if it were attempted through filing, discovery, and trial of many individual cases;
- e. this class action will promote orderly, efficient, expeditious, and appropriate adjudication and administration of class claims to promote economies of time, resources, and limited pool of recovery;
- f. this class action will assure uniformity of decisions among class members;
- g. without this class action, restitution will not be ordered and Defendant will be able to reap the benefits or profits of its wrongdoing; and
- h. the resolution of this controversy through this class action presents fewer management difficulties than individual claims filed in which the parties may be subject to varying indifferent adjudications of their rights.



29. Class certification is also appropriate because Defendant has acted, or refused to act, on grounds generally applicable to the Class, making class-wide equitable, injunctive, declaratory and monetary relief appropriate. In addition, the prosecution of separate actions by or against individual members of the Class would create a risk of incompatible standards of conduct for Defendant and inconsistent or varying adjudications for all parties.

### **FACTUAL ALLEGATIONS**

30. Although under 1% of automobiles sold in the United States 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. To achieve this success in the marketplace, Volkswagen promoted their diesel cars as “clean” and “green” vehicles. The terms “Clean Diesel” and “CleanDiesel” are marketing terms Volkswagen has used to promote its vehicles in many forms of advertising media.

32. As just several examples of Volkswagen’s widespread and pervasive misrepresentations, in the series of advertisements below Volkswagen touts its Clean Diesel engines as “eco-conscious,” all while delivering improved fuel efficiency and enhanced performance.

## Diesel has really cleaned up its act.

Find out how clean diesel technology impacts fuel efficiency and performance, while also being a more eco-conscious choice.

[Go to clearlybetterdiesel.org](#)



## Not just how far, but how fun.

With efficient diesel technology, TDI Clean Diesel lets you travel much farther between stops for fuel than with comparable gasoline engines. <sup>1</sup> And since our TDI Clean Diesel engines are turbocharged, each one of those miles will be infinitely more fun.

<sup>1</sup> [View key fuel efficiency and comparison info](#)



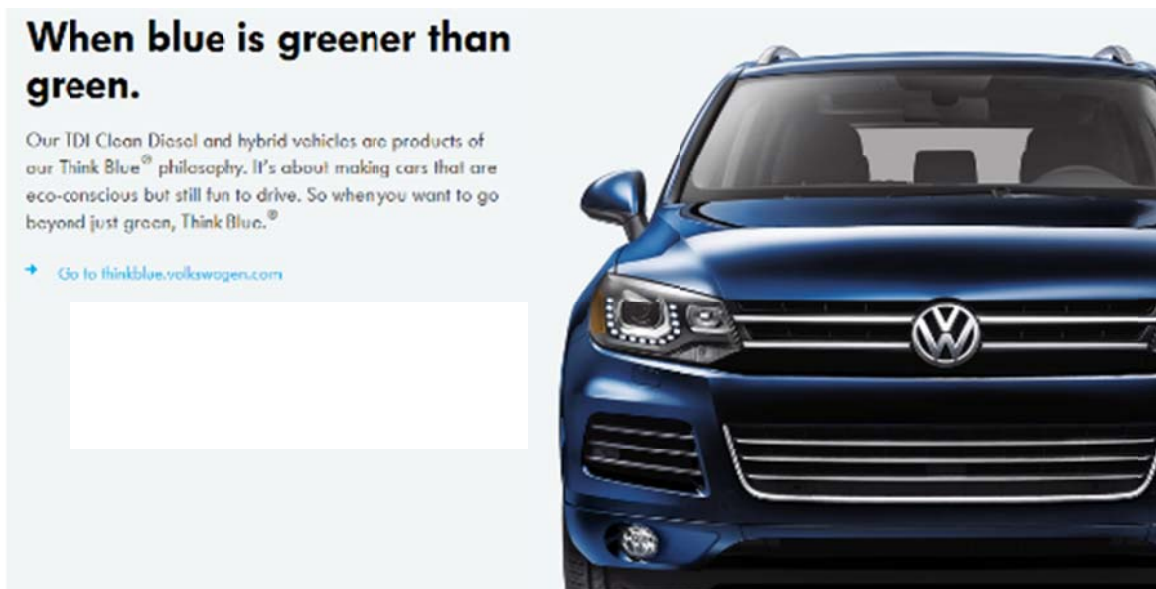
## Reach all of your long-range goals.

Volkswagen offers the most clean diesels of any brand in the U.S. That's why it's not surprising VW has the most 2013 models that get over 40 mpg. <sup>1</sup> For instance, with the Passat TDI getting up to 43 hwy mpg, you can travel up to 795 miles on one tank of fuel. <sup>2</sup> That's better range than any hybrid in its class. <sup>3</sup>

<sup>1</sup> [View key comparison and fuel efficiency info](#)



33. Volkswagen even went so far as to declare that its Clean Diesel technology was part of an environmentally-friendly “philosophy” that produced “eco-conscious” vehicles that were “still fun to drive.”



34. All of the above has recently been shown to be a pervasive fraud committed by Volkswagen, as Volkswagen has purposefully evaded state and federal environmental laws and regulations using its defeat device.

35. As explained in the EPA’s Notice of Violation (“NOV”) dated September 18, 2015, along with a letter from the California Air Resources Board also dated September 18, 2015, Volkswagen included sophisticated software in “clean” diesel vehicles sold in the United States that detected when the vehicle was undergoing official emissions testing. While undergoing emissions testing, the software turns on full emissions controls, leading to emissions that meet government-regulated emissions standards during emission testing. During normal driving, however, these controls are suppressed through the “defeat device” software, and the

vehicles' emissions increase dramatically. 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, including up to 40 times the standard allowed for nitrogen oxides ("NOx") – a dangerous pollutant.

36. NOx contributes to nitrogen dioxide, ground-level ozone, and fine particulate matter. When humans are exposed to nitrogen dioxide, they may be at a greater risk for serious health dangers, including asthma attacks and other respiratory illness requiring hospitalization. Ozone and particulate matter exposure have been associated with premature death due to respiratory-related or cardiovascular-related effects. Children, the elderly, and people with pre-existing respiratory illness are at an elevated risk for adverse health consequences associated with these pollutants.

37. The Clean Air Act requires car makers to certify that vehicles sold in the United States meet federal emissions standards. The EPA certifies conformity with regulations to car makers for vehicles that satisfy emissions regulations. To be sold in the United States, a vehicle must be certified by the EPA to comply with its regulations.

38. Since at least 2008, Volkswagen has held out its Clean Diesel cars as complying with the Clean Air Act and other environmental laws and regulations, while offering an enhanced driving experience and excellent fuel economy. For instance, in introducing the 2.0L TDI Clean Diesel engine in 2008, Volkswagen touted it as a "fantastic power train" that "gives very good fuel economy" and "is also good for the environment because it puts out 25% less greenhouse gas emissions than what a gasoline engine would . . . cuts out the particulate emissions by 90% and the emissions of nitrous oxide are cut by 95% . . . [and is] clean enough to

be certified in all 50 states.” See [http://www.volkswagenag.com/content/vwcorp/info\\_center/en/news/2008/10/\\_vw\\_in\\_fuel\\_economy\\_guide.html](http://www.volkswagenag.com/content/vwcorp/info_center/en/news/2008/10/_vw_in_fuel_economy_guide.html) (last accessed Sept. 30, 2015).

39. The combination of supposed benefits of a “TDI Clean Diesel” engine – low emissions, fuel efficiency, and strong performance – was especially attractive to consumers, as Volkswagen promoted a product with features that were in key respects superior to vehicles offering gasoline or hybrid engines.

40. Not only did Volkswagen target consumers with deliberately false advertising that promised things that were impossible for it to deliver while complying with the law, it charged them steep premiums for vehicles featuring Clean Diesel engines. These premiums occur across all of the vehicle lines in which Volkswagen installed its defeat device, exceeded \$6,000 for one model and approached \$7,000 for another.

41. Volkswagen has announced that it has suspended sales of the subject vehicles in the United States until the defeat devices are removed from the vehicles and the vehicles are actually legal to sell in the United States.

42. While there is a massive recall effort being taken by Volkswagen abroad, and a recall has been ordered by the EPA, the details of such a recall have not yet been announced for vehicles in the United States. Even to the extent it may be possible to bring defeat device vehicles into compliance with federal and state emissions standards, it is widely recognized that bringing about such compliance will almost certainly harm vehicle performance and fuel economy.

43. Likewise, such a recall will not remedy the extensive economic harm Volkswagen has inflicted upon its customers, who have paid steep premiums for vehicles that were attractive precisely because of the false promises made by Volkswagen. “Clean Diesel” vehicles have

sharply decreased in value and are presently unsalable. In fact, Volkswagen has halted all sales of such vehicles, new or used.

44. Along with the diminished value of their vehicles, Plaintiffs and the Class are stuck with cars that severely pollute and harm the environment. “Eco-consciousness” was a core, but non-existent, benefit promoted by Volkswagen in the first place.

### **DEFENDANT’S MISCONDUCT TOLLS THE STATUTE OF LIMITATIONS**

#### **A. Discovery Rule Tolling**

45. Volkswagen’s defeat devices, by their very nature, are clandestine. Plaintiffs could not have discovered that Volkswagen concealed and misrepresented the true emissions levels of its vehicles through the use of defeat devices, which, by design, conceal the fact that the exhaust emissions during normal vehicle use actually exceeded amounts allowed by applicable regulations.

46. Volkswagen’s efforts to deceive consumers and regulators were the result of Volkswagen’s deliberate concealment and fraud.

47. Plaintiffs could not have reasonably discovered, or have reason to suspect, that Volkswagen intentionally concealed information about the defeat devices from federal and state regulators and Volkswagen’s customers.

48. Until the recent revelations about Volkswagen’s misconduct uncovered by the EPA, no reasonable and diligent investigation by consumers could have led to the discovery of the defeat devices, as Volkswagen solely possessed information about the existence of its sophisticated emissions fraud scheme.

**B. Tolling Due To Fraudulent Concealment**

49. For the reasons set forth above, all applicable statutes of limitation have been tolled by Volkswagen's active fraudulent concealment of the facts alleged in this Complaint.

50. Volkswagen actively concealed and misrepresented them through the use of defeat devices, took deliberate and elaborate measures to do so, all while actively deceiving its customers about the true emissions levels, performance, and fuel economy of its vehicles.

**C. Estoppel**

51. Volkswagen was under a continuous duty to disclose to consumers, including Plaintiffs, 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.

52. 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.

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

**COUNT I**  
**(Fraud)**

54. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

55. Volkswagen intentionally concealed and suppressed material facts concerning the quality of the defeat device vehicles. As alleged in this Complaint, notwithstanding references in the very model names of the subject vehicles as "Clean Diesel," or to their engines as "TDI

Clean Diesel” engines, Volkswagen engaged in a clandestine scheme to evade federal and state vehicle emissions standards by installing software designed to conceal its vehicles’ emissions. The software installed on the vehicles at issue was designed to turn on during emissions certification testing, such that the vehicles would show far lower emissions than when actually operating on the road. The result was what Volkswagen intended: vehicles passed emissions certifications by way of deliberately induced false readings; in other words, Volkswagen cheated the test time and time again.

56. Plaintiffs and class members reasonably relied upon Volkswagen’s false representations, and had no way of knowing that Volkswagen’s representations were false and misleading.

57. As alleged above, Volkswagen employed a highly sophisticated method of deception.

58. As Volkswagen calculated, its customers, including Plaintiffs and class members, highly valued the fact that the vehicles they were purchasing or leasing were clean diesel cars, and they bought them at premium prices.

59. Volkswagen had a duty to disclose the emissions scheme it engaged in with respect to the vehicles at issue because knowledge of the scheme and its details were known and/or accessible only to Volkswagen, because Volkswagen had exclusive knowledge as to implementation and maintenance of its scheme, and because Volkswagen knew the facts were not known to or reasonably discoverable by Plaintiffs or the Class.

60. Volkswagen also had a duty to disclose because it made affirmative representations about the qualities of its vehicles with respect to emissions standards, starting with references to them as clean diesel cars, or cars with clean diesel engines, which were



misleading, deceptive, and incomplete without the disclosure of the additional facts set forth above regarding its emissions scheme, the actual emissions of its vehicles, its actual philosophy with respect to compliance with federal and state clean air law and emissions regulations, and its actual practices with respect to the vehicles at issue.

61. These omitted and concealed facts were plainly material to Plaintiffs and the Class.

62. Because of the concealment and suppression of material facts, Plaintiffs and the Class have sustained damage because they own vehicles that are diminished in value as a result of Volkswagen's concealment of the actual quality and quantity of those vehicles' emissions.

63. Had Volkswagen's emissions scheme been revealed to the public, Plaintiffs would never have purchased their vehicles, let alone purchased them at a premium price, even assuming such vehicles could have been lawfully sold in the United States. Plaintiffs purchased their vehicles on the reasonable, but false belief, that their vehicles complied with United States emissions standards, and would retain their advertised and promised operating features and characteristics throughout their useful lives.

64. Volkswagen, having sold the vehicles with the defeat device, the value of Plaintiffs' and class members' vehicles was far below their purchase or lease prices, and has diminished as a result of the fraud alleged herein.

65. Volkswagen's fraudulent concealment of its emissions scheme has also tarnished the Volkswagen and Audi brand names attached to Plaintiffs' and class members' vehicles and made it virtually impossible for them to resell their vehicles.

66. Volkswagen is liable to Plaintiffs and class members for damages in an amount to be proven at trial.

**COUNT II**  
**(Breach of Express Contract/Warranty)**

67. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

68. Defendant expressly represented and warranted to purchasers of the subject vehicles that the vehicles at least complied with all applicable laws and regulations relating to exhaust emissions.

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

70. In normal driving conditions, however, the subject vehicles did not comply with applicable environmental regulations.

71. In addition, Defendant stated that the vehicles achieved a certain fuel efficiency in terms of miles per gallon of fuel when tested in accordance with applicable EPA regulations.

72. 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.

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

74. Had the subject 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.

75. As a result of the foregoing breaches of express warranty, Plaintiffs and other members of the Class 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 far less valuable than what they paid for the vehicles.

**COUNT III**  
**(Breach of Implied Warranty of Merchantability)**

76. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

77. 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.

78. 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.

79. For the reasons set forth above, the subject 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.

80. As a result of the foregoing breaches of warranty, Plaintiffs and other members of the Class 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. Plaintiffs have been damaged in an amount to be proven at trial, including without limitation compensation, incidental, and consequential damages.

**COUNT IV**  
**(Unjust Enrichment)**

81. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

82. Volkswagen has been unjustly enriched in that it intentionally sold vehicles with defeat devices, which were intended to mask the fact that the subject vehicles did not comply with applicable automobile exhaust regulations.

83. When purchasing their vehicles, Plaintiffs and the Class reasonably believed that the subject 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.

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

85. The foregoing did not occur by happenstance or conditions out of Defendant's control. To the contrary, the vehicles were deliberately designed to comply with environmental regulations only when being tested and were known and intended by Defendant to not comply with applicable regulations under ordinary driving conditions.

**COUNT V**  
**(Violation of Illinois Consumer Fraud and Deceptive Business Practices Act  
(815 ILCS § 505/1, et seq.))**

86. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

87. This claim is brought by Plaintiff Allison on his own behalf and on behalf of others in Illinois who own or have owned, or lease or have leased, defeat device vehicles.

88. Volkswagen is a “person” as that term is defined in 815 ILCS § 505/1(c).

89. Plaintiff is a “consumer” as that term is defined in 815 ILCS § 505/1(e).

90. The Illinois Consumer Fraud and Deceptive Business Practice Act (“Illinois CFA”) prohibits “unfair or deceptive acts or practices, including but not limited to the use or employment of any deception, fraud, false pretense, false promise, misrepresentation or the concealment, suppression or omission of such material fact . . . in the conduct of trade or commerce . . . whether any person has in fact been misled, deceived or damages thereby.” 815 ILCS §505/2.

91. Volkswagen participated in misleading, false, or deceptive acts that violated the Illinois CFA. By fraudulently installing the defeat device to make it appear that its Clean Diesel engine systems complied with EPA regulations, Volkswagen engaged in deceptive business practices prohibited by the Illinois CFA.

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

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

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

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

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

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

98. Volkswagen intentionally and knowingly misrepresented material facts regarding the affected vehicles with an intent to mislead Plaintiff.

99. Volkswagen knew or should have known that its conduct violated the Illinois CFA.

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

101. Volkswagen owed Plaintiff a duty to disclose the true safety, cleanliness, efficiency and reliability, of the affected vehicles and the devaluing of environmental cleanliness and integrity at Volkswagen, because Volkswagen:

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

102. Because Volkswagen fraudulently concealed the defeat device and the true cleanliness and performance of the Clean Diesel engine system, resulting in a raft of negative publicity once the use of the defeat device and true characteristics of the Clean Diesel engine system finally began to be disclosed, the value of the affected vehicles has greatly diminished.

In light of the stigma attached to those vehicles by Volkswagen's conduct, they are now worth significantly less than they otherwise would be.

103. Volkswagen's fraudulent use of the defeat device and its concealment of the true characteristics of the Clean Diesel engine system were material to Plaintiff. A vehicle made by a reputable manufacturer of environmentally friendly vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of environmentally dirty vehicles that conceals its polluting engines rather than promptly remedying them.

104. Plaintiff Allison and other class members suffered ascertainable loss caused by Volkswagen's misrepresentation and its concealment of and failure to disclose material information.

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

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

107. As a direct and proximate result of Volkswagen's violations of the Illinois CFA, Plaintiff has suffered injury-in-fact and/or actual damage.

108. Pursuant to 815 ILCS § 505/10a(a), Plaintiff Allison seeks monetary relief against Volkswagen in the amount of actual damages, as well as punitive damages because Volkswagen acted with the fraud and/or malice and/or was grossly negligent.



109. Plaintiff Allison also seeks an order enjoining Volkswagen's unfair and/or deceptive acts or practices, punitive damages, and attorneys' fees, and any other just and proper relief available under 815 ILCS § 505/1 *et seq.*

**COUNT VI**  
**(Violations of the Massachusetts Consumer Protection Act**  
**(Mass. Gen. Law Ch. 93A))**

110. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

111. Plaintiff Webster intends to assert a claim on behalf of herself and others in Massachusetts who own or have owned, or lease or have leased, defeat device vehicles under the Massachusetts Consumer Protection Act ("MCPA"), which makes it unlawful to engage in any "[u]nfair methods of competition or deceptive acts or practices in the conduct of any trade or commerce." Mass. Gen. Laws Ch. 93A § 2(a). Plaintiff has made a classwide demand in satisfaction of Mass. Gen. Laws Ch. 93A § 9(3), and may amend this Complaint to assert claims under the MCPA once the required 30 days have elapsed. This paragraph is included for purposes of notice only and is not intended to presently assert a claim under the MCPA.

**COUNT VII**  
**(Violation of the Pennsylvania Unfair Trade Practices and Consumer Protection Law**  
**(73 P.S. § 201-1, *et seq.*))**

112. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

113. Plaintiffs Goldstein and Weitzman are "consumers" as defined by the Pennsylvania Unfair Trade Practices and Consumer Protection Law ("UTPCPL"), and bring claims under the UTPCPL on their own behalf and on behalf of others in Pennsylvania who own or have owned, or lease or have leased, defeat device vehicles.

114. Such vehicles are “merchandise” and Volkswagen is a “merchant” as defined in the UTPCPL.

115. Volkswagen’s sale of these vehicles constitutes an unfair and/or deceptive trade practice in violation of 73 P.S. § 201-1, *et seq.* in that Volkswagen advertised and promised that the defeat device vehicles were of a particular quality when in fact they were not.

116. Plaintiffs and other class members suffered actual damages as a result of Volkswagen’s unfair and deceptive trade practices in that they received vehicles that were less valuable than they should have been, for the reasons set forth above.

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

117. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

118. This claim is brought by Plaintiff Thomas on her own behalf and on behalf of others in Virginia who own or have owned, or lease or have leased, defeat device vehicles.

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

120. Defendant is a “person” as defined by Va. Code Ann. § 59.1-198.

121. The transactions between Plaintiff and the other class members on one hand and Volkswagen on the other, leading to the purchase or lease of the defeat device vehicles by

Plaintiff and the other class members, are “consumer transactions” as defined by Va. Code Ann. § 59.1-198, because the defeat device vehicles were purchased or leased primarily for personal, family, or household purposes.

122. In the course of Volkswagen’s business, it willfully failed to disclose and actively concealed the defeat device in defeat device vehicles as described above.

123. Accordingly, Volkswagen engaged in acts and practices violating Va. Code Ann. § 59.1-200(A), including representing that defeat device vehicles have characteristics, uses, benefits, and qualities which they do not have; representing that defeat device vehicles are of a particular standard and quality when they are not; advertising defeat device vehicles with the intent not to sell them as advertised; and otherwise engaging in conduct likely to deceive.

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

125. Volkswagen’s conduct proximately caused injuries to Plaintiff and the other class members.

126. Plaintiff and the other class members were injured as a result of Volkswagen’s conduct in that Plaintiff and the other class members overpaid for their defeat device vehicles and did not receive the benefit of their bargain, and their defeat device vehicles have suffered a diminution in value. These injuries are the direct and natural consequence of Volkswagen’s misrepresentations and omissions.

127. Volkswagen actively and willfully concealed and/or suppressed the material facts regarding the defective and non-EPA compliant CleanDiesel engine system, the defeat device and the defeat device vehicles, in whole or in part, with the intent to deceive and mislead Plaintiff and the other class members and to induce Plaintiff and the other class members to

purchase or lease defeat device vehicles at a higher price, which did not match the defeat device vehicles' true value.

128. Plaintiff and the other class members therefore seek all available relief, including, without limitation, treble damages.

### **REQUEST FOR RELIEF**

**WHEREFORE**, Plaintiffs, individually and on behalf of the Class, pray for an Order as follows:

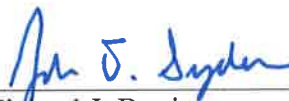
- A. Finding that this action satisfies the prerequisites for maintenance as a class action under Fed. R. Civ. P. 23(a), (b)(2), and (b)(3), and certifying the Class defined herein;
- B. Designating Plaintiffs as representatives of the Class and their counsel as class counsel;
- C. Entering judgment in favor of Plaintiffs and the Class and against Defendant;
- D. Temporarily and permanently enjoining Volkswagen from continuing the unlawful, deceptive, fraudulent, and unfair business practices alleged in the Complaint;
- E. Injunctive relief in the form of a recall or free replacement program;
- F. Costs, restitution, damages, and disgorgement in an amount to be determined at trial;
- F. Revocation of acceptance;
- G. For treble or punitive damages as permitted by law;
- H. Awarding Plaintiffs and members of the Class their individual damages and attorneys' fees and allowing costs, including interest thereon; and
- I. Granting such further relief as the Court deems just.

**JURY DEMAND**

Plaintiffs demand a trial by jury on all issues so triable.

Dated: October 13, 2015

Respectfully submitted,



---

Michael J. Boni  
Joshua D. Snyder  
John E. Sindoni  
BONI & ZACK LLC  
15 St. Asaphs Road  
Bala Cynwyd, PA 19004  
Tel: (610) 822-0200  
Fax: (610) 822-0206  
mboni@bonizack.com  
jsnyder@bonizack.com  
jsindoni@bonizack.com

Howard Langer  
Edward Diver  
Peter Leckman  
LANGER, GROGAN & DIVER, P.C.  
1717 Arch Street, Suite 4130  
Philadelphia, PA 19103  
Tel: (215) 320-5660  
Fax: (215) 320-5703  
hlander@langergrogan.com  
ndiver@langergrogan.com  
pleckman@langergrogan.com

*Attorneys for Plaintiffs*

JS 44 (Rev 12/12)

**CIVIL COVER SHEET**

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 NEXT PAGE OF THIS FORM.)

<p><b>I. (a) PLAINTIFFS</b>                  BETSY WEITZMAN, SETH ALLISON, CAREN GOLDSTEIN,                  GERTRUDE PUNARO THOMAS &amp; CRISTIN WEBSTER, on behalf of                  themselves and</p> <p>(b) County of Residence of First Listed Plaintiff <u>Montgomery County, PA</u>                  (EXCEPT IN U.S. PLAINTIFF CASES)</p> <p>(c) Attorneys (Firm Name, Address, and Telephone Number)                  Michael J. Boni, Joshua D. Snyder, John Sindoni                  Boni &amp; Zack LLC                  15 St. Asaphs Rd., Bala Cynwyd, PA 19004 610-822-0200</p>	<p><b>DEFENDANTS</b>                  VOLKSWAGEN GROUP OF AMERICA, INC.</p> <p>County of Residence of First Listed Defendant <u>Fairfax County, Virginia</u>                  (IN U.S. PLAINTIFF CASES ONLY)</p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF                  THE TRACT OF LAND INVOLVED</p> <p>Attorneys (If Known)</p>
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<p><b>II. BASIS OF JURISDICTION</b> (Place an "X" in One Box Only)</p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p><b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (Place an "X" in One Box for Plaintiff and One Box for Defendant)</p> <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:33%;"></td> <td style="width:10%; text-align: center;"><b>PTF</b></td> <td style="width:10%; text-align: center;"><b>DEF</b></td> <td style="width:33%;"></td> <td style="width:10%; text-align: center;"><b>PTF</b></td> <td style="width:10%; text-align: center;"><b>DEF</b></td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input checked="" type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input checked="" type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>		<b>PTF</b>	<b>DEF</b>		<b>PTF</b>	<b>DEF</b>	Citizen of This State	<input checked="" 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 checked="" 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
	<b>PTF</b>	<b>DEF</b>		<b>PTF</b>	<b>DEF</b>																				
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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 checked="" 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)

<b>CONTRACT</b>	<b>TORTS</b>	<b>FORFEITURE/PENALTY</b>	<b>BANKRUPTCY</b>	<b>OTHER STATUTES</b>	
<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 (Excludes Veterans) <input type="checkbox"/> 152 Recovery of Defaulted Student Loans <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	<p><b>PERSONAL INJURY</b></p> <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"/> 362 Personal Injury - Medical Malpractice	<p><b>PERSONAL INJURY</b></p> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <p><b>PERSONAL PROPERTY</b></p> <input checked="" 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"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 375 False Claims Act <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"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b>	<b>CIVIL RIGHTS</b>	<b>PRISONER PETITIONS</b>	<b>LABOR</b>	<b>PROPERTY RIGHTS</b>	
<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"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer w/Disabilities - Other <input type="checkbox"/> 448 Education	<p><b>Habeas Corpus:</b></p> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <p><b>Other:</b></p> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	
			<b>IMMIGRATION</b>	<b>SOCIAL SECURITY</b>	
			<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 861 IIIA (1395ff) <input type="checkbox"/> 862 Black Lung (92.3) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	
				<b>FEDERAL TAX SUITS</b>	
				<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 (MOT/TA)     6 Multidistrict Litigation

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing. (Do not cite jurisdictional statutes unless diversity):  
 This action is based on diversity under 28 U.S.C. Section 1332(d)(2)

Brief description of cause  
 Misrepresentation of vehicle emission testing results

**VII. REQUESTED IN COMPLAINT:**

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P    **DEMAND \$** 5,000,000.00    CHECK YES only if demanded in complaint  
**JURY DEMAND:**  Yes     No

**VIII. RELATED CASE(S) IF ANY** (See instructions):    JUDGE RBS; SD; GAM    DOCKET NUMBER 15-cv-5364; 15-cv-05333;

DATE 10/13/2015    SIGNATURE OF ATTORNEY OF RECORD 

FOR OFFICE USE ONLY

RECEIPT #	AMOUNT	VARYING IFP	JUDGE	MAG JUDGE
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**INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**

## Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading 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. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- Date and Attorney Signature.** Date and sign the civil cover sheet.

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**CASE MANAGEMENT TRACK DESIGNATION FORM**

BETSY WEITZMAN, SETH ALLISON, CAREN GOLDSTEIN, GERTRUDE	:	CIVIL ACTION
PUNARO THOMAS & CRISTIN WEBSTER, on behalf of themselves and all others similarly situated	:	
	:	
v.	:	
VOLKSWAGEN GROUP OF AMERICA, INC.	:	NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

**SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:**

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ( )
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ( )
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) (x)
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ( )

<u>10/13/2015</u>	<u><i>John D. Snyder</i></u>	<u>PA 88657</u>
Date	Attorney-at-law	Attorney for Plaintiffs
<u>610-822-0200</u>	<u>610-822-0206</u>	<u>jsnyder@bonizack.com</u>
Telephone	FAX Number	E-Mail Address



**Civil Justice Expense and Delay Reduction Plan  
Section 1:03 - Assignment to a Management Track**

- (a) The clerk of court will assign cases to tracks (a) through (d) based on the initial pleading.
- (b) In all cases not appropriate for assignment by the clerk of court to tracks (a) through (d), the plaintiff shall submit to the clerk of court and serve with the complaint on all defendants a case management track designation form specifying that the plaintiff believes the case requires Standard Management or Special Management. In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.
- (c) The court may, on its own initiative or upon the request of any party, change the track assignment of any case at any time.
- (d) Nothing in this Plan is intended to abrogate or limit a judicial officer's authority in any case pending before that judicial officer, to direct pretrial and trial proceedings that are more stringent than those of the Plan and that are designed to accomplish cost and delay reduction.
- (e) Nothing in this Plan is intended to supersede Local Civil Rules 40.1 and 72.1, or the procedure for random assignment of Habeas Corpus and Social Security cases referred to magistrate judges of the court.

**SPECIAL MANAGEMENT CASE ASSIGNMENTS  
(Sec §1.02 (e) Management Track Definitions of the  
Civil Justice Expense and Delay Reduction Plan)**

Special Management cases will usually include that class of cases commonly referred to as "complex litigation" as that term has been used in the Manuals for Complex Litigation. The first manual was prepared in 1969 and the Manual for Complex Litigation Second, MCL 2d was prepared in 1985. This term is intended to include cases that present unusual problems and require extraordinary treatment. See §0.1 of the first manual. Cases may require special or intense management by the court due to one or more of the following factors: (1) large number of parties; (2) large number of claims or defenses; (3) complex factual issues; (4) large volume of evidence; (5) problems locating or preserving evidence; (6) extensive discovery; (7) exceptionally long time needed to prepare for disposition; (8) decision needed within an exceptionally short time; and (9) need to decide preliminary issues before final disposition. It may include two or more related cases. Complex litigation typically includes such cases as antitrust cases; cases involving a large number of parties or an unincorporated association of large membership; cases involving requests for injunctive relief affecting the operation of large business entities; patent cases; copyright and trademark cases; common disaster cases such as those arising from aircraft crashes or marine disasters; actions brought by individual stockholders; stockholder's derivative and stockholder's representative actions; class actions or potential class actions; and other civil (and criminal) cases involving unusual multiplicity or complexity of factual issues. See §0.22 of the first Manual for Complex Litigation and Manual for Complex Litigation Second, Chapter 33.

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA -- DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: See attached

Address of Defendant: Herndon, Virginia

Place of Accident, Incident or Transaction: Throughout the United States, including within this District (Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock? (Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes [X] No [ ]

Does this case involve multidistrict litigation possibilities? Yes [X] No [ ]

RELATED CASE, IF ANY:

Case Number: 15-cv-05333; 15-cv-5364; Judge RBS; SD ; GAM Date Terminated: n/a 15-cv-5440

Civil cases are deemed related when yes is answered to any of the following questions:

- 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? Yes [ ] No [X]
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? Yes [X] No [ ]
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court? Yes [ ] No [X]
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? Yes [ ] No [X]

CIVIL: (Place [X] in ONE CATEGORY ONLY)

A. Federal Question Cases:

- 1. [ ] Indemnity Contract, Marine Contract, and All Other Contracts
2. [ ] FELA
3. [ ] Jones Act-Personal Injury
4. [ ] Antitrust
5. [ ] Patent
6. [ ] Labor-Management Relations
7. [ ] Civil Rights
8. [ ] Habeas Corpus
9. [ ] Securities Act(s) Cases
10. [ ] Social Security Review Cases
11. [ ] All other Federal Question Cases (Please specify)

B. Diversity Jurisdiction Cases:

- 1. [ ] Insurance Contract and Other Contracts
2. [ ] Airplane Personal Injury
3. [ ] Assault, Defamation
4. [ ] Marine Personal Injury
5. [ ] Motor Vehicle Personal Injury
6. [ ] Other Personal Injury (Please specify)
7. [ ] Products Liability
8. [ ] Products Liability -- Asbestos
9. [X] All other Diversity Cases (Please specify) Fraud, Breach of Contract, Consumer Protection, etc.

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, Joshua D. Snyder, counsel of record do hereby certify: [ ] Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs; [ ] Relief other than monetary damages is sought.

DATE: [Signature] Attorney-at-Law 88657 Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 10/13/2015 [Signature] Attorney-at-Law 88657 Attorney I.D.#

**Attachment to Designation Form**

**Plaintiffs:**

Betsy Weitzman (200 W. Elm St., Suite 1236  
Conshohocken, PA 19428)  
c/o Boni & Zack LLC  
15 Saint Asaphs Road  
Bala Cynwyd, PA 19004

Cristin Webster (34 Rose Avenue  
Marblehead, MA 01945)  
c/o Boni & Zack LLC  
15 Saint Asaphs Road  
Bala Cynwyd, PA 19004

Seth Allison (316 Taylor Avenue  
Glen Ellyn, IL 60137)  
c/o Boni & Zack LLC  
15 Saint Asaphs Road  
Bala Cynwyd, PA 19004

Caren Goldstein (Philadelphia, PA)  
c/o Langer, Grogan & Diver, P.C.  
1717 Arch Street, Suite 4130  
Philadelphia, PA 19103

Gertrude Punaro Thomas (Arlington, VA)  
c/o Langer, Grogan & Diver, P.C.  
1717 Arch Street, Suite 4130  
Philadelphia, PA 19103