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13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA

15 MEGAN CARNETT, KARL GASS,
16 RUSSELL GREEN, MARTIN HIUDT, and
17 SUSAN MCDONALD,

18 Plaintiffs,

19 v.

20 AUDI OF AMERICA, LLC, AND AUDI AG,

21 Defendants.

No. 3:16-cv-6745

CLASS ACTION COMPLAINT

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1 Plaintiffs Megan Carnett, Karl Gass, Russell Green, Martin Hiudt, and Susan McDonald
2 (“Plaintiffs”), individually and on behalf of all others similarly situated, bring this action against
3 Defendants Audi AG and Audi of America, LLC (unless otherwise indicated, both Defendants are
4 collectively referred to as “Audi”). All allegations made in this Complaint are based upon
5 information and belief except those allegations that pertain to Plaintiffs, which are based on
6 personal knowledge. Each allegation in this Complaint either has evidentiary support or,
7 alternatively, pursuant to Rule 11(b)(3) of the Federal Rules of Civil Procedure, is likely to have
8 evidentiary support after a reasonable opportunity for further investigation or discovery.

9 I. NATURE OF THE ACTION

10 1. In September 2015, and again in November 2015, Volkswagen and Audi admitted
11 using defeat device software to activate emissions controls when diesel cars were being smog
12 tested and deactivate those controls during normal, on-road driving. Volkswagen, Audi AG’s
13 parent company, took the position that the diesel defeat device was an isolated incident, which it
14 dubiously blamed on “rogue engineers.”

15 2. It was not an isolated incident, and the unlawful activity was not perpetrated by a
16 few “rogue engineers” but by hundreds of personnel throughout the companies.

17 3. Moreover, Audi’s unlawful activity was not limited to its diesel vehicles. It has
18 recently been reported that Audi has been hiding its use of a completely different defeat device on
19 at least its 3.0-liter *gasoline* Q5, Q 7, A6 and A8 models equipped with automatic transmissions.
20 In those cars, Audi installed software which detects when the vehicle undergoes emissions and
21 mileage testing and then programs the car to shift into each higher gear sooner, thus reducing
22 engine RPM, fuel consumption, and CO2 emissions. But otherwise, during normal driving
23 operation, the cars’ shift points are higher, resulting in more power and acceleration, but increased
24 fuel consumption, lower MPG, and higher CO2 emissions.

25 4. Plaintiffs purchased Audi models. Audi represented in the “Monroney Stickers” on
26 the vehicles Plaintiffs purchased the estimated fuel efficiency for the vehicles, and represented that
27 Plaintiffs’ vehicles emitted a certain amount of carbon dioxide per mile. Upon information and
28

1 belief, these representations were false. Unbeknownst to Plaintiffs, the vehicles purchased were
2 surreptitiously equipped with a “defeat device” designed to limit emissions and increase fuel
3 efficiency when the vehicle was being subjected to regulatory emissions and fuel efficiency testing,
4 but not during regular use. As a result, the *actual* CO2 emissions and fuel efficiency of Plaintiffs’
5 vehicles are materially different from the representations set forth on the Monroney Stickers and in
6 advertisements and marketing representations made by Audi to consumers.

7 5. Plaintiffs bring this proposed class action for damages on behalf of themselves and
8 all other persons and entities nationwide who purchased or leased an Audi vehicle equipped with
9 the defeat device, including but not limited to A6, A8, Q5 and Q7 models with 3.0 liter gasoline
10 engines and automatic transmissions, and perhaps others (collectively, the “Affected Vehicles”).

11 6. Plaintiffs and members of the class all suffered damages as a result of Audi’s
12 misrepresentations and omissions regarding the defeat device. Plaintiffs and class members
13 overpaid to purchase vehicles incapable of providing the balance of performance, efficiency, and
14 cleanliness that Audi represented these Affected Vehicles to offer. Plaintiffs and the class
15 members have also suffered diminution of vehicle value now that the existence of the defeat
16 devices has been revealed publicly. Accordingly, Plaintiffs and similarly situated owners and
17 lessees of the Affected Vehicles are entitled to compensation for their losses, including losses
18 related to increased fuel expenditures.

19 II. JURISDICTION & VENUE

20 7. This Court has jurisdiction pursuant to the Class Action Fairness Act of 2005, 28
21 U.S.C. § 1332(d), because the proposed Class consists of 100 or more members; the amount in
22 controversy exceeds \$5,000,000, exclusive of costs and interest; and minimal diversity exists.
23 Minimal diversity exists for two independent reasons: (i) Plaintiffs and the defendants are diverse,
24 and (ii) the proposed class contains citizens of states outside of defendants’ home jurisdictions, as
25 per 28 U.S.C. § 1332(d)(2).

26 8. The Court has personal jurisdiction over Audi AG and Audi America because the
27 alleged wrongdoing occurred in California and because Audi AG and Audi America have
28

1 sufficient minimum contacts with California and have otherwise intentionally availed themselves
2 of the markets in California.

3 9. Venue is proper in the United States District Court for the Northern District of
4 California pursuant to 28 U.S.C. § 1391 (b), because a substantial part of the events or omissions
5 giving rise to the claims occurred in this District, and because Defendants have caused harm to
6 Class members residing in this District.

7 **III. PARTIES**

8 10. Plaintiff Megan Carnett (for the purpose of this paragraph, “Plaintiff”) is a citizen of
9 Arizona domiciled in Sierra Vista, Arizona. On or about July 9, 2016, Plaintiff purchased a used
10 2012 Audi A7 from Carmax of Tucson in Tucson, Arizona. Plaintiff purchased, and still owns, this
11 vehicle. Unknown to Plaintiff, at the time the vehicle was purchased, it was designed and equipped
12 to turn off or limit emissions reduction during normal driving conditions, resulting in CO2
13 emissions that were higher than Audi represented and fuel economy that was lower than Audi
14 represented. Audi’s unfair, unlawful, and deceptive conduct in designing, manufacturing,
15 marketing, selling, and leasing Audi 3.0-liter gasoline engine vehicles with these manipulations has
16 caused Plaintiff out-of-pocket loss, future attempted repairs, and diminished value of her vehicle.
17 Had Audi disclosed this design, and the fact that her Audi actually emitted pollutants at a much
18 higher level than stated and that her vehicle had substantially lower fuel economy than stated,
19 Plaintiff would not have purchased the vehicle, or would have paid less for it. According to Audi’s
20 representations contained in the “Monroney Sticker” on the vehicle Plaintiff purchased, Plaintiff’s
21 vehicle had estimated fuel efficiency of 18 miles per gallon in city driving and 28 miles per gallon
22 on the highway.

23 11. Plaintiff Karl Gass (for the purpose of this paragraph, “Plaintiff”) is a citizen of
24 Virginia domiciled in Charlottesville, Virginia. On or about December 31, 2015, Plaintiff
25 purchased a new 2016 Audi A-6 3.0 T Quattro Tiptronic from Flow Audi in Charlottesville,
26 Virginia. Plaintiff purchased, and still owns, this vehicle. Unknown to Plaintiff, at the time the
27 vehicle was purchased, it was designed and equipped to turn off or limit emissions reduction during
28

1 normal driving conditions, resulting in CO2 emissions that were higher than Audi represented and
2 fuel economy that was lower than Audi represented. Audi's unfair, unlawful, and deceptive
3 conduct in designing, manufacturing, marketing, selling, and leasing the Affected Vehicles with
4 these manipulations has caused Plaintiff out-of-pocket loss, future attempted repairs, and
5 diminished value of his vehicle. Had Audi disclosed this design, and the fact that his Audi actually
6 emitted pollutants at a much higher level than stated and that his vehicle had substantially lower
7 fuel economy than stated, Plaintiff would not have purchased the vehicle, or would have paid less
8 for it. According to Audi's representations contained in the "Monroney Sticker" on the vehicle
9 Plaintiff purchased, Plaintiff's vehicle emitted 373 grams of carbon dioxide per mile and has a
10 combined fuel efficiency figure of 24 miles per gallon—20 miles per gallon in the city and 30
11 miles per gallon on the highway.

12 12. Plaintiff Russell Green (for the purpose of this paragraph, "Plaintiff") is a citizen of
13 California domiciled in Crescent City, CA. On or about September 25, 2016, Plaintiff purchased a
14 new 2016 Audi Q5 from DCH Audi Oxnard in Oxnard, California. Plaintiff purchased, and still
15 owns, this vehicle. Unknown to Plaintiff, at the time the vehicle was purchased, it was designed
16 and equipped to turn off or limit emissions reduction during normal driving conditions, resulting in
17 CO2 emissions that were higher than Audi represented and fuel economy that was lower than Audi
18 represented. Audi's unfair, unlawful, and deceptive conduct in designing, manufacturing,
19 marketing, selling, and leasing Audi 3.0-liter gasoline engine vehicles with these manipulations has
20 caused Plaintiff out-of-pocket loss, future attempted repairs, and diminished value of his vehicle.
21 Had Audi disclosed this design, and the fact that his Audi actually emitted pollutants at a much
22 higher level than stated and that his vehicle had substantially lower fuel economy than stated,
23 Plaintiff would not have purchased the vehicle, or would have paid less for it. According to Audi's
24 representations contained in the "Monroney Sticker" on the vehicle Plaintiff purchased, Plaintiff's
25 vehicle emitted 429 grams of carbon dioxide per mile and had estimated fuel efficiency of 18 miles
26 per gallon in city driving and 26 miles per gallon on the highway.

27 13. Plaintiff Martin Hiudt (for the purpose of this paragraph, "Plaintiff") is a citizen of
28 Ohio, domiciled in Blue Ash, Ohio. In or around June 2012, Plaintiff purchased a 2011 Audi A6

1 3.0 quattro in Cincinnati, Ohio. Plaintiff purchased, and still owns, this vehicle. Unknown to
2 Plaintiff, at the time the vehicle was purchased, it was designed and equipped to turn off or limit
3 emissions reduction during normal driving conditions, resulting in CO2 emissions that were higher
4 than Audi represented and fuel economy that was lower than Audi represented. Audi's unfair,
5 unlawful, and deceptive conduct in designing, manufacturing, marketing, selling, and leasing Audi
6 3.0-liter gasoline engine vehicles with these manipulations has caused Plaintiff out-of-pocket loss,
7 future attempted repairs, and diminished value of his vehicle. Had Audi disclosed this design, and
8 the fact that his Audi actually emitted pollutants at a much higher level than stated and that his
9 vehicle had substantially lower fuel economy than stated, Plaintiff would not have purchased the
10 vehicle, or would have paid less for it. According to Audi's representations contained in the
11 "Monroney Sticker" provided with the vehicle at the time of purchase, Plaintiff's vehicle had
12 estimated fuel efficiency of 18 miles per gallon in city driving and 26 miles per gallon on the
13 highway.

14 14. Plaintiff Susan McDonald (for the purpose of this paragraph, "Plaintiff") is a citizen
15 of Oregon domiciled in Corvallis, Oregon. On or about July 12, 2016, Plaintiff purchased a 2013
16 Audi A7 3.0 in Corvallis, Oregon. Plaintiff purchased, and still owns, this vehicle. Unknown to
17 Plaintiff, at the time the vehicle was purchased, it was designed and equipped to turn off or limit
18 emissions reduction during normal driving conditions, resulting in CO2 emissions that were higher
19 than Audi represented and fuel economy that was lower than Audi represented. Audi's unfair,
20 unlawful, and deceptive conduct in designing, manufacturing, marketing, selling, and leasing Audi
21 3.0-liter gasoline engine vehicles with these manipulations has caused Plaintiff out-of-pocket loss,
22 future attempted repairs, and diminished value of her vehicle. Had Audi disclosed this design, and
23 the fact that her Audi actually emitted pollutants at a much higher level than stated and that her
24 vehicle had substantially lower fuel economy than stated, Plaintiff would not have purchased the
25 vehicle, or would have paid less for it. According to Audi's representations contained in the
26 "Monroney Sticker" provided with the vehicle at the time of purchase by Plaintiff, Plaintiff's
27 vehicle emitted 418 grams of carbon dioxide per mile and had estimated fuel efficiency of 18 miles
28 per gallon in city driving and 28 miles per gallon on the highway.

1 shift points of the automatic transmission so that the vehicle operates in a “low rev” mode, that is,
2 it shifts into the next higher gear sooner than it otherwise would. This modified shifting scheme
3 effectively falsifies the vehicle’s emissions and fuel efficiency results by keeping the engine RPM
4 artificially low, thereby using less fuel and emitting less carbon dioxide.¹ Conversely, when the
5 vehicle is not in a testing bay, the defeat device deactivates and allows the vehicle to operate at
6 higher revolutions per minute such that the vehicle has more power and acceleration, but also
7 consumes more fuel and emits more carbon dioxide.²

8 20. Additional reports indicate that Audi executives were aware of this defeat device
9 and instructed that it be utilized as much as possible to misrepresent the performance of Audi
10 vehicles.³ According to these reports, Audi installed this defeat device in models equipped with
11 the AL 551 transmission, including the A6, A8, and Q5, as late as May 2016, eight months after
12 public disclosure of the defeat device utilized by Audi and its parent Volkswagen on “clean diesel”
13 vehicles in September 2015.⁴

14 21. Federal law requires that the label affixed to every new vehicle sold in the United
15 States must contain, among other requirements, a statement of the estimated fuel efficiency and
16 number of grams of carbon dioxide emitted per mile driven by the vehicle. 49 CFR
17 575.401(e)(8)(v). Consistent with this requirement, the “Monroney Sticker” on the vehicle
18 purchased by Plaintiffs included the following representations:

19 ¹ *CARB Finds New Audi Defect Device, German Paper Digs Up Smoking Gun Document*,
20 November 6, 2016, <http://www.forbes.com/sites/bertelschmitt/2016/11/06/carb-finds-new-audi-defeat-device-german-paper-digs-up-smoking-gun-document/#6ae523791ce8>.

21 ² *VW Recovery Dealt Blow by Poetsch Probe, Audi Cheating Report*, November 7, 2016,
22 <https://www.bloomberg.com/news/articles/2016-11-07/vw-recovery-dealt-blow-by-poetsch-probe-audi-cheating-report>.

23 ³ “Volkswagen and Audi management discussed the CO2 defeat-device software in detail
24 during a ‘Summer Drive’ event in South Africa in the second half of February 2013, according to
25 one person familiar with the situation and excerpts from the minutes of the meeting, which were
26 reviewed by THE WALL STREET JOURNAL. According to the minutes, Axel Eiser, the head of
Audi’s powertrain division, said: “the shifting program needs to be configured so that it runs at
100% on the treadmill but only 0.01% with the customer.” *New Discovery Broadens VW
Emissions-Cheating Crisis*, November 6, 2016, <http://www.wsj.com/articles/volkswagen-probe-in-germany-extended-to-chairman-1478429066>. This is an astounding admission of deception.

27 ⁴ *CARB Finds New Audi Defect Device, German Paper Digs Up Smoking Gun Document*,
28 November 6, 2016, <http://www.forbes.com/sites/bertelschmitt/2016/11/06/carb-finds-new-audi-defeat-device-german-paper-digs-up-smoking-gun-document/#6ae523791ce8>.

- 1 • Plaintiff McDonald: the vehicle emitted 418 grams of carbon dioxide per mile and
2 had estimated fuel efficiency of 18 miles per gallon in city driving and 28 miles per
3 gallon on the highway.
- 4 • Plaintiff Carnett: the vehicle had estimated fuel efficiency of 18 miles per gallon in
5 city driving and 28 miles per gallon on the highway.
- 6 • Plaintiff Gass: the vehicle emitted 373 grams of carbon dioxide per mile and has a
7 combined fuel efficiency figure of 24 miles per gallon—20 miles per gallon in the
8 city and 30 miles per gallon on the highway.
- 9 • Plaintiff Green: the vehicle emitted 429 grams of carbon dioxide per mile and had
10 estimated fuel efficiency of 18 miles per gallon in city driving and 26 miles per
11 gallon on the highway.
- 12 • Plaintiff Hiudt: the vehicle had estimated fuel efficiency of 18 miles per gallon in
13 city driving and 26 miles per gallon on the highway.

14 Upon information and belief, as a result of Defendants' use of the defeat device, these
15 representations were false.

16 22. Plaintiffs have suffered damages as a result of their purchases of Affected Vehicles,
17 including but not limited to (i) overpayment for a vehicle that is incapable of performing as
18 represented, (ii) future additional fuel costs, (iii) loss of performance from future repairs, and (iv)
19 diminution of vehicle value.

20 V. FRAUDULENT CONCEALMENT ALLEGATIONS

21 23. Plaintiffs make the following specific fraud allegations with as much specificity as
22 possible at this point in the litigation:

23 a. **Who:** Audi actively concealed the defeat device present in the Affected
24 Vehicles from Plaintiffs and the class members when Audi continued to manufacture, distribute,
25 sell and lease the Affected Vehicles. Plaintiffs are unaware of and therefore cannot specifically
26 identify the true names and identities of specific Audi officials responsible for such decisions,
27 except that Plaintiffs can identify Axel Eiser, the head of Audi's powertrain division, as having
28

1 knowledge and intent that the defeat device be used in Affected Vehicles, in addition to other
2 executives at the “Summer Drive” event in South Africa in the second half of February 2013.

3 b. **What:** Audi and at least the executives at the “Summer Drive” event in
4 South Africa in the second half of February 2013, including Axel Eiser, knew, or were reckless or
5 negligent in not knowing, that the Affected Vehicles contain the defeat device, as alleged herein.
6 Audi concealed the defeat device from Plaintiffs and the class members he seeks to represent and
7 made misrepresentations about CO2 emissions and fuel efficiency.
8

9 c. **When:** Audi concealed material information regarding the defeat device in
10 the Affected Vehicles sold and/or leased from at least February 2013, but in likelihood for many
11 years before then—namely, that the reported carbon dioxide emissions and fuel consumption
12 estimates were false, that Audi had not disclosed the truth about the defeat device in Affected
13 Vehicles to anyone outside of Audi, and that Audi had not taken any action to inform consumers
14 about the true nature of the Affected Vehicles.
15

16 d. **Where:** Audi concealed material information regarding the true nature of
17 the Affected Vehicles in connection with every sale and lease transaction involving Affected
18 Vehicles at least in the United States, if not worldwide. Plaintiffs are aware of no communication,
19 document, or other interaction with anyone outside of Audi before the date of filing of this
20 Complaint, in which Audi disclosed the true nature of the defeat device in each and every Affected
21 Vehicle. The existence of the defeat device in the Affected Vehicles was not disclosed in Audi’s
22 marketing, warranties, documentation, website, or any communications with Plaintiffs and vehicle
23 owners.
24

25 e. **How:** Audi concealed material information regarding the defeat device at all
26 times prior to the date of this Complaint, including that the existence of the defeat device
27 manipulates the performance of the Affected Vehicles. Audi actively concealed the truth about the
28

1 existence and nature of the defeat device from Plaintiffs and class members, even though Audi
2 knew that information regarding the defeat device would be important to a reasonable consumer.
3 Audi falsely reported the CO2 emissions levels and fuel consumption on the Monroney labels
4 affixed to the Affected Vehicles and its sales and marketing materials distributed and viewed by
5 consumers and regulators.
6

7 f. **Why:** Audi concealed material information about the defeat device in
8 Affected Vehicles for the purpose of inducing Plaintiffs and class members to continue to and
9 repeatedly purchase and/or lease Affected Vehicles, rather than purchasing and/or leasing
10 competing vehicles. If Audi had disclosed the truth about the defeat device, or had not used the
11 defeat devices, thus rendering the cars either less powerful or less efficient and less environmental
12 friendly—assuming they could be legally sold at all—then Plaintiffs would not have purchased the
13 Affected Vehicles or would have paid less.
14

15 VI. TOLLING OF STATUTE OF LIMITATIONS

16 A. Fraudulent Concealment Tolling

17 24. Upon information and belief, prior to the date of this Complaint, and at least as early
18 as February 2013, if not earlier, Audi knew of the defeat device in the Affected Vehicles, but
19 continued to distribute, sell, and/or lease the Affected Vehicles to Plaintiffs and the class members.
20 In doing so, Audi concealed from or failed to notify Plaintiffs and the class members about the true
21 nature of the Affected Vehicles. Any applicable statute of limitations has therefore been tolled by
22 Audi's knowledge, active concealment, and denial of the facts alleged herein.

23 B. Estoppel

24 25. Audi was under a continuous duty to disclose to Plaintiffs and the class members the
25 existence of the defeat device, which substantially affects the true character, quality, performance,
26 and nature of the Affected Vehicles. Audi actively concealed the true character, quality,
27 performance, and nature of the defeat device in the Affected Vehicles, and Plaintiffs and the class
28 members reasonably relied upon Audi's knowing and active concealment of these facts. Audi is

1 accordingly estopped from relying on any statute of limitations in defense of this action. For these
2 same reasons, Audi is estopped from relying upon any warranty mileage and age limitations in
3 defense of this action.

4 **C. Discovery Rule**

5 26. The claims for relief alleged herein did not accrue until Plaintiffs and the class
6 members discovered that the Affected Vehicles contained the defeat device.

7 27. Plaintiffs and the class members had no realistic ability to identify the defeat device
8 until—at the earliest—November 7, 2016, when published reports surfaced for the first time
9 disclosing the existence of the defeat device.

10 28. Despite their exercise of due diligence, Plaintiffs and the class members were not
11 reasonably able to discover the defeat device until after they purchased or leased the Affected
12 Vehicles. Accordingly, their claims for relief did not accrue until they discovered that the defeat
13 device caused the Affected Vehicles to fail required emissions standards.

14 **VII. CLASS ACTION ALLEGATIONS**

15 29. Plaintiffs bring this action on behalf of themselves and all others similarly situated
16 under Fed. R. Civ. P. 23(b)(2) and (b)(3) on behalf of the following classes (collectively, the
17 “Classes”):

18 **The California Class**

19 All persons or entitles in the state of California who are current or former owners
20 and/or lessees of an Affected Vehicle.⁵

21 **The Alabama Class**

22 All persons or entitles in the state of Alabama who are current or former owners
23 and/or lessees of an Affected Vehicle.

24 **The Alaska Class**

25 All persons or entitles in the state of Alaska who are current or former owners
26 and/or lessees of an Affected Vehicle.

27 ⁵ At present, on information and belief, Affected Vehicles include Audi A6, A8, Q5 and Q7
28 vehicles equipped with Audi’s 3.0 liter gasoline engine and automatic transmission. Discovery and
further investigation may reveal additional models of vehicles to be included in the definition of
Affected Vehicles.

1 **The Arizona Class**

2 All persons or entitles in the state of Arizona who are current or former owners
3 and/or lessees of an Affected Vehicle.

4 **The Arkansas Class**

5 All persons or entitles in the state of Arkansas who are current or former owners
6 and/or lessees of an Affected Vehicle.

7 **The Colorado Class**

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

10 **The Connecticut Class**

11 All persons or entitles in the state of Connecticut who are current or former owners
12 and/or lessees of an Affected Vehicle.

13 **The Delaware Class**

14 All persons or entitles in the state of Delaware who are current or former owners
15 and/or lessees of an Affected Vehicle.

16 **The Florida Class**

17 All persons or entitles in the state of Florida who are current or former owners
18 and/or lessees of an Affected Vehicle.

19 **The Georgia Class**

20 All persons or entitles in the state of Georgia who are current or former owners
21 and/or lessees of an Affected Vehicle.

22 **The Hawaii Class**

23 All persons or entitles in the state of Hawaii who are current or former owners
24 and/or lessees of an Affected Vehicle.

25 **The Idaho Class**

26 All persons or entitles in the state of Idaho who are current or former owners and/or
27 lessees of an Affected Vehicle.

28 **The Illinois Class**

 All persons or entitles in the state of Illinois who are current or former owners
 and/or lessees of an Affected Vehicle.

1 **The Indiana Class**

2 All persons or entitles in the state of Indiana who are current or former owners
3 and/or lessees of an Affected Vehicle.

4 **The Iowa Class**

5 All persons or entitles in the state of Iowa who are current or former owners and/or
6 lessees of an Affected Vehicle.

7 **The Kansas Class**

8 All persons or entitles in the state of Kansas who are current or former owners
9 and/or lessees of an Affected Vehicle.

10 **The Kentucky Class**

11 All persons or entitles in the state of Kentucky who are current or former owners
12 and/or lessees of an Affected Vehicle.

13 **The Louisiana Class**

14 All persons or entitles in the state of Louisiana who are current or former owners
15 and/or lessees of an Affected Vehicle.

16 **The Maine Class**

17 All persons or entitles in the state of Maine who are current or former owners and/or
18 lessees of an Affected Vehicle.

19 **The Maryland Class**

20 All persons or entitles in the state of Maryland who are current or former owners
21 and/or lessees of an Affected Vehicle.

22 **The Massachusetts Class**

23 All persons or entitles in the state of Massachusetts who are current or former
24 owners and/or lessees of an Affected Vehicle.

25 **The Michigan Class**

26 All persons or entitles in the state of Michigan who are current or former owners
27 and/or lessees of an Affected Vehicle.

28 **The Minnesota Class**

 All persons or entitles in the state of Minnesota who are current or former owners
 and/or lessees of an Affected Vehicle.

1 **The Mississippi Class**

2 All persons or entitles in the state of Mississippi who are current or former owners
3 and/or lessees of an Affected Vehicle.

4 **The Missouri Class**

5 All persons or entitles in the state of Missouri who are current or former owners
6 and/or lessees of an Affected Vehicle.

7 **The Montana Class**

8 All persons or entitles in the state of Montana who are current or former owners
9 and/or lessees of an Affected Vehicle.

10 **The Nebraska Class**

11 All persons or entitles in the state of Nebraska who are current or former owners
12 and/or lessees of an Affected Vehicle.

13 **The Nevada Class**

14 All persons or entitles in the state of Nevada who are current or former owners
15 and/or lessees of an Affected Vehicle.

16 **The New Hampshire Class**

17 All persons or entitles in the state of New Hampshire who are current or former
18 owners and/or lessees of an Affected Vehicle.

19 **The New Jersey Class**

20 All persons or entitles in the state of New Jersey who are current or former owners
21 and/or lessees of an Affected Vehicle.

22 **The New Mexico Class**

23 All persons or entitles in the state of New Mexico who are current or former owners
24 and/or lessees of an Affected Vehicle.

25 **The New York Class**

26 All persons or entitles in the state of New York who are current or former owners
27 and/or lessees of an Affected Vehicle.

28 **The North Carolina Class**

 All persons or entitles in the state of North Carolina who are current or former
 owners and/or lessees of an Affected Vehicle.

1 **The North Dakota Class**

2 All persons or entitles in the state of North Dakota who are current or former
3 owners and/or lessees of an Affected Vehicle.

4 **The Ohio Class**

5 All persons or entitles in the state of Ohio who are current or former owners and/or
6 lessees of an Affected Vehicle.

7 **The Oklahoma Class**

8 All persons or entitles in the state of Oklahoma who are current or former owners
9 and/or lessees of an Affected Vehicle.

10 **The Oregon Class**

11 All persons or entitles in the state of Oregon who are current or former owners
12 and/or lessees of an Affected Vehicle.

13 **The Pennsylvania Class**

14 All persons or entitles in the state of Pennsylvania who are current or former owners
15 and/or lessees of an Affected Vehicle.

16 **The Rhode Island Class**

17 All persons or entitles in the state of Rhode Island who are current or former owners
18 and/or lessees of an Affected Vehicle.

19 **The South Carolina Class**

20 All persons or entitles in the state of South Carolina who are current or former
21 owners and/or lessees of an Affected Vehicle.

22 **The South Dakota Class**

23 All persons or entitles in the state of South Dakota who are current or former
24 owners and/or lessees of an Affected Vehicle.

25 **The Tennessee Class**

26 All persons or entitles in the state of Tennessee who are current or former owners
27 and/or lessees of an Affected Vehicle.

28 **The Texas Class**

 All persons or entitles in the state of Texas who are current or former owners and/or
 lessees of an Affected Vehicle.

1 **The Utah Class**

2 All persons or entitles in the state of Utah who are current or former owners and/or
3 lessees of an Affected Vehicle.

4 **The Vermont Class**

5 All persons or entitles in the state of Vermont who are current or former owners
6 and/or lessees of an Affected Vehicle.

7 **The Virginia Class**

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

10 **The Washington Class**

11 All persons or entitles in the state of Washington who are current or former owners
12 and/or lessees of an Affected Vehicle.

13 **The West Virginia Class**

14 All persons or entitles in the state of West Virginia who are current or former
15 owners and/or lessees of an Affected Vehicle.

16 **The Wisconsin Class**

17 All persons or entitles in the state of Wisconsin who are current or former owners
18 and/or lessees of an Affected Vehicle.

19 **The Wyoming Class**

20 All persons or entitles in the state of Wyoming who are current or former owners
21 and/or lessees of an Affected Vehicle.

22 **The District of Columbia Class**

23 All persons or entitles in the District of Columbia who are current or former owners
24 and/or lessees of an Affected Vehicle.

25 30. Excluded from the Classes are (i) Audi and any entity in which Audi has a
26 controlling interest, and their legal representatives, officers, directors, employees, assigns and
27 successors; (ii) the Judge to whom this case is assigned and any member of the Judge's staff or
28 immediate family; and (iii) Class Counsel.

1 31. Plaintiffs seek only damages and injunctive relief on behalf of themselves and the
2 Class Members. Plaintiffs disclaim any intent or right to seek any recovery in this action for
3 personal injuries suffered by Plaintiffs and/or the Class Members.

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

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

9 34. **Numerosity**. Federal Rule of Civil Procedure 23(a)(1): The members of the
10 Classes are so numerous and geographically dispersed that individual joinder of all Class members
11 is impracticable. While Plaintiffs are informed and believe that there are at least hundreds-of-
12 thousands of members of the Classes, the precise number of Class members is unknown to
13 Plaintiffs, but may be ascertained from Audi's books and records. Audi sold more than 270,000
14 Affected Vehicles in the United States from 2013 to the present, including thousands in the state of
15 California. Class members may be notified of the pendency of this action by recognized, Court-
16 approved notice dissemination methods, which may include U.S. mail, electronic mail, Internet
17 postings, and/or published notice.

18 35. **Commonality**. Common questions of law and fact exist as to all Class Members, as
19 required by Fed. R. Civ. P. 23(a)(2), and include:

20 a. whether Audi designed, marketed, distributed, leased, and/or sold the
21 Affected Vehicles in the United States and California;

22 b. whether the Affected Vehicles that Audi designed, marketed, distributed,
23 leased, and/or sold contained a defeat device;

24 c. whether Audi knew of the defeat device at the time of designing, marketing,
25 distributing, leasing, and/or selling the Affected Vehicles;
26
27
28

1 d. whether Audi knew that its representations regarding the emissions and/or
2 fuel efficiency of the Affected Vehicles were false at the time of designing, marketing, distributing,
3 leasing, and/or selling the Affected Vehicles;

4 e. whether Audi's conduct violates consumer protection statutes and other laws
5 as asserted herein;

6 f. whether Audi's actions violate California consumer protection laws;

7 g. whether Plaintiffs and the other Class members overpaid for their Affected
8 Vehicles;

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

11 i. whether Plaintiffs and the other Class members are entitled to damages and
12 other monetary relief and, if so, in what amount.
13

14
15 36. **Typicality**. Plaintiffs' claims are typical of the claims of the Class Members whom
16 Plaintiffs seek to represent under Fed. R. Civ. P. 23(a)(3), because Plaintiffs and each Class
17 Member purchased an Affected Vehicle and were comparably injured through Audi's wrongful
18 conduct as described above.

19 37. **Adequacy**. Plaintiffs will fairly and adequately represent and protect the interests
20 of the Class Members as required by Fed. R. Civ. P. 23(a)(4). Plaintiffs' interests do not conflict
21 with the interests of the Class Members. Further, Plaintiffs have retained counsel competent and
22 experienced in complex class action litigation, including vehicle defect litigation, and Plaintiffs
23 intend to prosecute this action vigorously. Therefore, the interests of the Class Members will be
24 fairly and adequately protected.

25 38. **Predominance of Common Issues**. A class action is appropriate under Fed. R.
26 Civ. P. 23(b)(3) because common questions of law and fact predominate over any questions
27 affecting only individual members.
28

1 such that the vehicle has more power and acceleration, but consumes more fuel and emits more
2 carbon dioxide.

3 44. Audi made material representations and statements of fact to Plaintiffs and the
4 Classes that resulted in Plaintiffs and the Classes reasonably believing the state of affairs to be
5 other than what it actually was, such as that Audi's Affected Vehicles actually emitted the amount
6 of CO2 as stated on the Monroney sticker and that the Affected Vehicles actually had certain
7 accurately calculated fuel economy standards which is not the case.

8 45. Audi executives were aware of this defeat device and instructed that it be utilized as
9 much as possible to misrepresent the performance of the Affected Vehicles.

10 46. Audi intended that Plaintiffs and the other members of the Classes rely on the
11 misrepresentations and omissions described above, so that Plaintiffs and other class members
12 would purchase the Affected Vehicles.

13 47. The truth about the defeat device and Audi's manipulations of the "low rev" mode
14 was only known to Audi; Plaintiffs and the Class members did not know of these facts, and Audi
15 actively concealed these facts from them.

16 48. Audi had a duty to disclose the truth about the defeat device and Audi's "low rev"
17 mode manipulations because Audi (i) possessed exclusive knowledge about the defeat device and
18 the manipulations, and (ii) intentionally concealed the foregoing from Plaintiffs and all members of
19 the Classes.

20 49. Plaintiffs and all members of the Classes reasonably relied upon Audi's deception.
21 They had no way of knowing that Audi's representations were false and/or misleading. As
22 consumers, Plaintiffs and the Class members could not unravel Audi's deceptions on their own.
23 Rather, Audi intended to deceive Plaintiffs and the Class by concealing the true facts about the
24 defeat device and Audi's "low rev" mode manipulations.

25 50. Audi's false representations and omissions were material to consumers, because
26 they concerned the exhaust and mileage performance of the Affected Vehicles, as well as the
27 overall performance of the engines in the Affected Vehicles.

28

1 60. Audi's conduct, as described herein, was and is in violation of the UCL. Audi's
2 conduct violates the UCL in at least the following ways:

3 i. Audi provided, disseminated, marketed, and otherwise distributed uniform false and
4 misleading advertisements, technical data and other information to consumers regarding the
5 performance, reliability, quality and nature of the Affected Vehicles such as that its Affected
6 Vehicles emitted a certain amount of CO2 per mile and had certain accurately calculated fuel
7 economy numbers which is not the case.

8 ii. Audi knowingly and intentionally concealed from Plaintiffs and the other Class
9 members that the defeat device changes the shift points of the automatic transmission so that the
10 Affected Vehicles operate in a "low rev" mode, that is, they shift into the next higher gear sooner
11 than they otherwise would, which effectively falsifies the Affected Vehicles' emissions and fuel
12 efficiency results by keeping the engine RPM artificially low, thereby using less fuel and emitting
13 less carbon dioxide. Audi also concealed that, when the Affected Vehicles are not in a testing bay,
14 the defeat device deactivates and allows the Affected Vehicles to operate at higher revolutions per
15 minute such that the Affected Vehicles have more power and acceleration, but consume more fuel
16 and emit more carbon dioxide.

17 iii. Audi violated other California laws, including California consumer protection laws
18 and California laws governing vehicle emissions and emission testing requirements.
19

20 61. Audi intentionally and knowingly misrepresented material facts regarding the
21 Affected Vehicles with an intent to mislead Plaintiffs and the Class.
22

23 62. In purchasing or leasing the Affected Vehicles, Plaintiffs and the other Class
24 members were deceived by Audi's failure to disclose the defeat device in the Affected Vehicles.

25 63. Audi failed to reveal facts that were material to the transactions in light of Audi's
26 representations discussed throughout this complaint, such as that its Affected Vehicles emitted a
27

1 certain amount of CO2 per mile and had certain accurately estimated fuel economy numbers which
2 is not the case.

3 64. Audi deliberately withheld material facts—such as that its Affected Vehicles
4 emitted substantially more CO2 and had substantially lower fuel economy standards—from
5 Plaintiffs and the Class with the intent that Plaintiffs and the Class rely upon the omission.

6 65. Audi made material representations and statements of fact to Plaintiffs and the Class
7 members that resulted in Plaintiffs and the Class reasonably believing the state of affairs to be other
8 than what it actually was, such as that its Affected Vehicles actually emitted the amount of CO2 as
9 stated on the Monroney sticker and that the Affected Vehicles actually had certain accurately
10 calculated fuel economy standards which is not the case.

11 66. Audi intended that Plaintiffs and the other members of the Class rely on Audi's
12 misrepresentations and omissions described above, so that Plaintiffs and other Class members
13 would purchase the Affected Vehicles.

14 67. Plaintiffs and Class members reasonably relied upon Audi's false
15 misrepresentations. They had no way of knowing that Audi's representations were false and
16 gravely misleading. As alleged herein, Audi engaged in extremely sophisticated methods of
17 deception. Plaintiffs and Class members did not, and could not, unravel Audi's deception on their
18 own.

19
20 68. Audi knew or should have known that its conduct violated the UCL.

21 69. Audi owed Plaintiffs and the Class a duty to disclose the truth about Audi's
22 manipulations because Audi:

- 23 a. Possessed exclusive knowledge that it manipulated the
24 Affected Vehicles as alleged above;
25 b. Intentionally concealed the foregoing from Plaintiffs and the
26 Class; and/or
27 c. Made incomplete representations about CO2 output and fuel
28 efficiency in the Affected Vehicles, while purposefully
withholding material facts from Plaintiffs and the Class that
contradicted these representations.

1 79. California’s Consumers Legal Remedies Act (“CLRA”), Cal. Civ. Code §§ 1750, *et*
2 *seq.*, proscribes “unfair methods of competition and unfair or deceptive acts or practices
3 undertaken by any person in a transaction intended to result or which results in the sale or lease of
4 goods or services to any consumer.”

5 80. The Affected Vehicles are “goods” as defined in Cal. Civ. Code § 1761(a).

6 81. Plaintiffs and the other Class members are “consumers” as defined in Cal. Civ.
7 Code § 1761(d), and Plaintiffs, the other Class members, and Audi are “persons” as defined in Cal.
8 Civ. Code § 1761(c).

9 82. As alleged above, Audi provided, disseminated, marketed, and otherwise distributed
10 uniform false and misleading advertisements, technical data and other information to consumers
11 regarding the performance, reliability, quality and nature of the Affected Vehicles such as that its
12 Affected Vehicles emitted a certain amount of CO2 per mile and had certain accurately calculated
13 fuel economy numbers which is not the case. And Audi knowingly and intentionally concealed
14 from Plaintiffs and the other Class members that the defeat device changes the shift points of the
15 automatic transmission so that the Affected Vehicles operate in a “low rev” mode, that is, they shift
16 into the next higher gear sooner than it otherwise would, which effectively falsifies the Affected
17 Vehicles’ emissions and fuel efficiency results by keeping the engine RPM artificially low, thereby
18 using less fuel and emitting less carbon dioxide. Audi also concealed that, when the Affected
19 Vehicles are not in a testing bay, the defeat device deactivates and allows the Affected Vehicle to
20 operate at higher revolutions per minute such that the Affected Vehicles have more power and
21 acceleration, but consume more fuel and emit more carbon dioxide.

22 83. Audi’s conduct, as described hereinabove, was and is in violation of the CLRA.
23 Audi’s conduct violates at least the following enumerated CLRA provisions:

- 24
- 25 i. Cal. Civ. Code § 1770(a)(2): Misrepresenting the approval or certification of
26 goods.
 - 27 ii. Cal. Civ. Code § 1770(a)(3): Misrepresenting the certification by another.
- 28

- 1 iii. Cal. Civ. Code § 1770(a)(5): Representing that goods have sponsorship,
2 approval, characteristics, uses, benefits, or quantities which they do not
 have.
- 3 iv. Cal. Civ. Code § 1770(a)(7): Representing that goods are of a particular
4 standard, quality, or grade, if they are of another.
- 5 v. Cal. Civ. Code § 1770(a)(9): Advertising goods with intent not to sell them
6 as advertised.
- 7 vi. Cal. Civ. Code § 1770(a)(16): Representing that goods have been supplied in
8 accordance with a previous representation when they have not.

8 84. Audi intentionally and knowingly misrepresented material facts regarding the
9 Affected Vehicles with intent to mislead Plaintiffs and the Class.

10 85. In purchasing or leasing the Affected Vehicles, Plaintiffs and the other Class
11 members were deceived by Audi's failure to disclose the defeat device in the Affected Vehicles.

12 86. Audi failed to reveal facts that were material to the transactions in light of Audi's
13 representations discussed throughout this complaint, such as that its Affected Vehicles emitted a
14 certain amount of CO2 per mile and had certain accurately estimated fuel economy numbers which
15 is not the case.

16 87. Audi deliberately withheld material facts—such as that its Affected Vehicles
17 emitted substantially more CO2 and had substantially lower fuel economy standards—from
18 Plaintiffs and the Class with the intent that Plaintiffs and the Class rely upon the omissions.

19 88. Audi made material representations and statements of fact to Plaintiffs and the Class
20 members that resulted in Plaintiffs and the Class reasonably believing the state of affairs to be other
21 than what it actually was, such as that its Affected Vehicles actually emitted the amount of CO2 as
22 stated on the Monroney sticker and that the Affected Vehicles actually had certain accurately
23 calculated fuel economy standards which is not the case.

24 89. Audi intended that Plaintiffs and the other members of the Class rely on Audi's
25 misrepresentations and omissions described above, so that Plaintiffs and other Class members
26 would purchase the Affected Vehicles.

1 90. Plaintiffs and Class members reasonably relied upon Audi's false
2 misrepresentations. They had no way of knowing that Audi's representations were false and
3 gravely misleading. As alleged herein, Audi engaged in extremely sophisticated methods of
4 deception. Plaintiffs and Class members did not, and could not, unravel Audi's deception on their
5 own.

6
7 91. Audi knew or should have known that its conduct violated the CLRA.

8 92. Audi owed Plaintiffs and the Class a duty to disclose the truth about Audi's
9 manipulations because Audi:

- 10 a. Possessed exclusive knowledge that it manipulated the
11 Affected Vehicles as alleged above;
12 b. Intentionally concealed the foregoing from Plaintiffs and the
13 Class; and/or
14 c. Made incomplete representations about CO2 output and fuel
15 efficiency in the Affected Vehicles, while purposefully
16 withholding material facts from Plaintiffs and the Class that
17 contradicted these representations.

18 93. Had Audi disclosed the omitted material or not misrepresented the characteristics of
19 the Affected Vehicles, Plaintiffs and other members of Class would not have purchased or leased
20 the Affected Vehicles or would have paid less for them.

21 94. The foregoing acts, omissions and practices proximately caused Plaintiffs and the
22 other members of the Class to suffer actual damages in the form of, inter alia, loss of the benefit of
23 the bargain, diminution of value, the cost to repair each Affected Vehicle's engine to remove the
24 effects of the CO2 Defeat Device without compromising each Affected Vehicle's performance, and
25 excess cost for gasoline expenditures.

26 95. Audi's conduct was knowing, intentional, and malicious, and demonstrated a
27 complete lack of care and recklessness and was in conscious disregard for the rights of Plaintiffs
28 and the Class.

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

1 111. Audi's conduct described herein constitutes prohibited practices, unfair, deceptive
2 and unconscionable conduct under the unfair and deceptive trade practices acts of the states and the
3 District of Columbia, as follows:⁶

4 a. Alaska: The aforementioned practices by Audi were and are in violation of the
5 Alaska Unfair Trade Practices and Consumer Protection Act, Ala. Code § 45.50.471, *et seq.*;⁷

6 b. Arizona: The aforementioned practices by Audi were and are in violation of the
7 Arizona Consumer Fraud Act, Ariz. Rev. Stat. §§ 44-1521, *et seq.*;

8 c. Arkansas: The aforementioned practices by Audi were and are in violation of the
9 Arkansas Deceptive Trade Practices Act, Ark. Code §4-88-101, *et seq.*;

10 d. Colorado: The aforementioned practices by Audi were and are in violation of the
11 Colorado Consumer Protection Act, Colo. Rev. Stat. § 6-1-101, *et seq.*;

12 e. Connecticut: The aforementioned practices by Audi were and are in violation of the
13 Connecticut Unfair Trade Practices Act, Conn. Gen. Stat § 42-110a, *et seq.*;

14 f. Delaware: The aforementioned practices by Audi were and are in violation of the
15 Delaware Deceptive Trade Practices Act, 6 Del. Code § 2511, *et seq.*;

16 g. District of Columbia: The aforementioned practices by Audi were and are in
17 violation of the District of Columbia Consumer Protection Procedures Act, D.C. Code §§ 28-3901,
18 *et seq.*;

19 h. Florida: The aforementioned practices by Audi were and are in violation of the
20 Florida Deceptive and Unfair Trade Practices Act, Fla. Stat. Ann. § 501.201, *et seq.*;

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24
25 ⁶ Claims under the unfair and deceptive acts and practices statutes in the states of Alabama,
26 Georgia, Texas, West Virginia, and Wyoming are not brought at this time but will be asserted later
after required notice periods under those acts have run.

27 ⁷ Damages, and not injunctive relief, are sought under the Alaska Act at this time. Injunctive
28 relief under the Alaska Act will not be sought until the time has run after notice under Alaska Stat.
§ 45.50.535.

1 i. Hawaii: The aforementioned practices by Audi were and are in violation of
2 Hawaii's Unfair and Deceptive Practices Act, Hawaii Revised Statutes § 480-1, *et seq.*, and Hawaii
3 Uniform Deceptive Trade Practices Act, Hawaii Revised Statutes §481A-1, *et seq.*;

4 j. Idaho: The aforementioned practices by Audi were and are in violation of the Idaho
5 Consumer Protection Act, Idaho Code § 48-601, *et seq.*;

7 k. Illinois: The aforementioned practices by Audi were and are in violation of the
8 Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS § 505/1, *et seq.*;

9 l. Indiana: The aforementioned practices by Audi were and are in violation of the
10 Indiana Deceptive Consumer Sales Act, Ind. Code § 24-5-0.5-3, *et seq.*;

11 m. Iowa: The aforementioned practices by Audi were and are in violation of the Iowa
12 Private Right of Action for Consumer Frauds Act, Iowa Code § 714h.1, *et seq.*;

14 n. Kansas: The aforementioned practices by Audi were and are in violation of the
15 Kansas Consumer Protection Act, Kan. Stat. Ann §§ 50-626, *et seq.*;

16 o. Kentucky: The aforementioned practices by Audi were and are in violation of the
17 Kentucky Consumer Protection Act, Ky. Rev. Stat. Ann. §§ 367.110, *et seq.*, and the Kentucky
18 Unfair Trade Practices Act, Ky. Rev. Stat. Ann §§ 365.020, *et seq.*;

19 p. Louisiana: The aforementioned practices by Audi were and are in violation of the
20 Louisiana Unfair Trade Practices and Consumer Protection Law, La. Rev. Stat. Ann. § 51:1401, *et*
21 *seq.*;

23 q. Maine: The aforementioned practices by Audi were and are in violation of the
24 Maine Unfair Trade Practices Act, 5 Me. Rev. Stat. § 205A, *et seq.*, and Maine Uniform Deceptive
25 Trade Practices Act, Me. Rev. Stat. Ann. 10, § 1211, *et seq.*;⁸

26
27
28 ⁸ Damages are not sought at this time under the Maine Act, and a claim for damages under the
Maine Act will be added later after the time has run under Me. Rev. Stat. Ann. Tit. 5, § 213(A).

1 r. Maryland: The aforementioned practices by Audi were and are in violation of the
2 Maryland Consumer Protection Act, Md. Com. Law Code § 13-101, *et seq.*;

3 s. Massachusetts: The aforementioned practices by Audi were and are in violation of
4 the Massachusetts Unfair and Deceptive Practices Act, Mass. Ann. Laws ch. 93A, Section 11, *et*
5 *seq.*⁹
6

7 t. Michigan: The aforementioned practices by Audi were and are in violation of the
8 Michigan Consumer Protection Act, §§ 445.901, *et seq.*;

9 u. Minnesota: The aforementioned practices by Audi were and are in violation of the
10 Minnesota Prevention of Consumer Fraud Act, Minn. Stat §§ 325F.68, *et seq.*; and Minnesota
11 Uniform Deceptive Trade Practices Act, Minn. Stat. § 325D.43, *et seq.*;

12 v. Mississippi: The aforementioned practices by Audi were and are in violation of the
13 Mississippi Consumer Protection Act, Miss. Code Ann. §§ 75-24-1, *et seq.*;

14 w. Missouri: The aforementioned practices by Audi were and are in violation of the
15 Missouri Merchandising Practices Act, Mo. Rev. Stat. § 407.010, *et seq.*;

16 x. Montana: The aforementioned practices by Audi were and are in violation of the
17 Montana Unfair Trade Practices and Consumer Protection Act, Mont. Code §30-14-101, *et seq.*;

18 y. Nebraska: The aforementioned practices by Audi were and are in violation of the
19 Nebraska Consumer Protection Act, Neb. Rev. Stat. §59-1601, *et seq.*, and the Nebraska Uniform
20 Deceptive Trade Practices Act, Neb. Rev. Stat. §87-301, *et seq.*;

21 z. Nevada: The aforementioned practices by Audi were and are in violation of the
22 Nevada Trade Regulation and Practices Act, Nev. Rev. Stat. §§ 598.0903, *et seq.*;

23 aa. New Hampshire: The aforementioned practices by Audi were and are in violation
24 of the New Hampshire Consumer Protection Act, N.H. Rev. Stat. Ann. §§ 358-a:1, *et seq.*;

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26
27
28 ⁹ A claim under Section 9 will be added after the required notice period has run.

1 bb. New Jersey: The aforementioned practices by Audi were and are in violation of the
2 New Jersey Consumer Fraud Act, N.J.S.A. §§ 56:8-1, *et seq.*;

3 cc. New Mexico: The aforementioned practices by Audi were and are in violation of
4 the New Mexico Unfair Practices Act, N.M. Stat. Ann. §§ 57-12-1, *et seq.*;

5 dd. New York: The aforementioned practices by Audi were and are in violation of the
6 New York Deceptive Acts and Practices Act, N.Y. Gen. Bus. Law §§ 349, *et seq.*;

7 ee. North Carolina: The aforementioned practices by Audi were and are in violation of
8 the North Carolina Unfair and Deceptive Trade Practices Act, N.C. Gen. Stat. §§ 75-1.1, *et seq.*;

9 ff. North Dakota: The aforementioned practices by Audi were and are in violation of
10 the North Dakota Consumer Fraud Act, N.D. Cent. Code §§ 51-15-01, *et seq.*;

11 gg. Ohio: The aforementioned practices by Audi were and are in violation of the Ohio
12 Consumer Sales Practices Act, Ohio Rev. Code §§ 1345.01, *et seq.*;

13 hh. Oklahoma: The aforementioned practices by Audi were and are in violation of the
14 Oklahoma Consumer Protection Act, Okla. Stat. 15 § 751, *et seq.*;

15 ii. Oregon: The aforementioned practices by Audi were and are in violation of the
16 Oregon Unfair Trade Practices Act, Rev. Stat § 646.605, *et seq.*;

17 jj. Pennsylvania: The aforementioned practices by Audi were and are in violation of
18 the Pennsylvania Unfair Trade Practices an Consumer Protection Law, 73 P.S. § 201-1, *et seq.*;

19 kk. Rhode Island: The aforementioned practices by Audi were and are in violation of
20 the Rhode Island Unfair Trade Practices And Consumer Protection Act, R.I. Gen. Laws § 6-13.1-1,
21 *et seq.*;

22 ll. South Carolina: The aforementioned practices by Audi were and are in violation of
23 the South Carolina Unfair Trade Practices Act, S.C. Code Laws § 39-5-10, *et seq.*;

1 mm. South Dakota: The aforementioned practices by Audi were and are in violation of
2 South Dakota's Deceptive Trade Practices and Consumer Protection Law, S.D. Codified Laws §§
3 37-24-1, *et seq.*;

4 nn. Tennessee: The aforementioned practices by Audi were and are in violation of the
5 Tennessee Consumer Protection Act of 1977, Tenn. Code Ann. §§ 47-18-101, *et seq.*;

6 oo. Utah: The aforementioned practices by Audi were and are in violation of the Utah
7 Consumer Sales Practices Act, Utah Code Ann. § 13-11-1, *et seq.*;

8 pp. Vermont: The aforementioned practices by Audi were and are in violation of the
9 Vermont Consumer Fraud Act, Vt. Stat. Ann. tit.9, § 2451, *et seq.*;

10 qq. Virginia: The aforementioned practices by Audi were and are in violation of the
11 Virginia Consumer Protection Act, Va. Code Ann. §§ 59.1-196, *et seq.*;

12 rr. Washington: The aforementioned practices by Audi were and are in violation of the
13 Washington Consumer Fraud Act, Wash. Rev. Code § 19.86.010, *et seq.*;

14 ss. Wisconsin: The aforementioned practices by Audi were and are in violation of the
15 Wisconsin Deceptive Trade Practices Act, Wis. Stat. §§ 100.18, *et seq.*

16
17
18 112. Under statutes enacted in these states and the District of Columbia to protect
19 consumers against unfair, deceptive, fraudulent and unconscionable trade and business practices
20 and false advertising, Plaintiffs and Class members are consumers who purchased Audis' Affected
21 Vehicles pursuant to a consumer transaction for personal use and are therefore subject to protection
22 under such legislation.

23 113. Under statues enacted in these states and the District of Columbia to protect
24 consumers against unfair, deceptive, fraudulent and unconscionable trade and business practices
25 and false advertising, Audi is a supplier, manufacturer, advertiser, and seller who is subject to
26 liability under such legislation for unfair, deceptive, fraudulent and unconscionable consumer sales
27 practices.

1 114. Audi represented that the Affected Vehicles have sponsorship, approval,
2 characteristics, uses, and benefits that they do not have, including, inter alia, that the Affected
3 Vehicles emitted a certain amount of CO₂ per mile and had certain accurately calculated fuel
4 economy numbers which is not the case.

5 115. Audi provided, disseminated, marketed, and otherwise distributed uniform false and
6 misleading advertisements, technical data and other information to consumers regarding the
7 performance, reliability, quality and nature of the Affected Vehicles such as that its Affected
8 Vehicles emitted a certain amount of CO₂ per mile and had certain accurately calculated fuel
9 economy numbers which is not the case.

10 116. Audi represented that the Affected Vehicles were of a particular standard, quality, or
11 grade, when they were of another, such as that its Vehicles emitted a certain amount of CO₂ per
12 mile and had certain accurately calculated fuel economy numbers which is not the case.

13 117. Audi engaged in unconscionable commercial practices in failing to reveal material
14 facts and information about the defeat device, which did, or tended to, mislead Plaintiffs and the
15 Classes about facts that could not reasonably be known by the consumer including but not limited
16 to the fact that the Affected Vehicles emitted substantially more CO₂ and that the stated fuel
17 economy numbers were not accurate and were incorrectly calculated.

18 118. Audi failed to reveal facts that were material to the transactions in light of Audi's
19 representations discussed throughout this complaint, such as that its Affected Vehicles emitted a
20 certain amount of CO₂ per mile and had certain accurately calculated fuel economy numbers which
21 is not the case.

22 119. Audi caused Plaintiffs and the Classes to suffer a probability of confusion and a
23 misunderstanding of legal rights, obligations, and/or remedies by and through its conduct, namely
24 that the Affected Vehicles emitted a certain amount of CO₂ per mile and had certain accurately
25 calculated fuel economy numbers which is not the case.

26 120. Audi deliberately withheld material facts—such as that its Affected Vehicles
27 emitted substantially more CO₂ and had substantially lower fuel economy standards—from
28

1 Plaintiffs and the Classes with the intent that Plaintiffs and the Class members rely upon the
2 omission.

3 121. Audi made material representations and statements of fact to Plaintiffs and the Class
4 members that resulted in Plaintiffs and the Classes reasonably believing the state of affairs to be
5 other than what it actually was, such as that its Affected Vehicles actually emitted the amount of
6 CO2 as stated on the Monroney sticker and that the Affected Vehicles actually had certain
7 accurately calculated fuel economy standards which is not the case.

8 122. Audi intended that Plaintiffs and the Class members rely on their misrepresentations
9 and omissions described above, so that Plaintiffs and the Class members would purchase the
10 Affected Vehicles.

11 123. Had Audi disclosed the omitted material or not misrepresented the characteristics of
12 the Affected Vehicles, Plaintiffs and other members of the Classes would not have purchased or
13 leased the Affected Vehicles or would have paid less for them.

14 124. The foregoing acts, omissions and practices proximately caused Plaintiffs and the
15 members of the Classes to suffer actual damages in the form of, inter alia, loss of the benefit of the
16 bargain, diminution of value, the cost to repair each Affected Vehicle's engine to remove the
17 effects of the defeat device without compromising each Affected Vehicle's performance, and
18 excess cost for gasoline expenditures.

19 125. Audi's conduct was knowing, intentional, and malicious, and demonstrated a
20 complete lack of care and recklessness and was in conscious disregard for the rights of Plaintiffs
21 and the Class Members.

22 126. As a direct and proximate result of this wrongful conduct, Plaintiffs and the Classes
23 have been damaged in an amount to be proven at trial, including, but not limited to, actual
24 damages, punitive damages, equitable relief, diminution of value, and reasonable attorneys' fees.

25 127. Audi's conduct was unfair as offensive to public policy, unscrupulous, unethical and
26 immoral, and caused substantial injury to consumers.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, on behalf of themselves and members of the proposed Classes, pray for judgment as follow:

A. Certification of the Classes under Federal Rule of Civil Procedure 23 and appointment of Plaintiffs as representative of the Classes and their counsel as Class counsel;

B. Compensatory and other damages identified herein;

C. Awarding restitution and disgorgement of Audi's revenues or profits to Plaintiffs and the proposed Classes as permitted by applicable law;

D. An Order requiring Audi to cease and desist from engaging in wrongful conduct and to engage in a corrective advertising campaign;

E. Statutory pre-judgment and post-judgment interest on any amounts;

F. Payment of reasonable attorneys' fees and recoverable litigation expenses as may be allowable under applicable law; and

G. Such other relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiffs demand a trial by jury as to all issues so triable.

DATED: November 22, 2016

Respectfully submitted,

HAGENS BERMAN SOBOL SHAPIRO LLP

By: /s/ Thomas E. Loeser

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CIVIL COVER SHEET

The JS-CAND 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 in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
MEGAN CARNETT, KARL GASS, RUSSELL GREEN, MARTIN HIUDT, and SUSAN MCDONALD
(b) County of Residence of First Listed Plaintiff Chochoise County, Arizona
(c) Attorneys (Firm Name, Address, and Telephone Number)
Thomas E. Loeser, Hagens Berman Sobol Shapiro, LLP, 1918 8th Avenue, Suite 3300, Seattle, WA 98026; (206) 623-7292

DEFENDANTS
AUDI OF AMERICA, LLC, and AUDI AG
County of Residence of First Listed Defendant
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED. 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
Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
Incorporated or Principal Place of Business In This State
Incorporated and Principal Place of Business In Another State
Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)
CONTRACT: 110 Insurance, 120 Marine, 130 Miller Act, 140 Negotiable Instrument, 150 Recovery of Overpayment Of Veteran's Benefits, 151 Medicare Act, 152 Recovery of Defaulted Student Loans (Excludes Veterans), 153 Recovery of Overpayment of Veteran's Benefits, 160 Stockholders' Suits, 190 Other Contract, 195 Contract Product Liability, 196 Franchise
REAL PROPERTY: 210 Land Condemnation, 220 Foreclosure, 230 Rent Lease & Ejectment, 240 Torts to Land, 245 Tort Product Liability, 290 All Other Real Property
PERSONAL INJURY: 310 Airplane, 315 Airplane Product Liability, 320 Assault, Libel & Slander, 330 Federal Employers' Liability, 340 Marine, 345 Marine Product Liability, 350 Motor Vehicle, 355 Motor Vehicle Product Liability, 360 Other Personal Injury, 362 Personal Injury - Medical Malpractice
PERSONAL INJURY - PRODUCT LIABILITY: 365 Personal Injury - Product Liability, 367 Health Care/Pharmaceutical Personal Injury Product Liability, 368 Asbestos Personal Injury Product Liability
PERSONAL PROPERTY: 370 Other Fraud, 371 Truth in Lending, 380 Other Personal Property Damage, 385 Property Damage Product Liability
FORFEITURE/PENALTY: 625 Drug Related Seizure of Property 21 USC § 881, 690 Other
LABOR: 710 Fair Labor Standards Act, 720 Labor/Management Relations, 740 Railway Labor Act, 751 Family and Medical Leave Act, 790 Other Labor Litigation, 791 Employee Retirement Income Security Act
IMMIGRATION: 462 Naturalization Application, 465 Other Immigration Actions
BANKRUPTCY: 422 Appeal 28 USC § 158, 423 Withdrawal 28 USC § 157
PROPERTY RIGHTS: 820 Copyrights, 830 Patent, 840 Trademark
SOCIAL SECURITY: 861 HIA (1395ff), 862 Black Lung (923), 863 DIWC/DIWW (405(g)), 864 SSID Title XVI, 865 RSI (405(g))
FEDERAL TAX SUITS: 870 Taxes (U.S. Plaintiff or Defendant), 871 IRS-Third Party 26 USC § 7609
OTHER STATUTES: 375 False Claims Act, 376 Qui Tam (31 USC § 3729(a)), 400 State Reapportionment, 410 Antitrust, 430 Banks and Banking, 450 Commerce, 460 Deportation, 470 Racketeer Influenced and Corrupt Organizations, 480 Consumer Credit, 490 Cable/Sat TV, 850 Securities/Commodities/Exchange, 890 Other Statutory Actions, 891 Agricultural Acts, 893 Environmental Matters, 895 Freedom of Information Act, 896 Arbitration, 899 Administrative Procedure Act/Review or Appeal of Agency Decision, 950 Constitutionality of State Statutes

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-Transfer
8 Multidistrict Litigation-Direct File

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 28 U.S.C. § 1332(d)
Brief description of cause: Fraudulent concealment of motor vehicle emissions defeat device and violations of consumer protection laws

VII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, Fed. R. Civ. P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S), IF ANY (See instructions): JUDGE Charles R. Breyer; Laura Beeler, respectively DOCKET NUMBER 16-06684; 16-06648

IX. DIVISIONAL ASSIGNMENT (Civil Local Rule 3-2) (Place an "X" in One Box Only)
SAN FRANCISCO/OAKLAND SAN JOSE EUREKA-MCKINLEYVILLE

DATE: 11/22/2016 SIGNATURE OF ATTORNEY OF RECORD: /s/ Thomas E. Loeser

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS-CAND 44

Authority For Civil Cover Sheet. The JS-CAND 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 in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate 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 Federal Rule of Civil Procedure 8(a), 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.
- (1) United States plaintiff. Jurisdiction based on 28 USC §§ 1345 and 1348. Suits by agencies and officers of the United States are included here.
 - (2) United States defendant. When the plaintiff is suing the United States, its officers or agencies, place an “X” in this box.
 - (3) Federal question. This refers to suits under 28 USC § 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.
 - (4) Diversity of citizenship. This refers to suits under 28 USC § 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-CAND 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.
- (1) Original Proceedings. Cases originating in the United States district courts.
 - (2) Removed from State Court. Proceedings initiated in state courts may be removed to the district courts under Title 28 USC § 1441. When the petition for removal is granted, check this box.
 - (3) Remanded from Appellate Court. Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 - (4) Reinstated or Reopened. Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 - (5) Transferred from Another District. For cases transferred under Title 28 USC § 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 - (6) Multidistrict Litigation Transfer. Check this box when a multidistrict case is transferred into the district under authority of Title 28 USC § 1407. When this box is checked, do not check (5) above.
 - (8) Multidistrict Litigation Direct File. Check this box when a multidistrict litigation case is filed in the same district as the Master MDL docket. Please note that there is no Origin Code 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- 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 Federal Rule of Civil Procedure 23. 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-CAND 44 is used to identify related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- IX. Divisional Assignment.** If the Nature of Suit is under Property Rights or Prisoner Petitions or the matter is a Securities Class Action, leave this section blank. For all other cases, identify the divisional venue according to Civil Local Rule 3-2: “the county in which a substantial part of the events or omissions which give rise to the claim occurred or in which a substantial part of the property that is the subject of the action is situated.”
- Date and Attorney Signature.** Date and sign the civil cover sheet.