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19 UNITED STATES DISTRICT COURT

20 CENTRAL DISTRICT OF CALIFORNIA

21 OSCAR ZAMORA, BRANDON J.
22 STONE, JASON SILVEUS, JASON
23 COUNTS, THOMAS HAYDUK, and
24 JOSHUA HURST, individually and on
25 behalf of themselves and all others similarly
26 situated,

27 Plaintiffs,

28 v.

GENERAL MOTORS LLC,

Defendant.

No.

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

CLASS ACTION COMPLAINT

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1 Plaintiffs Oscar Zamora, Brandon J. Stone, Jason Silveus, Jason Counts,
2 Thomas Hayduk, and Joshua Hurst, individually and on behalf of all others similarly
3 situated (the “Class”), allege the following based upon the investigation of counsel,
4 the review of scientific papers, and the investigation of experts:

5 I. INTRODUCTION

6 1. This is what GM promised:



17 2. This is not what GM delivered.

18
19 3. In the wake of the major scandal involving Volkswagen and Audi diesel
20 vehicles evading emissions standards with the help of certain software that turns off
21 emissions controls when the vehicles are not being tested, reports and vehicle testing
22 now indicate that General Motor's (GM) so called "Clean Diesel" vehicle, the
23 Chevrolet Cruze (Cruze), emits far more pollution on the road than in lab tests and that
24 these vehicles exceed federal and state emission standards. Real world testing has
25 recently revealed that these vehicles emit dangerous oxides of nitrogen (NOx) at levels
26 *many times higher than (i) their gasoline counterparts, (ii) what a reasonable*
27 *consumer would expect from a "Clean Diesel," and (iii) United States*
28

1 ***Environmental Protection Agency maximum emissions standards.*** The GM “Clean
2 Diesel” turns out to be far from “clean.”

3 4. Diesel engines pose a difficult challenge to the environment because they
4 have an inherent trade-off between power, fuel efficiency, and emissions. Compared
5 to gasoline engines, diesel engines generally produce greater torque, low-end power,
6 better drivability and much higher fuel efficiency. But these benefits come at the cost
7 of much dirtier and more harmful emissions.

8 5. One by-product of diesel combustion is NO_x, which generally describes
9 several compounds comprised of nitrogen and oxygen atoms. These compounds are
10 formed in the cylinder of the engine during the high temperature combustion process.
11 NO_x pollution contributes to nitrogen dioxide, particulate matter in the air, and reacts
12 with sunlight in the atmosphere to form ozone. Exposure to these pollutants has been
13 linked with serious health dangers, including serious respiratory illnesses and
14 premature death due to respiratory-related or cardiovascular-related effects. The
15 United States Government, through the Environmental Protection Agency (EPA), has
16 passed and enforced laws designed to protect United States citizens from these
17 pollutants and certain chemicals and agents known to cause disease in humans.
18 Automobile manufacturers must abide by these U.S. laws and must adhere to EPA
19 rules and regulations.

20 6. In order to produce a diesel engine that has desirable torque and power
21 characteristics, good fuel economy, and emissions levels low enough to meet the
22 stringent European and United States governmental emission standards, GM
23 developed a diesel engine for the Cruze.

24 7. In order to appeal to environmentally conscious consumers, GM
25 marketed its Cruze diesel technology as a process that ensured emissions resulted in a
26 “clean diesel” and that its emissions were “below strict U.S. environmental standards.
27 The Cruze’s top competitor is the Volkswagen Jetta TDI.
28

1 8. These representations are deceptive and false. GM has programmed its
2 Cruze to turn off or otherwise limit the effectiveness of the emission reduction systems
3 during driving conditions below 50°F and above 85°F, and emissions exceed U.S.
4 limits by 1.8 to 13.8 times in other real-world driving conditions.

5 9. Recently, a German environmental group issued a report indicating that
6 GM's Opel model uses a device to sense when a vehicle is undergoing emissions
7 testing but that in normal driving conditions the Opel emits NOx at levels that far
8 exceed European emissions standards.

9 10. On information and belief, given GM's ownership of Opel and its
10 similarity to the Cruze, the technology platform in both vehicles is substantially the
11 same.

12 11. Testing has revealed that GM's Opel vehicle does not meet emission
13 standards in virtually *all* real world driving conditions. In virtually every road test at a
14 variety of speeds and temperatures, the emissions exceeded U.S. emissions standards.

15 12. Testing also reveals that GM intentionally defeats emissions controls
16 when the Opel is on the road. The drastic change in emission controls at high and low
17 speeds is indicative of the use of a defeat device. This contrast demonstrates that GM
18 has programmed its emission systems to reduce effectiveness or turn off altogether
19 when the vehicle is on the road. And this means that when GM cars are tested in the
20 laboratory, they use a defeat device to obtain test results that appear to pass emissions
21 standards.

22 13. A "defeat device" as defined by the EPA means an auxiliary emission
23 control device (AECD) that reduces the effectiveness of the emission control system
24 under conditions that may reasonably be expected to be encountered in normal
25 use. 40 C.F.R. § 86.004-2. Thus, GM has perpetrated a gross deception on Plaintiffs
26 and members of the proposed Class, who GM told were buying low-emission,
27 efficient, Earth-friendly vehicles.
28

1 members; the amount in controversy exceeds \$5,000,000, exclusive of costs and
2 interest; and minimal diversity exists. This Court also has supplemental jurisdiction
3 over the state law claims pursuant to 28 U.S.C. § 1367.

4 **III. VENUE**

5 19. Venue is proper in this District under 28 U.S.C. § 1391 because Plaintiffs
6 Oscar Zamora purchased his car in this District. Moreover, GM has marketed,
7 advertised, sold, and leased the Cruze within this District.

8 **IV. PARTIES**

9 **A. Plaintiffs**

10 20. Plaintiff Oscar Zamora (for the purpose of this paragraph, “Plaintiff”) is a
11 citizen of California domiciled in Los Angeles, California. In 2015, Plaintiff
12 purchased a new 2014 Chevrolet Cruze Diesel (for the purpose of this paragraph, the
13 “Affected Vehicle”), from a dealership in Santa Barbara, California. Plaintiff
14 purchased, and still owns, this vehicle. Unknown to Plaintiff, at the time the vehicle
15 was purchased, it was equipped with an emissions system that turned off or limited its
16 emissions reduction system during normal driving conditions and emitted pollutants
17 such as NOx at many multiples of emissions emitted from gasoline-powered vehicles,
18 at many times the level a reasonable consumer would expect from a “Clean Diesel”,
19 and at many multiples of that allowed by federal law. GM’s unfair, unlawful, and
20 deceptive conduct in designing, manufacturing, marketing, selling, and leasing the
21 Cruze without proper emission controls has caused Plaintiff out-of-pocket loss, future
22 attempted repairs, and diminished value of his vehicle. GM knew about, manipulated,
23 or recklessly disregarded the inadequate emission controls during normal driving
24 conditions, but did not disclose such facts or their effects to Plaintiff, so Plaintiff
25 purchased his vehicle on the reasonable, but mistaken, belief that his vehicle was a
26 “clean diesel” as compared to gasoline vehicles, complied with United States
27 emissions standards, and would retain all of its operating characteristics throughout its
28

1 useful life, including high fuel economy. Plaintiff selected and ultimately purchased
2 his vehicle, in part, because of the Clean Diesel system, as represented through
3 advertisements and representations made by GM. Plaintiff recalls that the
4 advertisements and representations touted the cleanliness of the engine system for the
5 environment and the efficiency and power/performance of the engine system. None of
6 the advertisements reviewed or representations received by Plaintiff contained any
7 disclosure that the Affected Vehicle had high emissions compared to gasoline vehicles
8 and the fact that GM had designed part of the emissions reduction system to turn off
9 during normal driving conditions. Had GM disclosed this design, and the fact that the
10 Cruze actually emitted pollutants at a much higher level than gasoline vehicles do, and
11 at a much higher level than a reasonable consumer would expect, and emitted
12 unlawfully high levels of pollutants, Plaintiff would not have purchased the vehicle, or
13 would have paid less for it.

14 21. Plaintiff Brandon J. Stone (for the purpose of this paragraph, "Plaintiff")
15 is a citizen of Arizona domiciled in Maricopa, Arizona. On or about June 15, 2015,
16 Plaintiff purchased a new 2014 Chevrolet Cruze Diesel (for the purpose of this
17 paragraph, the "Affected Vehicle"), from Steve Schmidt-Brubaker, Inc. in Litchfield,
18 Illinois. Plaintiff purchased, and still owns, this vehicle. Unknown to Plaintiff, at the
19 time the vehicle was purchased, it was equipped with an emissions system that turned
20 off or limited its emissions reduction system during normal driving conditions and
21 emitted pollutants such as NOx at many multiples of emissions emitted from gasoline-
22 powered vehicles, at many times the level a reasonable consumer would expect from a
23 "Clean Diesel", and at many multiples of that allowed by federal law. GM's unfair,
24 unlawful, and deceptive conduct in designing, manufacturing, marketing, selling, and
25 leasing the Cruze without proper emission controls has caused Plaintiff out-of-pocket
26 loss, future attempted repairs, and diminished value of his vehicle. GM knew about,
27 manipulated, or recklessly disregarded the inadequate emission controls during normal
28

1 driving conditions, but did not disclose such facts or their effects to Plaintiff, so
2 Plaintiff purchased his vehicle on the reasonable, but mistaken, belief that his vehicle
3 was a “clean diesel” as compared to gasoline vehicles, complied with United States
4 emissions standards, and would retain all of its operating characteristics throughout its
5 useful life, including high fuel economy. Plaintiff selected and ultimately purchased
6 his vehicle, in part, because of the Clean Diesel system, as represented through
7 advertisements and representations made by GM. Plaintiff recalls that the
8 advertisements and representations touted the cleanliness of the engine system for the
9 environment and the efficiency and power/performance of the engine system. None of
10 the advertisements reviewed or representations received by Plaintiff contained any
11 disclosure that the Affected Vehicle had high emissions compared to gasoline vehicles
12 and the fact that GM had designed part of the emissions reduction system to turn off
13 during normal driving conditions. Had GM disclosed this design, and the fact that the
14 Cruze actually emitted pollutants at a much higher level than gasoline vehicles do, and
15 at a much higher level than a reasonable consumer would expect, and emitted
16 unlawfully high levels of pollutants, Plaintiff would not have purchased the vehicle, or
17 would have paid less for it.

18 22. Plaintiff and each Class member has suffered an ascertainable loss as a
19 result of GM’s omissions and/or misrepresentations associated with the Chevrolet
20 Cruze’s Clean Diesel engine system, including, but not limited to, out-of-pocket loss
21 and future attempted repairs, future additional fuel costs, decreased performance of the
22 vehicle, and diminished value of the vehicle.

23 23. Neither GM nor any of its agents, dealers, or other representatives
24 informed Plaintiff or Class members of the existence of the comparatively and
25 unlawfully high emissions and/or defective nature of the Chevrolet Cruze’s Clean
26 Diesel engine system of the Affected Vehicles prior to purchase.
27
28

1 24. Plaintiff Jason Silveus (for the purpose of this paragraph, “Plaintiff”) is a
2 citizen of Florida domiciled in Largo, Florida. On or about May 2014, Plaintiff
3 purchased a new Chevrolet Cruze (for the purpose of this paragraph, the “Affected
4 Vehicle”), from Maher Chevrolet in St. Petersburg, Florida. Plaintiff purchased, and
5 still owns, this vehicle. Unknown to Plaintiff, at the time the vehicle was purchased, it
6 was equipped with an emissions system that turned off or limited its emissions
7 reduction system during normal driving conditions and emitted pollutants such as NOx
8 at many multiples of emissions emitted from gasoline-powered vehicles, at many
9 times the level a reasonable consumer would expect from a “Clean Diesel”, and at
10 many multiples of that allowed by federal law. GM’s unfair, unlawful, and deceptive
11 conduct in designing, manufacturing, marketing, selling, and leasing the Cruze
12 without proper emission controls has caused Plaintiff out-of-pocket loss, future
13 attempted repairs, and diminished value of his vehicle. GM knew about, manipulated,
14 or recklessly disregarded the inadequate emission controls during normal driving
15 conditions, but did not disclose such facts or their effects to Plaintiff, so Plaintiff
16 purchased his vehicle on the reasonable, but mistaken, belief that his vehicle was a
17 “clean diesel” as compared to gasoline vehicles, complied with United States
18 emissions standards, and would retain all of its operating characteristics throughout its
19 useful life, including high fuel economy. Plaintiff selected and ultimately purchased
20 his vehicle, in part, because of the Clean Diesel system, as represented through
21 advertisements and representations made by GM. Plaintiff recalls that the
22 advertisements and representations touted the cleanliness of the engine system for the
23 environment and the efficiency and power/performance of the engine system. None of
24 the advertisements reviewed or representations received by Plaintiff contained any
25 disclosure that the Affected Vehicle had high emissions compared to gasoline vehicles
26 and the fact that GM had designed part of the emissions reduction system to turn off
27 during normal driving conditions. Had GM disclosed this design, and the fact that the
28

1 Cruze actually emitted pollutants at a much higher level than gasoline vehicles do, and
2 at a much higher level than a reasonable consumer would expect, and emitted
3 unlawfully high levels of pollutants, Plaintiff would not have purchased the vehicle, or
4 would have paid less for it.

5 25. Plaintiff and each Class member has suffered an ascertainable loss as a
6 result of GM's omissions and/or misrepresentations associated with the Chevrolet
7 Cruze's Clean Diesel engine system, including, but not limited to, out-of-pocket loss
8 and future attempted repairs, future additional fuel costs, decreased performance of the
9 vehicle, and diminished value of the vehicle.

10 26. Neither GM nor any of its agents, dealers, or other representatives
11 informed Plaintiff or Class members of the existence of the comparatively and
12 unlawfully high emissions and/or defective nature of the Chevrolet Cruze's Clean
13 Diesel engine system of the Affected Vehicles prior to purchase.

14 27. Plaintiff Jason Counts (for the purpose of this paragraph, "Plaintiff") is a
15 citizen of Michigan, domiciled in Vassar, Michigan. On or about February 8, 2014,
16 Plaintiff purchased a new 2014 Chevrolet Cruze Diesel (for the purpose of this
17 paragraph, the "Affected Vehicle"), from Sundae Chevrolet, Inc. in Grand Ledge,
18 Michigan. Plaintiff purchased, and still owns, this vehicle. Unknown to Plaintiff, at
19 the time the vehicle was purchased, it was equipped with an emissions system that
20 turned off or limited its emissions reduction system during normal driving conditions
21 and emitted pollutants such as NOx at many multiples of emissions emitted from
22 gasoline-powered vehicles, at many times the level a reasonable consumer would
23 expect from a "Clean Diesel", and at many multiples of that allowed by federal
24 law. GM's unfair, unlawful, and deceptive conduct in designing, manufacturing,
25 marketing, selling, and leasing the Cruze without proper emission controls has caused
26 Plaintiff out-of-pocket loss, future attempted repairs, and diminished value of his
27 vehicle. GM knew about, manipulated, or recklessly disregarded the inadequate
28

1 emission controls during normal driving conditions, but did not disclose such facts or
2 their effects to Plaintiff, so Plaintiff purchased his vehicle on the reasonable, but
3 mistaken, belief that his vehicle was a “clean diesel” as compared to gasoline vehicles,
4 complied with United States emissions standards, and would retain all of its operating
5 characteristics throughout its useful life, including high fuel economy. Plaintiff
6 selected and ultimately purchased his vehicle, in part, because of the Clean Diesel
7 system, as represented through advertisements and representations made by
8 GM. Plaintiff recalls that the advertisements and representations touted the
9 cleanliness of the engine system for the environment and the efficiency and
10 power/performance of the engine system. None of the advertisements reviewed or
11 representations received by Plaintiff contained any disclosure that the Affected
12 Vehicle had high emissions compared to gasoline vehicles and the fact that GM had
13 designed part of the emissions reduction system to turn off during normal driving
14 conditions. Had GM disclosed this design, and the fact that the Cruze actually emitted
15 pollutants at a much higher level than gasoline vehicles do, and at a much higher level
16 than a reasonable consumer would expect, and emitted unlawfully high levels of
17 pollutants, Plaintiff would not have purchased the vehicle, or would have paid less for
18 it.

19 28. Plaintiff and each Class member has suffered an ascertainable loss as a
20 result of GM’s omissions and/or misrepresentations associated with the Chevrolet
21 Cruze’s Clean Diesel engine system, including, but not limited to, out-of-pocket loss
22 and future attempted repairs, future additional fuel costs, decreased performance of the
23 vehicle, and diminished value of the vehicle.

24 29. Neither GM nor any of its agents, dealers, or other representatives
25 informed Plaintiff or Class members of the existence of the comparatively and
26 unlawfully high emissions and/or defective nature of the Chevrolet Cruze’s Clean
27 Diesel engine system of the Affected Vehicles prior to purchase.
28

1 30. Plaintiff Thomas Hayduk (for the purpose of this paragraph, “Plaintiff”)
2 is a citizen of New York domiciled in Cicero, New York. On or about February 14,
3 2015, Plaintiff purchased a used 2014 Chevrolet Cruze Diesel (for the purpose of this
4 paragraph, the “Affected Vehicle”), from Sun Auto Warehouse in Cicero, New
5 York. Plaintiff purchased, and still owns, this vehicle. Unknown to Plaintiff, at the
6 time the vehicle was purchased, it was equipped with an emissions system that turned
7 off or limited its emissions reduction system during normal driving conditions and
8 emitted pollutants such as NOx at many multiples of emissions emitted from gasoline-
9 powered vehicles, at many times the level a reasonable consumer would expect from a
10 “Clean Diesel”, and at many multiples of that allowed by federal law. GM’s unfair,
11 unlawful, and deceptive conduct in designing, manufacturing, marketing, selling, and
12 leasing the Cruze without proper emission controls has caused Plaintiff out-of-pocket
13 loss, future attempted repairs, and diminished value of his vehicle. GM knew about,
14 manipulated, or recklessly disregarded the inadequate emission controls during normal
15 driving conditions, but did not disclose such facts or their effects to Plaintiff, so
16 Plaintiff purchased his vehicle on the reasonable, but mistaken, belief that his vehicle
17 was a “clean diesel” as compared to gasoline vehicles, complied with United States
18 emissions standards, and would retain all of its operating characteristics throughout its
19 useful life, including high fuel economy. Plaintiff selected and ultimately purchased
20 his vehicle, in part, because of the Clean Diesel system, as represented through
21 advertisements and representations made by GM. Plaintiff recalls that the
22 advertisements and representations touted the cleanliness of the engine system for the
23 environment and the efficiency and power/performance of the engine system. None of
24 the advertisements reviewed or representations received by Plaintiff contained any
25 disclosure that the Affected Vehicle had high emissions compared to gasoline vehicles
26 and the fact that GM had designed part of the emissions reduction system to turn off
27 during normal driving conditions. Had GM disclosed this design, and the fact that the
28

1 Cruze actually emitted pollutants at a much higher level than gasoline vehicles do, and
2 at a much higher level than a reasonable consumer would expect, and emitted
3 unlawfully high levels of pollutants, Plaintiff would not have purchased the vehicle, or
4 would have paid less for it.

5 31. Plaintiff and each Class member has suffered an ascertainable loss as a
6 result of GM's omissions and/or misrepresentations associated with the Chevrolet
7 Cruze's Clean Diesel engine system, including, but not limited to, out-of-pocket loss
8 and future attempted repairs, future additional fuel costs, decreased performance of the
9 vehicle, and diminished value of the vehicle.

10 32. Neither GM nor any of its agents, dealers, or other representatives
11 informed Plaintiff or Class members of the existence of the comparatively and
12 unlawfully high emissions and/or defective nature of the Chevrolet Cruze's Clean
13 Diesel engine system of the Affected Vehicles prior to purchase.

14 33. Plaintiff Joshua Hurst (for the purpose of this paragraph, "Plaintiff") is a
15 citizen of Ohio, domiciled in Massillon, Ohio. On or about October 15th 2015,
16 Plaintiff purchased a new 2014 Chevrolet Cruze Diesel (for the purpose of this
17 paragraph, the "Affected Vehicle") from Progressive Chevrolet in Massillon,
18 Ohio. Plaintiff purchased, and still owns, this vehicle. Unknown to Plaintiff, at the
19 time the vehicle was purchased, it was equipped with an emissions system that turned
20 off or limited its emissions reduction system during normal driving conditions and
21 emitted pollutants such as NOx at many multiples of emissions emitted from gasoline-
22 powered vehicles, at many times the level a reasonable consumer would expect from a
23 "Clean Diesel", and at many multiples of that allowed by federal law. GM's unfair,
24 unlawful, and deceptive conduct in designing, manufacturing, marketing, selling, and
25 leasing the Cruze without proper emission controls has caused Plaintiff out-of-pocket
26 loss, future attempted repairs, and diminished value of his vehicle. GM knew about,
27 manipulated, or recklessly disregarded the inadequate emission controls during normal
28

1 driving conditions, but did not disclose such facts or their effects to Plaintiff, so
2 Plaintiff purchased his vehicle on the reasonable, but mistaken, belief that his vehicle
3 was a “clean diesel” as compared to gasoline vehicles, complied with United States
4 emissions standards, and would retain all of its operating characteristics throughout its
5 useful life, including high fuel economy. Plaintiff selected and ultimately purchased
6 his vehicle, in part, because of the Clean Diesel system, as represented through
7 advertisements and representations made by GM. Plaintiff recalls that the
8 advertisements and representations touted the cleanliness of the engine system for the
9 environment and the efficiency and power/performance of the engine system. None of
10 the advertisements reviewed or representations received by Plaintiff contained any
11 disclosure that the Affected Vehicle had high emissions compared to gasoline vehicles
12 and the fact that GM had designed part of the emissions reduction system to turn off
13 during normal driving conditions. Had GM disclosed this design, and the fact that the
14 Cruze actually emitted pollutants at a much higher level than gasoline vehicles do, and
15 at a much higher level than a reasonable consumer would expect, and emitted
16 unlawfully high levels of pollutants, Plaintiff would not have purchased the vehicle, or
17 would have paid less for it.

18 34. Plaintiff and each Class member has suffered an ascertainable loss as a
19 result of GM’s omissions and/or misrepresentations associated with the Chevrolet
20 Cruze’s Clean Diesel engine system, including, but not limited to, out-of-pocket loss
21 and future attempted repairs, future additional fuel costs, decreased performance of the
22 vehicle, and diminished value of the vehicle.

23 35. Neither GM nor any of its agents, dealers, or other representatives
24 informed Plaintiff or Class members of the existence of the comparatively and
25 unlawfully high emissions and/or defective nature of the Chevrolet Cruze’s Clean
26 Diesel engine system of the Affected Vehicles prior to purchase.
27
28

B. Defendant

1. General Motors

36. Defendant General Motors LLC (GM) is a Delaware limited liability company with its principal place of business located at 300 Renaissance Center, Detroit, Michigan, and is a citizen of the States of Delaware and Michigan. The sole member and owner of General Motors LLC is General Motors Holding LLC. General Motors Holdings LLC is a Delaware limited liability company with its principal place of business in the State of Michigan.

37. GM, through its various entities including Chevrolet, designs, manufactures, markets, distributes and sell GM automobiles in this District and multiple other locations in the United States and worldwide. GM and/or its agents designed, manufactured, and installed the GM engine systems in the Chevy Cruze. GM also developed and disseminated the owner's manuals and warranty booklets, advertisements, and other promotional materials relating to the Affected Vehicles.

V. FACTUAL ALLEGATIONS

A. The Environmental Challenges Posed by Diesel Engines and the United States Regulatory Response Thereto

38. The United States Government, through the Environmental Protection Agency (EPA), has passed and enforced laws designed to protect United States citizens from pollution and in particular, certain chemicals and agents known to cause disease in humans. Automobile manufacturers must abide by these U.S. laws and must adhere to EPA rules and regulations.

39. The U.S. Clean Air Act has strict emissions standards for vehicles, and it requires vehicle manufacturers to certify to the EPA that the vehicles sold in the United States meet applicable federal emissions standards to control air pollution. Every vehicle sold in the United States must be covered by an EPA issued certificate of conformity.

1 40. There is a very good reason that these laws and regulations exist,
2 particularly as regards to vehicles with diesel engines: In 2012, the World Health
3 Organization declared diesel vehicle emissions to be carcinogenic, and about as
4 dangerous as asbestos.

5 41. Diesel engines pose a particularly difficult challenge to the environment
6 because they have an inherent trade-off between power, fuel efficiency, and emissions:
7 the greater the power and fuel efficiency, the dirtier and more harmful the emissions.

8 42. Instead of using a spark plug to combust highly refined fuel with short
9 hydrocarbon chains, as gasoline engines do, diesel engines compress a mist of liquid
10 fuel and air to very high temperatures and pressures, which causes the diesel to
11 spontaneously combust. This causes a more powerful compression of the pistons,
12 which produces greater engine torque (that is, more power).

13 43. The diesel engine is able to do this both because it operates at a higher
14 compression ratio than a gasoline engine and because diesel fuel contains more energy
15 than gasoline.

16 44. But this greater energy and fuel efficiency comes at a cost: diesel
17 produces dirtier and more dangerous emissions. One by-product of diesel combustion
18 is oxides of nitrogen (NOx), which include a variety of nitrogen and oxygen chemical
19 compounds that only form at high temperatures.

20 45. NOx is a generic term for the mono-nitrogen oxides NO and NO₂ (nitric
21 oxide and nitrogen dioxide), which are predominantly produced from the reaction of
22 nitrogen and oxygen gases in the air during combustion. NOx is produced by the
23 burning of all fossil fuels, but is particularly difficult to control from the burning of
24 diesel fuel. NOx is a toxic pollutant, which produces smog and a litany of
25 environmental and health problems. NOx pollution contributes to nitrogen dioxide,
26 particulate matter in the air, and reacts with sunlight in the atmosphere to form ozone.
27 Exposure to these pollutants has been linked with serious health dangers, including
28

1 asthma attacks and other respiratory illness serious enough to send people to the
2 hospital. Ozone and particulate matter exposure have been associated with premature
3 death due to respiratory-related or cardiovascular-related effects. Children, the
4 elderly, and people with pre-existing respiratory illness are at acute risk of health
5 effects from these pollutants. NO_x can cause breathing problems, headaches,
6 chronically reduced lung function, eye irritation, and corroded teeth. It can indirectly
7 affect humans by damaging the ecosystems they rely on.

8 46. Diesel fuel is traditionally denser than gasoline, and the syrupy fuel
9 contains longer hydrocarbon chains, which tend to produce a more efficient vehicle.
10 In fact, diesel engines can convert over 45% of diesel's chemical energy into useful
11 mechanical energy, whereas gasoline engines convert only 30% of gasoline's chemical
12 energy into mechanical energy.¹ Though more efficient, diesel engines come with
13 their own set of challenges, as emissions from diesel engines can include higher levels
14 of NO_x and particulate matter (PM) or soot than emissions from gasoline engines due
15 to the different ways the different fuels combust and the different ways the resulting
16 emissions are treated following combustion. One way NO_x emissions can be reduced
17 is by adjusting the compression and temperature, but that in turn produces particulate
18 matter (PM), a similarly-undesirable hydrocarbon-based emission. Another way NO_x
19 emissions can be reduced is through exhaust gas recirculation or "EGR", whereby
20 exhaust gases are routed back into the intake of the engine and mixed with fresh
21 incoming air. Exhaust gas recirculation lowers NO_x by reducing the available oxygen
22 and by reducing maximum combustion temperatures; however, EGR can also lead to
23 an increase in PM as well. Another way NO_x emissions can be reduced is through
24 expensive exhaust gas after-treatment devices, primarily, catalytic converters, that use
25 a series of chemical reactions to transform the chemical composition of a vehicle's

26
27 ¹ Jack Ewing, Volkswagen Engine-Rigging Scheme Said to Have Begun in 2008,
28 N.Y. Times (Oct. 5, 2015), <http://www.nytimes.com/2015/10/05/business/ engine-shortfall-pushedvolkswagen-to-evade-emissions-testing.html>.

1 NOx emissions into less harmful, relatively inert, and triple bonded nitrogen gas (N₂)
2 and carbon dioxide (CO₂).

3 47. Diesel engines thus operate according to this trade-off between price,
4 NOx, and PM, and for the EPA to designate a diesel car as a “clean” vehicle, it must
5 produce both low PM and low NOx. In 2000, the EPA announced stricter emission
6 standards requiring all diesel models starting in 2007 to produce drastically less NOx
7 than years prior. But it was of utmost importance for GM to achieve (or at least
8 appear to achieve) this “impossible” goal, for it could not legally sell a single vehicle
9 that failed to comply with the governmental emission regulations. Before introducing
10 an Affected Vehicle into the U.S. stream of commerce (or causing the same), GM was
11 required to first apply for, and obtain, an EPA-administered COC, certifying that the
12 vehicle comported with the emission standards for pollutants enumerated in 40 C.F.R.
13 §§ 86.1811-04, 86.1811-09, and 86.1811-10. The CAA expressly prohibits
14 automakers, like GM, from introducing a new vehicle into the stream of commerce
15 without a valid EPA COC. *See* 42 U.S.C. § 7522(a)(1). Moreover, vehicles must be
16 accurately described in the COC application “in all material respects” to be deemed
17 covered by a valid COC. *See* 40 C.F.R. §§ 86.1848-10(c)(6). California’s emission
18 standards are even more stringent than those of the EPA. California’s regulator,
19 CARB, requires a similar application from automakers to obtain an EO, confirming
20 compliance with California’s emission regulations, before allowing the vehicle onto
21 California’s roads.

22 **B. “Dieselgate”**

23 48. On September 18, 2015, the United States Environmental Protection
24 Agency (EPA) issued a notice of violation of the Clean Air Act to German automaker
25 Volkswagen Group after it was found that Volkswagen had intentionally programmed
26 turbocharged direct injection (TDI) diesel engines to activate certain emissions
27 controls only during laboratory emissions testing. The programming caused the
28 vehicles’ nitrogen oxide (NOx) output to meet U.S. standards during regulatory testing

1 but emit up to 40 times more NO_x in real-world driving. Volkswagen put this
2 programming in about 11 million cars worldwide, and in 500,000 in the United States,
3 during model years 2009 through 2015.

4 49. The findings stemmed from a study on emissions discrepancies between
5 European and U.S. models of vehicles commissioned in 2014 by the International
6 Council on Clean Transportation (ICCT), summing up the data from three different
7 sources on 15 vehicles. Among the research groups was a group of five scientists at
8 West Virginia University, who detected additional emissions during live road tests on
9 two out of three diesel cars. ICCT also purchased data from two other sources. The
10 new road testing data and the purchased data were generated using Portable Emissions
11 Measurement Systems (PEMS) invented by an EPA engineer in 1995. The findings
12 were provided to the California Air Resources Board (CARB) in May 2014.

13 50. Several agencies and NGO's have been investigating other diesel
14 manufacturers and have found, as outlined below, that most vehicles are not meeting
15 the even less stringent European emission standards. The EPA investigation has
16 expanded beyond Volkswagen and includes 28 diesel powered vehicles made by
17 BMW, Chrysler, GM, Land Rover, and Mercedes-Benz.

18 **C. GM's Diesel Technology**

19 51. Car manufacturers have struggled to produce diesel engines that have
20 high power and strong fuel efficiency but also cleaner emissions. Removing NO_x
21 from the untreated exhaust is difficult, and diesel car makers have reacted by trying to
22 remove NO_x from the car's exhaust using catalysts.

23 52. GM's response to the challenge has been the GM "Cruze Clean Turbo
24 Diesel" engine and the Cruze. GM touted the Cruze as "GM's cleanest diesel engine
25 ever," and internal marketing materials explain that the Cruze was "[d]esigned to
26 compete head-to-head with German diesels" such as the VW Jetta TDI.

27 53. In order to successfully grow the U.S. diesel market and meet its
28 ambitious objectives, it was critical that GM develop the technology to maintain the

efficient, powerful performance of a diesel, while drastically reducing NOx emissions to comply with the CAA and state emission standards.

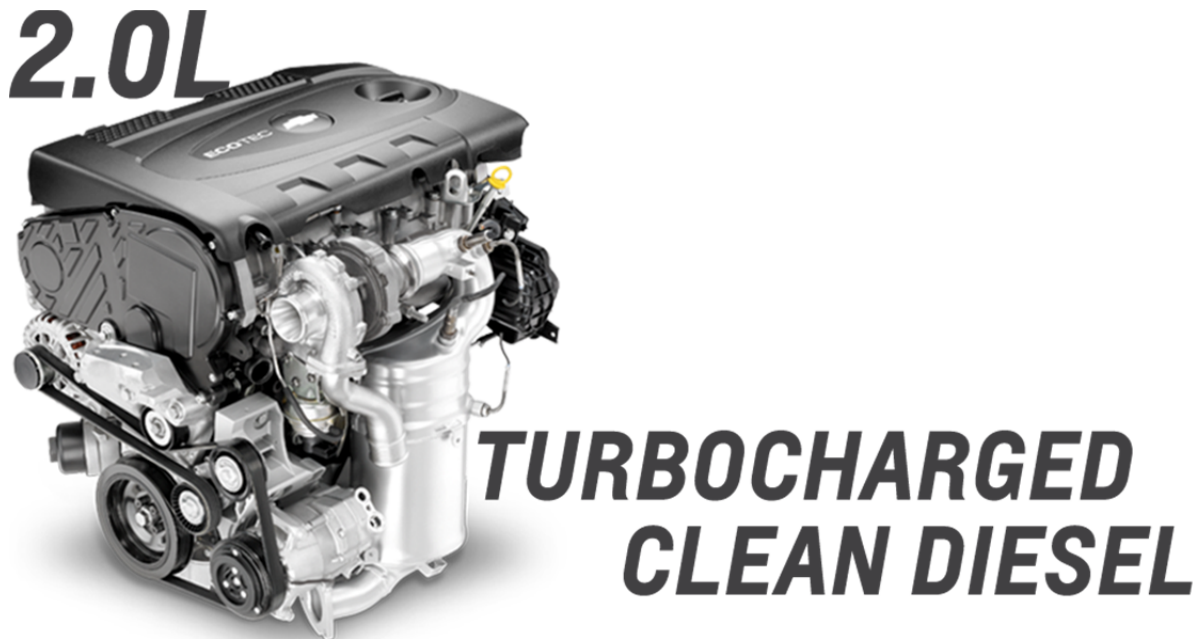
D. GM Advertised and Promoted the Chevrolet Cruze as a “Clean Diesel”

54. To induce consumers to purchase a Cruze vehicle, GM marketed the Cruze as environmentally friendly and fuel efficient.

55. GM advertising is widely disseminated throughout the United States. It includes, among other things, televised advertisements, online social media campaigns, press releases and public statements (claiming the Cruze vehicle complies with EPA emissions standards), print advertising, brochures and other materials distributed to dealers and distributors, and strategic product placement.

1. GM advertised and promoted Cruze as clean.

56. GM’s advertisements, promotional campaigns, and public statements represented that the Affected Vehicles had high fuel economy, low emissions, reduced NOx by 90%, had lower emissions than comparable diesel vehicles, and had lower emissions than other comparable vehicles. For example:



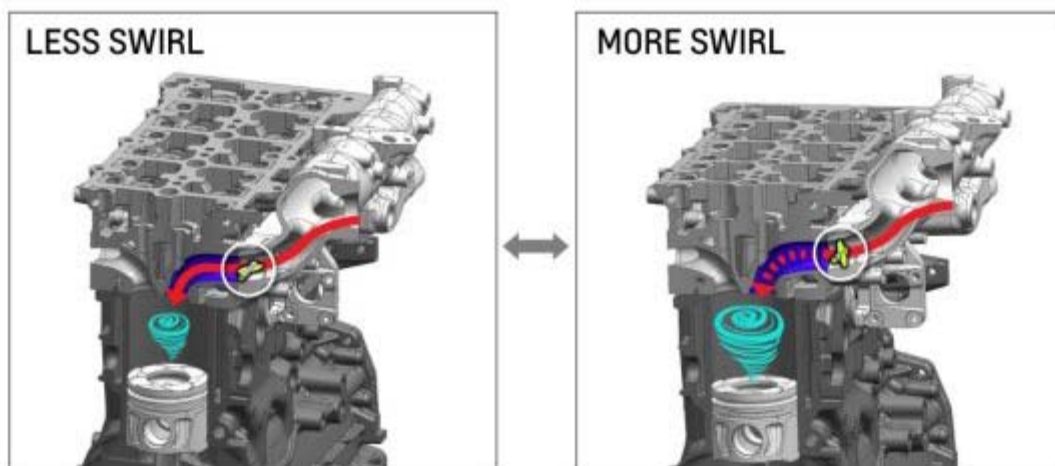
2

² <http://www.chevrolet.com/content/dam/Chevrolet/northamerica/usa/nscwebsite/en/Home/Vehicles/>

57. Another example is an advertisement touting “decreasing emissions”:³

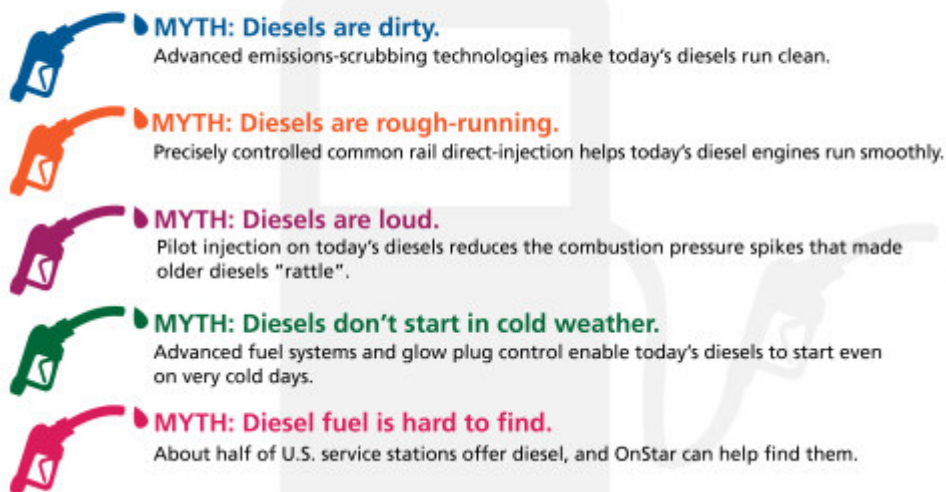
CRUZE CLEAN TURBO DIESEL’S ENGINE IN ACTION

Chevrolet Cruze’s advanced diesel engine varies the swirl of air in the cylinders for more efficient combustion. This improves performance while decreasing emissions.



58. Another example where GM promised clean diesel:⁴

FIVE DIESEL MYTHS **DEBUNKED**



Cars/2014_Cruze_Gas/Model_overview/01_images/2014-chevrolet-cruze-model-overview-diesel-cnt-well-1-980x531-06.png.

³ http://media.chevrolet.com/content/Pages/news/us/en/2013/Jul/0731-cd-variable-swirl/_jcr_content/rightpar/imagewithmodal/image.resize.maxw_570.jpg/1375220652110.jpg.

⁴ http://www.torquenews.com/sites/default/files/image-119/%5Btitle-raw%5D/dieselmyths_v2.jpg.

2. GM advertised and promoted the Chevrolet Cruze as meeting and exceeding compliance with U.S. emissions standards in all 50 states.

59. GM expressly markets the Affected Vehicles as Clean Diesel vehicles, with registration approvals in all 50 states. For example:



CLEAN DIESEL TECHNOLOGY The turbocharged engine in Cruze Clean Turbo Diesel generates at least 90% less nitrogen oxide and particulate emissions when compared to previous-generation diesels. In fact, because of technologies like exhaust gas recirculation, selective catalyst reduction, particulate filter and advanced fuel systems, Cruze Diesel emissions are below strict U.S. environmental standards.

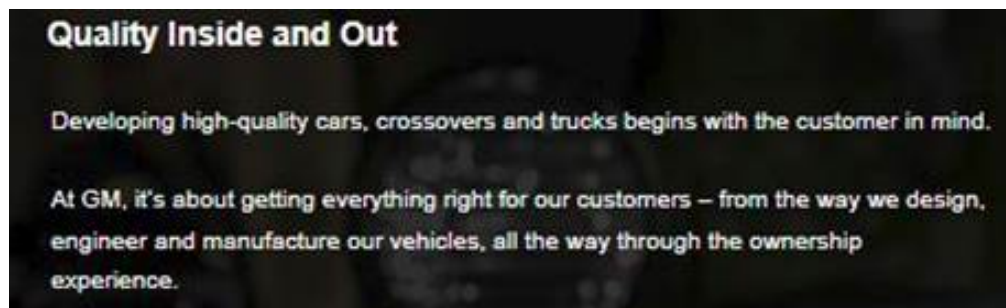
3. GM advertised and promoted itself as a manufacturer of high-quality vehicles.

60. A December 2013 New GM testimonial advertisement stated that “GM has been able to deliver a quality product that satisfies my need for dignity and safety.”

61. GM proclaims on its website, <https://www.gm.com>, that it is “driven to maintain the highest quality standards” and that “Quality and safety are part of our very foundation.”⁵



62. On the same website in 2013, New GM stated: “At GM, it’s about getting everything right for our customers – from the way we design, engineer and manufacture our vehicles, all the way through the ownership experience.”⁶



4. GM advertised and promoted itself as a company that cares about the environment.

63. GM claims that it is “committed to addressing the global challenge of climate change head on” Touting its “ongoing commitment to climate action, its “support for a strong Paris climate negotiations outcome,” and its “hope that other companies will join the growing business community committed to addressing this

⁵ <http://www.gm.com/company/about-gm.html>.

⁶ https://www.gm.com/vision/quality_safety/it_begins_with_a_commitment_to_Quality.

important global issue,” GM dares to call itself a “proud U.S. business for climate action”:



E. The GM Deception

64. In the wake of a major scandal involving Volkswagen and Audi diesel vehicles evading emissions standards with the help of certain software that manipulates emissions controls (called “defeat devices”),⁸ scientific literature and reports and testing indicate that GM’s so called Clean Diesel vehicles emit far more pollution on the road than in lab tests. Indeed, reports by scientists and governmental agencies indicate that virtually all diesel cars are failing to meet European emissions standard which are lower than U.S. standards. On information and belief, and based on testing, it is not plausible that manufacturers such as GM would fail to meet European standards but be able to meet U.S. standards.

⁷ <http://www.gm.com/mol/dec-14-joining-the-pledge.html>.

⁸ The EPA’s Notice of Violation (“NOV”) to Volkswagen Group of America, Inc. can be found at: <http://www3.epa.gov/otaq/cert/documents/vw-nov-caa-09-18-15.pdf>. As detailed in the EPA’s Notice of Violation (“NOV”), software in Volkswagen and Audi diesel vehicles detects when the vehicle is undergoing official emissions testing and turns full emissions controls on only during the test. But otherwise, while the vehicle is running, the emissions controls are suppressed. This results in cars that meet emissions standards in the laboratory or state testing station, but during normal operation emit NOx at up to 40 times the standard allowed under United States laws and regulations. Volkswagen has admitted to installing a defeat device in its diesel vehicles.

1 65. A study conducted by TNO for the Dutch Ministry of Infrastructure and
2 the Environment confirms that, in real world testing, the GM Opel emits NOx at levels
3 much higher than in controlled dynamometer tests and much higher than the “Euro 6
4 standard,” which is less stringent than the U.S. standard.

5 66. The TNO test found that in real-world driving conditions all of the
6 vehicles tested failed to meet the European emissions requirements, and on average
7 these vehicles were at eight times the limit. Included in the tested vehicles was GM’s
8 Opel Zafira 1.6 Liter engine. On information and belief, the core technologies of the
9 Opel design are substantially similar to the Chevy Cruze and it is not logical that GM
10 would be able to pass the stricter U.S. emission standard but fail the less restrictive
11 European standard.

12 67. More specifically, the May 2015 TNO Report found that the Opel’s
13 tailpipe NOx emissions ranged from 150 to 600 mg/km for steady highway driving
14 and 200 to 700 mg/km for urban and mixed driving; for reference, the Euro 6 max,
15 which is less stringent than U.S. standards, is 80 mg/km. NOx emissions as measured
16 on a chassis dynamometer according to the certification procedure were 53 and 65
17 mg/km, well below the standard. In other words, the vehicle emitted significantly
18 more NOx on real-world test trips on the road than during a type approval test in the
19 laboratory, suggesting that the vehicle senses when it is tested in a laboratory and
20 employs a device to cheat.

21 68. The following graph depicts the Opel’s passing the laboratory test (blue
22 bar) and failing all real-world tests:
23
24
25
26
27
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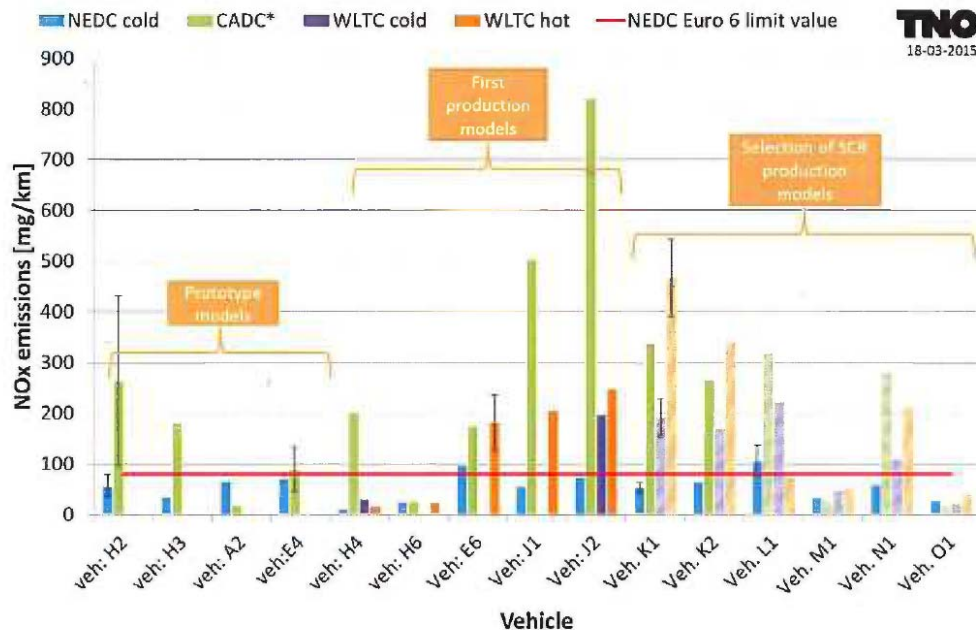


Figure 9: NO_x emissions per driving cycle.

*CADC with hot start, for veh: H2 to E6 motorway part 130 km/h was used, for veh: J1 to O1 motorway part 150 km/h was used.

**The bars in the figure that are shaded are tests with WLTP road load instead of NEDC road load.

Vehicles K1 and K2 are Opels.

69. The fact that GM's Opel passed the dynamometer test in all tests, but failed the real world test, suggests that, like VW, GM is implementing a "defeat device." As discussed below, plaintiffs' dynamometer testing indicates that GM employs a defeat device in its diesels.

70. TNO further remarked: "It is remarkable that the NO_x emission under real-world conditions exceeds the type approval value by [so much]. It demonstrates that the settings of the engine, the EGR and the SCR during a real-world test trip are such that they do not result in low NO_x emissions in practice. In other words: *In most circumstances arising in normal situations on the road, the systems scarcely succeed in any effective reduction of NO_x emissions.*" TNO Report at 6 (emphasis added). The lack of any "effective reduction of NO_x emissions" is a complete contradiction of GM's claim that its vehicles are "Earth-Friendly," produce "harmless nitrogen and oxygen," "Reduce[] Nitrogen Oxides by 80%," are "For the air we breathe," or "significantly reduce[] greenhouse gases."

71. An additional study by the British Department for Transport from April 2016 employed real world driving studies with portable emissions analyzers to test on road emissions. The study found high emissions in both the Vauxhall Insignia and Vauxhall Mokka (Vauxhall is the name used by Opel in the United Kingdom). Real world emissions of these vehicles were found to be approximately 750 mg/km and 400 mg/km for the Insignia and Mokka, respectively. These emissions are well above the Euro 6 standard of 80 mg/km.

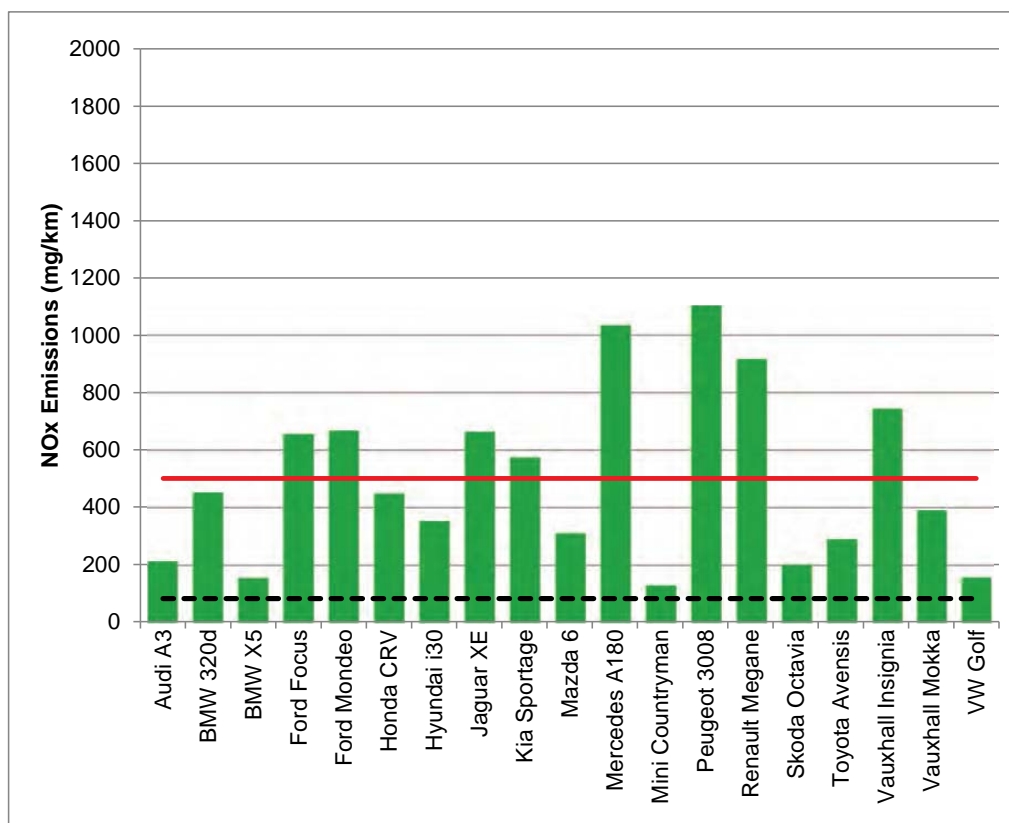


Figure 5-6 Real driving NOx emissions - Euro 6 vehicles (note: direct comparisons should not be made between vehicles as test conditions varied).

72. A study by the French Ministry of the Environment found similarly high on-road emissions and concluded that further investigation was required for several manufacturers, including Opel.

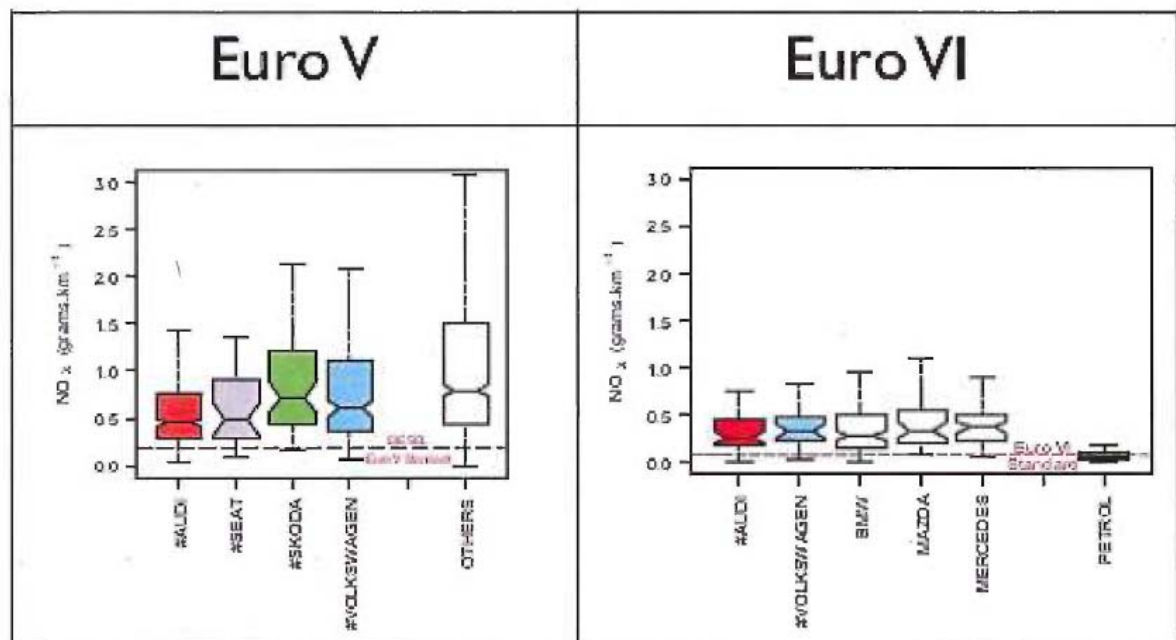
73. Emissions Analytics is a U.K. company, which says that it was formed to “overcome the challenge of finding accurate fuel consumption and emissions figures for road vehicles.” With regard to its recent on-road emissions testing, the company

explains: “[I]n the European market, we have found that real-world emissions of the regulated nitrogen oxides are four times above the official level, determined in the laboratory. Real-world emissions of carbon dioxide are almost one-third above that suggested by official figures. For car buyers, this means that fuel economy on average is one quarter worse than advertised. This matters, even if no illegal activity is found.”

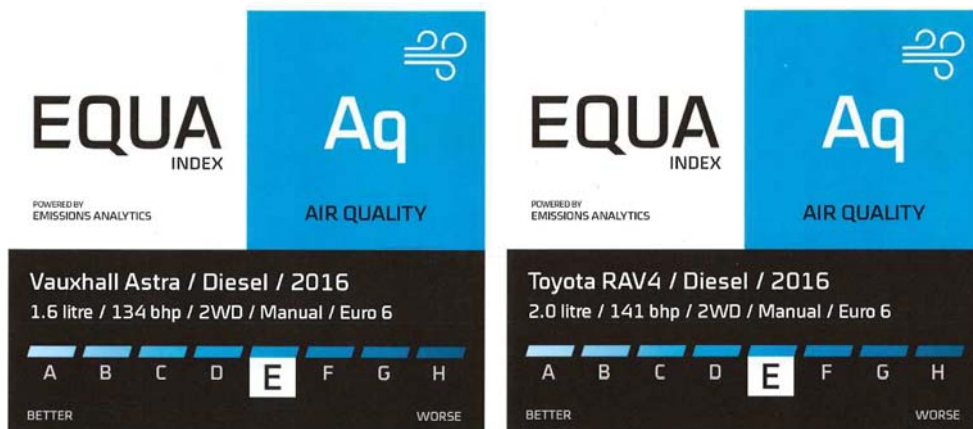
74. Testing by the Institute for Transport Studies in the UK in 2015 also confirmed that vehicles made by all manufacturers, including GM, exceeded the more lax European NOx standards:

Manufacturer comparison

Euro VI



75. Emissions Analytics, a UK based testing company, developed an Air Quality Index that rates the NOx compliance of vehicles. An “A” is a passing grade. Among the vehicles tested were Vauxhall models. Vauxhall is a subsidiary of GM and its Corsa and Astra models are similar to the Chevy Cruze. Both models failed to meet the laxer European NOx standard.



76. Recent testing by the German Federal Department of Motor Vehicles has revealed that certain GM vehicles, in addition to vehicles produced by other manufacturers, had “conspicuously high NOx emissions that apparently could not be sufficiently explained from a technical point of view.” The findings, announced April 22, 2016, have led to the “voluntary” recall of 630,000 vehicles in Europe, including GM vehicles.

77. Shortly after the VW scandal, GM announced it was halting production of the Chevy Cruze.

78. Plaintiffs have tested the Cruze using a Portable Emissions Measurement System (“PEMS”). Testing revealed that the Cruze fails to meet U.S. emissions standards as promised. The U.S. standard is 70 mg/mile. In highway driving the Cruze averaged 128 mg/mile with a high of 557 mg/mile. At speeds over 70 mph, the average was 231 mg/mile. That’s 1.8 to 8 times the federal standard. At stop-and-go driving the average was 182 mg/mile with a maximum of 689 mg/mile, or 3.6 to 13.8 times the federal standard. When tested at temperatures below 50°F, the NOx was 689 mg/mile and it appears the emissions control system stops working. The same is true at temperatures over 85°F, where NOx rates were tested and ran at 450 to 550 mg/mile.

F. The Damage

79. NOx contributes to ground-level ozone and fine particulate matter. According to the EPA, “Exposure to these pollutants has been linked with a range of

1 serious health effects, including increased asthma attacks and other respiratory
2 illnesses that can be serious enough to send people to the hospital. Exposure to ozone
3 and particulate matter have also been associated with premature death due to
4 respiratory-related or cardiovascular-related effects. Children, the elderly, and people
5 with pre-existing respiratory disease are particularly at risk for health effects of these
6 pollutants.”

7 80. The EPA describes the danger of NO_x as follows:

8 **Acid Rain** - NO_x and sulfur dioxide
9 react with other substances in the
10 air to form acids which fall to earth
11 as rain, fog, snow, or dry particles.
12 Some may be carried by the wind for
13 hundreds of miles. Acid rain
damages forests; causes deterioration
of cars, buildings, and historical
monuments; and causes lakes and
streams to become acidic and
unsuitable for many fish.



14 **Water Quality Deterioration**
15 - Increased nitrogen loading in
16 water bodies, particularly coastal
17 estuaries, upsets the chemical
balance of nutrients used by aquatic
plants and animals. Additional
nitrogen accelerates
18 “eutrophication,” which leads to
19 oxygen depletion and reduces fish
and shellfish populations. NO_x
20 emissions in the air are one of the
largest sources of nitrogen
21 pollution to the Chesapeake Bay.





Toxic Chemicals - In the air, NO_x reacts readily with common organic chemicals, and even ozone, to form a wide variety of toxic products, some of which may cause biological mutations. Examples of these chemicals include the nitrate radical, nitroarenes, and nitrosamines.

Ground-level Ozone (Smog) - is formed when NO_x and volatile organic compounds (VOCs) react in the presence of heat and sunlight. Children, the elderly, people with lung diseases such as asthma, and people who work or exercise outside are susceptible to adverse effects such as damage to lung tissue and reduction in lung function. Ozone can be transported by wind currents and cause health impacts far from the original sources. Millions of Americans live in areas that do not meet the health standards for ozone. Other impacts from ozone include damaged vegetation and reduced crop yields.





Particles - NO_x react with ammonia, moisture, and other compounds to form nitric acid vapor and related particles. Human health concerns include effects on breathing and the respiratory system, damage to lung tissue, and premature death. Small particles penetrate deeply into sensitive parts of the lungs and can cause or worsen respiratory disease, such as emphysema and bronchitis, and aggravate existing heart disease.



Global Warming - One member of the NO_x family, nitrous oxide, is a greenhouse gas. It accumulates in the atmosphere with other greenhouse gases causing a gradual rise in the earth's temperature. This will lead to increased risks to human health, a rise in the sea level, and other adverse changes to plant and animal habitat.

81. GM will not be able to make the Affected Vehicles comply with emissions standards without substantially degrading their performance characteristics, including their horsepower and their fuel efficiency. As a result, even if GM is able to make Class members' Affected Vehicles EPA compliant, Class members will nonetheless suffer actual harm and damages because their vehicles will no longer perform as they did when purchased and as advertised. This will necessarily result in a diminution in value of every Affected Vehicle, and it will cause owners of Affected Vehicles to pay more for fuel while using their Affected Vehicles.

82. Plaintiffs and members of the class paid a premium for a diesel Cruze, as GM charged more for its diesel car than a comparable gas car. Depending on trim level, the premium was as much as \$2,400.

83. As a result of GM's unfair, deceptive, and/or fraudulent business practices, and its failure to disclose that under normal operating conditions the Affected Vehicles are not "clean" diesels, emit more pollutants than do gasoline

1 powered vehicles, and emit more pollutants than permitted under federal and state
 2 laws, owners and/or lessees of the Affected Vehicles have suffered losses in money
 3 and/or property. Had Plaintiffs and Class members known of the higher emissions at
 4 the time they purchased or leased their Affected Vehicles, they would not have
 5 purchased or leased those vehicles, or would have paid substantially less for the
 6 vehicles than they did. Moreover, when and if GM recalls the Affected Vehicles and
 7 degrades the GM Clean Diesel engine performance and fuel efficiency in order to
 8 make the Affected Vehicles compliant with EPA standards, Plaintiffs and Class
 9 members will be required to spend additional sums on fuel and will not obtain the
 10 performance characteristics of their vehicles when purchased. Moreover, Affected
 11 Vehicles will necessarily be worth less in the marketplace because of their decrease in
 12 performance and efficiency and increased wear on their cars' engines.

13 **VI. TOLLING OF THE STATUTE OF LIMITATIONS**

14 **A. Discovery Rule Tolling**

15 84. Class members had no way of knowing about GM's deception with
 16 respect to the comparatively and unlawfully high emissions of its GM Clean Diesel
 17 engine system in the Affected Vehicles. To be sure, GM continues to market the
 18 Affected Vehicles as "clean" diesels that have lower emissions than gasoline vehicles
 19 and also continues to claim that the Affected Vehicles comply with EPA emissions
 20 standards.

21 85. Within the time period of any applicable statutes of limitation, Plaintiffs
 22 and members of the proposed Classes could not have discovered through the exercise
 23 of reasonable diligence that GM was concealing the conduct complained of herein and
 24 misrepresenting the Company's true position with respect to the emission qualities of
 25 the Affected Vehicles.

26 86. Plaintiffs and the other Class members did not discover, and did not know
 27 of facts that would have caused a reasonable person to suspect, that GM did not report
 28

1 information within its knowledge to federal and state authorities, its dealerships, or
2 consumers; nor would a reasonable and diligent investigation have disclosed that GM
3 had concealed information about the true emissions of the Affected Vehicles, which
4 was discovered by Plaintiffs only shortly before this action was filed. Nor in any
5 event would such an investigation on the part of Plaintiffs and other Class members
6 have disclosed that GM valued profits over truthful marketing and compliance with
7 law.

8 87. For these reasons, all applicable statutes of limitation have been tolled by
9 operation of the discovery rule with respect to claims as to the Affected Vehicles.

10 **B. Fraudulent Concealment Tolling**

11 88. All applicable statutes of limitation have also been tolled by GM's
12 knowing and active fraudulent concealment and denial of the facts alleged herein
13 throughout the time period relevant to this action.

14 89. Instead of disclosing its emissions scheme, or that the quality and
15 quantity of emissions from the Affected Vehicles were far worse than represented, and
16 of its disregard of law, GM falsely represented that the Affected Vehicles had
17 emissions cleaner than their gasoline powered counterparts, complied with federal and
18 state emissions standards, that the diesel engines were "Clean," and that it was a
19 reputable manufacturer whose representation could be trusted.

20 **C. Estoppel**

21 90. GM was under a continuous duty to disclose to Plaintiffs and the other
22 Class members the true character, quality, and nature of emissions from the Affected
23 Vehicles, and of those vehicles' emissions systems.

24 91. GM knowingly, affirmatively, and actively concealed or recklessly
25 disregarded the true nature, quality, and character of the emissions systems, and the
26 emissions, of the Affected Vehicles.

27 92. Based on the foregoing, GM is estopped from relying on any statutes of
28 limitations in defense of this action.

VII. CLASS ALLEGATIONS

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

All persons who purchased or leased a Chevrolet Cruze (“Affected Vehicles”). Plaintiffs assert claims under the laws of each state set forth below.

94. Excluded from the Class are individuals who have personal injury claims resulting from the high emissions in the GM Clean Diesel system of Affected Vehicles. Also excluded from the Class are GM and its subsidiaries and affiliates; all persons who make a timely election to be excluded from the Class; governmental entities; and the Judge to whom this case is assigned and his/her immediate family. Plaintiffs reserve the right to revise the Class definition based upon information learned through discovery.

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

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

97. **Numerosity**. Federal Rule of Civil Procedure 23(a)(1): The members of the Class are so numerous and geographically dispersed that individual joinder of all Class members is impracticable. While Plaintiffs are informed and believe that there are at least thousands of members of the Class, the precise number of Class members is unknown to Plaintiffs, but may be ascertained from GM’s books and records. Class members may be notified of the pendency of this action by recognized, Court-approved notice dissemination methods, which may include U.S. mail, electronic mail, Internet postings, and/or published notice.

1 98. **Commonality and Predominance**: Federal Rule of Civil Procedure
2 23(a)(2) and 23(b)(3): This action involves common questions of law and fact, which
3 predominate over any questions affecting individual Class members, including,
4 without limitation:

- 5 a) Whether GM engaged in the conduct alleged herein;
- 6 b) Whether GM designed, advertised, marketed, distributed, leased, sold, or
7 otherwise placed Affected Vehicles into the stream of commerce in the United States;
- 8 c) Whether the GM Clean Diesel engine system in the Affected Vehicles
9 emit pollutants at levels that do not make them “clean” diesels and that do not comply
10 with U.S. EPA requirements;
- 11 d) Whether GM knew about the comparatively and unlawfully high
12 emissions and, if so, how long GM has known;
- 13 e) Whether GM designed, manufactured, marketed, and distributed Affected
14 Vehicles with defective or otherwise inadequate emission controls;
- 15 f) Whether GM’s conduct violates consumer protection statutes and
16 constitutes breach of contract and fraudulent concealment as asserted herein;
- 17 g) Whether Plaintiffs and the other Class members overpaid for their
18 vehicles; and
- 19 h) Whether Plaintiffs and the other Class members are entitled to damages
20 and other monetary relief and, if so, in what amount.

21 99. **Typicality**: Federal Rule of Civil Procedure 23(a)(3): Plaintiffs’ claims
22 are typical of the other Class members’ claims because, among other things, all Class
23 members were comparably injured through GM’s wrongful conduct as described
24 above.

25 100. **Adequacy**: Federal Rule of Civil Procedure 23(a)(4): Plaintiffs are
26 adequate Class representatives because their interests do not conflict with the interests
27 of the other members of the Classes they seek to represent; Plaintiffs have retained
28

1 counsel competent and experienced in complex class action litigation; and Plaintiffs
 2 intend to prosecute this action vigorously. The Classes' interests will be fairly and
 3 adequately protected by Plaintiffs and their counsel.

4 101. **Superiority**: Federal Rule of Civil Procedure 23(b)(3): A class action is
 5 superior to any other available means for the fair and efficient adjudication of this
 6 controversy, and no unusual difficulties are likely to be encountered in the
 7 management of this class action. The damages or other financial detriment suffered
 8 by Plaintiffs and the other Class members are relatively small compared to the burden
 9 and expense that would be required to individually litigate their claims against GM, so
 10 it would be impracticable for the members of the Classes to individually seek redress
 11 for GM's wrongful conduct. Even if Class members could afford individual litigation,
 12 the court system could not. Individualized litigation creates a potential for
 13 inconsistent or contradictory judgments, and increases the delay and expense to all
 14 parties and the court system. By contrast, the class action device presents far fewer
 15 management difficulties, and provides the benefits of single adjudication, economy of
 16 scale, and comprehensive supervision by a single court.

17 **A. Alabama State Claims**

18 **COUNT I**

19 **VIOLATIONS OF THE ALABAMA DECEPTIVE TRADE PRACTICES ACT** 20 **(ALA. CODE §§ 8-19-1, *ET SEQ.*)**

21 102. Plaintiffs (for purposes of all Alabama Class Counts) incorporate by
 22 reference all paragraphs as though fully set forth herein.

23 103. Plaintiffs bring this Count on behalf of the Alabama Class members.

24 104. Plaintiffs and the Class members are "consumers" within the meaning of
 25 ALA. CODE § 8-19-3(2).

26 105. Plaintiffs, the Class members, and GM are "persons" within the meaning
 27 of ALA. CODE § 8-19-3(5).
 28

106. The Affected Vehicles are “goods” within the meaning of ALA. CODE § 8-19-3(3).

107. GM was and is engaged in “trade or commerce” within the meaning of ALA. CODE § 8-19-3(8).

108. The Alabama Deceptive Trade Practices Act (“Alabama DTPA”) declares several specific actions to be unlawful, including: “(5) Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or qualities that they do not have,” “(7) Representing that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another,” and “(27) Engaging in any other unconscionable, false, misleading, or deceptive act or practice in the conduct of trade or commerce.” ALA. CODE § 8-19-5.

109. Plaintiffs intend to assert a claim under the Alabama DTPA. Plaintiffs will make a demand in satisfaction of ALA. CODE § 8-19-3 and may amend this Complaint to assert claims under the Alabama DTPA once the required 15 days have elapsed. This paragraph is included for purposes of notice only and is not intended to actually assert a claim under the Alabama DTPA.

COUNT II

BREACH OF CONTRACT (BASED ON ALABAMA LAW)

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

111. Plaintiffs bring this Count on behalf of the Alabama Class.

112. GM's misrepresentations and omissions alleged herein, including, but not limited to, GM's failure to disclose that the NOx reduction system in the Affected Vehicles turns off or is limited during normal driving conditions caused Plaintiffs and the other Class members to make their purchases or leases of their Affected Vehicles. Absent those misrepresentations and omissions, Plaintiffs and the other Class

1 members would not have purchased or leased these Affected Vehicles, would not have
2 purchased or leased these Affected Vehicles at the prices they paid, and/or would have
3 purchased or leased less expensive alternative vehicles that did not contain the
4 defective GM Clean Diesel engine system and which were not marketed as including
5 such a system. Accordingly, Plaintiffs and the other Class members overpaid for their
6 Affected Vehicles and did not receive the benefit of their bargain.

7 113. Each and every sale or lease of an Affected Vehicle constitutes a contract
8 between GM and the purchaser or lessee. GM breached these contracts by, among
9 other things, selling or leasing to Plaintiffs and the other Class members defective
10 Affected Vehicles and by misrepresenting or failing to disclose that the NOx reduction
11 system in the Affected Vehicles turns off or is limited during normal driving
12 conditions, and thus less valuable, than vehicles not equipped with the defective GM
13 Clean Diesel engine system.

14 114. As a direct and proximate result of GM's breach of contract, Plaintiffs
15 and the Class have been damaged in an amount to be proven at trial, which shall
16 include, but is not limited to, all compensatory damages, incidental and consequential
17 damages, and other damages allowed by law.

18 **COUNT III**

19 **FRAUDULENT CONCEALMENT** 20 **(BASED ON ALABAMA LAW)**

21 115. Plaintiffs incorporate by reference all paragraphs as though fully set forth
22 herein.

23 116. This claim is brought on behalf of the Alabama Class.

24 117. GM intentionally concealed that the NOx reduction system in the
25 Affected Vehicles turns off or is limited during normal driving conditions, that the
26 Affected Vehicles had defective emissions controls, emitted pollutants at a higher
27 level than gasoline powered vehicles, emitted pollutants higher than a reasonable
28 consumer would expect in light of GM's advertising campaign, emitted unlawfully

1 high levels of pollutants such as NO_x, and were non-compliant with EPA emission
2 requirements, or GM acted with reckless disregard for the truth, and denied Plaintiffs
3 and the other Class members information that is highly relevant to their purchasing
4 decision.

5 118. GM further affirmatively misrepresented to Plaintiffs in advertising and
6 other forms of communication, including standard and uniform material provided with
7 each car, that the Affected Vehicles it was selling had no significant defects, were
8 Earth-friendly and low emission vehicles, complied with EPA regulations, and would
9 perform and operate properly when driven in normal usage.

10 119. GM knew these representations were false when made.

11 120. The Affected Vehicles purchased or leased by Plaintiffs and the other
12 Class members were, in fact, defective, emitting pollutants at a much higher rate than
13 gasoline powered vehicles and at a much higher rate than a reasonable consumer
14 would expect in light of GM's advertising campaign, non-EPA-compliant, and
15 unreliable because the NO_x reduction system in the Affected Vehicles turns off or is
16 limited during normal driving conditions.

17 121. GM had a duty to disclose that the NO_x reduction system in the Affected
18 Vehicles turns off or is limited during normal driving conditions, and that these
19 Affected Vehicles were defective, employed a "Defeat Device," emitted pollutants at a
20 much higher rate than gasoline powered vehicles, that the emissions far exceeded
21 those expected by a reasonable consumer, were non-EPA-compliant and unreliable,
22 because Plaintiffs and the other Class members relied on GM's material
23 representations that the Affected Vehicles they were purchasing were reduced
24 emission vehicles, efficient, and free from defects.

25 122. As alleged in this Complaint, at all relevant times, GM has held out the
26 Affected Vehicles to be reduced emissions, EPA-compliant vehicles. GM disclosed
27 certain details about the GM Clean Diesel engine, but nonetheless, GM intentionally
28

1 failed to disclose the important facts that the NOx reduction system in the Affected
2 Vehicles turns off or is limited during normal driving conditions, and that the Affected
3 Vehicles had defective emissions controls, deploy a “Defeat Device,” emitted higher
4 levels of pollutants than expected by a reasonable consumer, emitted unlawfully high
5 levels of pollutants, and were non-compliant with EPA emissions requirements,
6 making other disclosures about the emission system deceptive.

7 123. The truth about the defective emissions controls and GM’s manipulations
8 of those controls, unlawfully high emissions, the “Defeat Device,” and non-
9 compliance with EPA emissions requirements was known only to GM; Plaintiffs and
10 the Class members did not know of these facts, and GM actively concealed these facts
11 from Plaintiffs and Class members.

12 124. Plaintiffs and Class members reasonably relied upon GM’s deception.
13 They had no way of knowing that GM’s representations were false and/or misleading.
14 As consumers, Plaintiffs and Class members did not, and could not, unravel GM’s
15 deception on their own. Rather, GM intended to deceive Plaintiffs and Class members
16 by concealing the true facts about the Affected Vehicle emissions.

17 125. GM also concealed and suppressed material facts concerning what is
18 evidently the true culture of GM—one characterized by an emphasis on profits and
19 sales above compliance with federal and state clean air laws and emissions regulations
20 that are meant to protect the public and consumers. It also emphasized profits and
21 sales above the trust that Plaintiffs and Class members placed in its representations.
22 Consumers buy diesel cars from GM because they feel they are clean diesel cars.
23 They do not want to be spewing noxious gases into the environment. And yet, that is
24 precisely what the Affected Vehicles are doing.

25 126. GM’s false representations were material to consumers, because they
26 concerned the quality of the Affected Vehicles, because they concerned compliance
27 with applicable federal and state law and regulations regarding clean air and
28

1 emissions, and also because the representations played a significant role in the value
2 of the vehicles. As GM well knew, its customers, including Plaintiffs and Class
3 members, highly valued that the vehicles they were purchasing or leasing were fuel
4 efficient, clean diesel cars with reduced emissions, and they paid accordingly.

5 127. GM had a duty to disclose the emissions defect, defective design of the
6 emissions controls, and violations with respect to the Affected Vehicles because
7 details of the true facts were known and/or accessible only to GM, because GM had
8 exclusive knowledge as to such facts, and because GM knew these facts were not
9 known to or reasonably discoverable by Plaintiffs or Class members. GM also had a
10 duty to disclose because it made general affirmative representations about the qualities
11 of its vehicles with respect to emissions, starting with references to them as *reduced*
12 *emissions* diesel cars and as compliant with all laws in each state, which were
13 misleading, deceptive, and incomplete without the disclosure of the additional facts set
14 forth above regarding the actual emissions of its vehicles, its actual philosophy with
15 respect to compliance with federal and state clean air laws and emissions regulations,
16 and its actual practices with respect to the vehicles at issue. Having volunteered to
17 provide information to Plaintiffs and Class members, GM had the duty to disclose not
18 just the partial truth, but the entire truth. These omitted and concealed facts were
19 material because they directly impact the value of the Affected Vehicles purchased or
20 leased by Plaintiffs and Class members. Whether a manufacturer's products pollute,
21 comply with federal and state clean air laws and emissions regulations, and whether
22 that manufacturer tells the truth with respect to such compliance or non-compliance,
23 are material concerns to a consumer, including with respect to the emissions
24 certifications testing their vehicles must pass. GM represented to Plaintiffs and Class
25 members that they were purchasing or leasing *reduced emission* diesel vehicles, when
26 in fact, they were purchasing or leasing defective, high emission, and unlawfully high
27 emission vehicles.

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

7 129. GM has still not made full and adequate disclosures, and continues to
8 defraud Plaintiffs and Class members by concealing material information regarding
9 the emissions qualities of its referenced vehicles.

10 130. Plaintiffs and Class members were unaware of the omitted material facts
11 referenced herein, and they would not have acted as they did if they had known of the
12 concealed and/or suppressed facts, in that they would not have purchased purportedly
13 reduced emissions diesel cars manufactured by GM, and/or would not have continued
14 to drive their heavily polluting vehicles, or would have taken other affirmative steps in
15 light of the information concealed from them. Plaintiffs' and Class members' actions
16 were justified. GM was in exclusive control of the material facts, and such facts were
17 not generally known to the public, Plaintiffs, or Class members.

18 131. Because of the concealment and/or suppression of the facts, Plaintiffs and
19 Class members have sustained damage because they own vehicles that are diminished
20 in value as a result of GM's concealment of the true quality and quantity of those
21 vehicles' emissions and GM's failure to timely disclose the defect or defective design
22 of the GM Clean Diesel engine system, the actual emissions qualities and quantities of
23 GM-branded vehicles, and the serious issues engendered by GM's corporate policies.
24 Had Plaintiffs and Class members been aware of the true emissions facts with regard
25 to the Affected Vehicles, and the Company's disregard for the truth and compliance
26 with applicable federal and state law and regulations, Plaintiffs and Class members
27
28

1 who purchased or leased new or certified previously owned vehicles would have paid
2 less for their vehicles or would not have purchased or leased them at all.

3 132. The value of Plaintiffs' and Class members' vehicles has diminished as a
4 result of GM's fraudulent concealment of the defective emissions controls of the
5 Affected Vehicles, and of the unlawfully high emissions of the Affected Vehicles, and
6 of the non-compliance with EPA emissions requirements, all of which has greatly
7 tarnished the GM brand name attached to Plaintiffs' and Class members' vehicles and
8 made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let
9 alone pay what otherwise would have been fair market value for the vehicles.

10 133. Accordingly, GM is liable to Plaintiffs and Class members for damages in
11 an amount to be proven at trial.

12 134. GM's acts were done wantonly, maliciously, oppressively, deliberately,
13 with intent to defraud, and in reckless disregard of Plaintiffs' and Class members'
14 rights and the representations that GM made to them, in order to enrich GM. GM's
15 conduct warrants an assessment of punitive damages in an amount sufficient to deter
16 such conduct in the future, which amount is to be determined according to proof.

17 **VIII. CLAIMS BROUGHT ON BEHALF OF THE ARIZONA CLASS**

18 **COUNT I**

19 **VIOLATIONS OF THE ARIZONA CONSUMER FRAUD ACT** 20 **(ARIZONA REV. STAT. §§ 44-1521, *ET SEQ.*)**

21 135. Plaintiffs (for purposes of all Arizona Class Counts) incorporate by
22 reference all paragraphs as though fully set forth herein.

23 136. Plaintiffs bring this Count on behalf of the Arizona Class members.

24 137. The Arizona CFA provides that "[t]he act, use or employment by any
25 person of any deception, deceptive act or practice, fraud, ... misrepresentation, or
26 concealment, suppression or omission of any material fact with intent that others rely
27 upon such concealment, suppression or omission, in connection with the sale ... of any
28 merchandise whether or not any person has in fact been misled, deceived or damaged

1 thereby, is declared to be an unlawful practice.” ARIZ. REV. STAT. § 44-1522(A). In
2 the course of GM’s business, it willfully failed to disclose and actively concealed that
3 the NOx reduction system in the Affected Vehicles turns off or is limited during
4 normal driving conditions, that the Affected Vehicles emitted far more pollutants than
5 gasoline powered vehicles, that the Affected Vehicles emit far more pollution than a
6 reasonable consumer would expect in light of GM’s advertising campaign, and that the
7 Affected Vehicles emitted unlawfully high levels of pollutants, including NOx, as
8 described above. Accordingly, GM engaged in unlawful trade practices by employing
9 deception, deceptive acts or practices, fraud, misrepresentations, or concealment,
10 suppression or omission of any material fact with intent that others rely upon such
11 concealment, suppression or omission, in connection with the sale of Affected
12 Vehicles.

13 138. In purchasing or leasing the Affected Vehicles, Plaintiffs and the other
14 Class members were deceived by GM’s failure to disclose the NOx reduction system
15 in the Affected Vehicles turns off or is limited during normal driving conditions, that
16 the emissions controls were defective, and that the Affected Vehicles emitted
17 unlawfully high levels of pollutants, including NOx, as described above.

18 139. Plaintiffs and Class members reasonably relied upon GM’s false
19 misrepresentations. They had no way of knowing that GM’s representations were
20 false and gravely misleading. As alleged herein, GM engaged in extremely
21 sophisticated methods of deception. Plaintiffs and Class members did not, and could
22 not, unravel GM’s deception on their own.

23 140. GM’s actions as set forth above occurred in the conduct of trade or
24 commerce.

25 141. GM’s deception, fraud, misrepresentation, concealment, suppression or
26 omission of material facts were likely to and did in fact deceive reasonable consumers.
27
28

1 142. GM intentionally and knowingly misrepresented material facts regarding
2 the Affected Vehicles with an intent to mislead Plaintiffs and the Class.

3 143. GM knew or should have known that its conduct violated the Arizona
4 Consumer Fraud Act.

5 144. GM owed Plaintiffs and the Class a duty to disclose the truth about its
6 emissions systems manipulation because GM:

7 a. Possessed exclusive knowledge that it
8 manipulated the emissions system in the Affected Vehicles
9 to turn off or limit effectiveness in normal driving
conditions;

10 b. Intentionally concealed the foregoing from
11 Plaintiffs and the Class; and/or

12 c. Made incomplete representations that it
13 manipulated the emissions system in the Affected Vehicles
14 to turn off or limit effectiveness in normal driving
conditions, while purposefully withholding material facts
15 from Plaintiffs and the Class that contradicted these
representations.

16 145. GM had a duty to disclose that the NOx reduction system in the Affected
17 Vehicles turns off or is limited during normal driving conditions, and that these
18 Affected Vehicles were defective, employed a “Defeat Device,” emitted pollutants at a
19 much higher rate than gasoline powered vehicles, that the emissions far exceeded
20 those expected by a reasonable consumer, were non-EPA-compliant and unreliable,
21 because Plaintiffs and the other Class members relied on GM’s material
22 representations that the Affected Vehicles they were purchasing were reduced
23 emission vehicles, efficient, and free from defects.

24 146. GM’s conduct proximately caused injuries to Plaintiffs and the other
25 Class members.

26 147. Plaintiffs and the other Class members were injured and suffered
27 ascertainable loss, injury-in-fact, and/or actual damage as a proximate result of GM’s
28 conduct in that Plaintiffs and the other Class members overpaid for their Affected

1 Vehicles and did not receive the benefit of their bargain, and their Affected Vehicles
2 have suffered a diminution in value. These injuries are the direct and natural
3 consequence of GM's misrepresentations and omissions.

4 148. GM's violations present a continuing risk to Plaintiffs as well as to the
5 general public. GM's unlawful acts and practices complained of herein affect the
6 public interest.

7 149. Plaintiffs and the Class seek monetary relief against GM in an amount to
8 be determined at trial. Plaintiffs and the Class also seek punitive damages because
9 GM engaged in aggravated and outrageous conduct with an evil mind.

10 150. Plaintiffs also seek attorneys' fees and any other just and proper relief
11 available.

12 **COUNT II**

13 **BREACH OF CONTRACT** 14 **(BASED ON ARIZONA LAW)**

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

17 152. Plaintiffs bring this Count on behalf of the Arizona Class.

18 153. GM's misrepresentations and omissions alleged herein, including, but not
19 limited to, GM's failure to disclose that the NOx reduction system in the Affected
20 Vehicles turns off or is limited during normal driving conditions caused Plaintiffs and
21 the other Class members to make their purchases or leases of their Affected Vehicles.
22 Absent those misrepresentations and omissions, Plaintiffs and the other Class
23 members would not have purchased or leased these Affected Vehicles, would not have
24 purchased or leased these Affected Vehicles at the prices they paid, and/or would have
25 purchased or leased less expensive alternative vehicles that did not contain the
26 defective GM Clean Diesel engine system and which were not marketed as including
27 such a system. Accordingly, Plaintiffs and the other Class members overpaid for their
28 Affected Vehicles and did not receive the benefit of their bargain.

1 154. Each and every sale or lease of an Affected Vehicle constitutes a contract
2 between GM and the purchaser or lessee. GM breached these contracts by, among
3 other things, selling or leasing to Plaintiffs and the other Class members defective
4 Affected Vehicles and by misrepresenting or failing to disclose that the NOx reduction
5 system in the Affected Vehicles turns off or is limited during normal driving
6 conditions, and thus less valuable, than vehicles not equipped with the defective GM
7 Clean Diesel engine system.

8 155. As a direct and proximate result of GM's breach of contract, Plaintiffs
9 and the Class have been damaged in an amount to be proven at trial, which shall
10 include, but is not limited to, all compensatory damages, incidental and consequential
11 damages, and other damages allowed by law.

12 COUNT III

13 FRAUDULENT CONCEALMENT 14 (BASED ON ARIZONA LAW)

15 156. Plaintiffs incorporate by reference all paragraphs as though fully set forth
16 herein.

17 157. This claim is brought on behalf of the Arizona Class.

18 158. GM intentionally concealed that the NOx reduction system in the
19 Affected Vehicles turns off or is limited during normal driving conditions, that the
20 Affected Vehicles had defective emissions controls, emitted pollutants at a higher
21 level than gasoline powered vehicles, emitted pollutants higher than a reasonable
22 consumer would expect in light of GM's advertising campaign, emitted unlawfully
23 high levels of pollutants such as NOx, and were non-compliant with EPA emission
24 requirements, or GM acted with reckless disregard for the truth, and denied Plaintiffs
25 and the other Class members information that is highly relevant to their purchasing
26 decision.

27 159. GM further affirmatively misrepresented to Plaintiffs in advertising and
28 other forms of communication, including standard and uniform material provided with

1 each car, that the Affected Vehicles it was selling had no significant defects, were
2 Earth-friendly and low emission vehicles, complied with EPA regulations, and would
3 perform and operate properly when driven in normal usage.

4 160. GM knew these representations were false when made.

5 161. The Affected Vehicles purchased or leased by Plaintiffs and the other
6 Class members were, in fact, defective, emitting pollutants at a much higher rate than
7 gasoline powered vehicles and at a much higher rate than a reasonable consumer
8 would expect in light of GM's advertising campaign, non-EPA-compliant, and
9 unreliable because the NOx reduction system in the Affected Vehicles turns off or is
10 limited during normal driving conditions.

11 162. GM had a duty to disclose that the NOx reduction system in the Affected
12 Vehicles turns off or is limited during normal driving conditions, and that these
13 Affected Vehicles were defective, employed a "Defeat Device," emitted pollutants at a
14 much higher rate than gasoline powered vehicles, that the emissions far exceeded
15 those expected by a reasonable consumer, were non-EPA-compliant and unreliable,
16 because Plaintiffs and the other Class members relied on GM's material
17 representations that the Affected Vehicles they were purchasing were reduced
18 emission vehicles, efficient, and free from defects.

19 163. As alleged in this Complaint, at all relevant times, GM has held out the
20 Affected Vehicles to be reduced emissions, EPA-compliant vehicles. GM disclosed
21 certain details about the GM Clean Diesel engine, but nonetheless, GM intentionally
22 failed to disclose the important facts that the NOx reduction system in the Affected
23 Vehicles turns off or is limited during normal driving conditions, and that the Affected
24 Vehicles had defective emissions controls, deploy a "Defeat Device," emitted higher
25 levels of pollutants than expected by a reasonable consumer, emitted unlawfully high
26 levels of pollutants, and were non-compliant with EPA emissions requirements,
27 making other disclosures about the emission system deceptive.
28

1 164. The truth about the defective emissions controls and GM's manipulations
2 of those controls, unlawfully high emissions, the "Defeat Device," and non-
3 compliance with EPA emissions requirements was known only to GM; Plaintiffs and
4 the Class members did not know of these facts and GM actively concealed these facts
5 from Plaintiffs and Class members.

6 165. Plaintiffs and Class members reasonably relied upon GM's deception.
7 They had no way of knowing that GM's representations were false and/or misleading.
8 As consumers, Plaintiffs and Class members did not, and could not, unravel GM's
9 deception on their own. Rather, GM intended to deceive Plaintiffs and Class members
10 by concealing the true facts about the Affected Vehicle emissions.

11 166. GM also concealed and suppressed material facts concerning what is
12 evidently the true culture of GM—one characterized by an emphasis on profits and
13 sales above compliance with federal and state clean air laws and emissions regulations
14 that are meant to protect the public and consumers. It also emphasized profits and
15 sales above the trust that Plaintiffs and Class members placed in its representations.
16 Consumers buy diesel cars from GM because they feel they are clean diesel cars.
17 They do not want to be spewing noxious gases into the environment. And yet, that is
18 precisely what the Affected Vehicles are doing.

19 167. GM's false representations were material to consumers, because they
20 concerned the quality of the Affected Vehicles, because they concerned compliance
21 with applicable federal and state law and regulations regarding clean air and
22 emissions, and also because the representations played a significant role in the value
23 of the vehicles. As GM well knew, its customers, including Plaintiffs and Class
24 members, highly valued that the vehicles they were purchasing or leasing were fuel
25 efficient, clean diesel cars with reduced emissions, and they paid accordingly.

26 168. GM had a duty to disclose the emissions defect, defective design of the
27 emissions controls, and violations with respect to the Affected Vehicles because
28

1 details of the true facts were known and/or accessible only to GM, because GM had
2 exclusive knowledge as to such facts, and because GM knew these facts were not
3 known to or reasonably discoverable by Plaintiffs or Class members. GM also had a
4 duty to disclose because it made general affirmative representations about the qualities
5 of its vehicles with respect to emissions, starting with references to them as *reduced*
6 *emissions* diesel cars and as compliant with all laws in each state, which were
7 misleading, deceptive, and incomplete without the disclosure of the additional facts set
8 forth above regarding the actual emissions of its vehicles, its actual philosophy with
9 respect to compliance with federal and state clean air laws and emissions regulations,
10 and its actual practices with respect to the vehicles at issue. Having volunteered to
11 provide information to Plaintiffs and Class members, GM had the duty to disclose not
12 just the partial truth, but the entire truth. These omitted and concealed facts were
13 material because they directly impact the value of the Affected Vehicles purchased or
14 leased by Plaintiffs and Class members. Whether a manufacturer's products pollute,
15 comply with federal and state clean air laws and emissions regulations, and whether
16 that manufacturer tells the truth with respect to such compliance or non-compliance,
17 are material concerns to a consumer, including with respect to the emissions
18 certifications testing their vehicles must pass. GM represented to Plaintiffs and Class
19 members that they were purchasing or leasing *reduced emission* diesel vehicles, when
20 in fact, they were purchasing or leasing defective, high emission, and unlawfully high
21 emission vehicles.

22 169. GM actively concealed and/or suppressed these material facts, in whole
23 or in part, to pad and protect its profits and to avoid the perception that its vehicles
24 were not clean diesel vehicles and did not or could not comply with federal and state
25 laws governing clean air and emissions, which perception would hurt the brand's
26 image and cost GM money, and it did so at the expense of Plaintiffs and Class
27 members.
28

1 170. GM has still not made full and adequate disclosures, and continues to
2 defraud Plaintiffs and Class members by concealing material information regarding
3 the emissions qualities of its referenced vehicles.

4 171. Plaintiffs and Class members were unaware of the omitted material facts
5 referenced herein, and they would not have acted as they did if they had known of the
6 concealed and/or suppressed facts, in that they would not have purchased purportedly
7 reduced emissions diesel cars manufactured by GM, and/or would not have continued
8 to drive their heavily polluting vehicles, or would have taken other affirmative steps in
9 light of the information concealed from them. Plaintiffs' and Class members' actions
10 were justified. GM was in exclusive control of the material facts, and such facts were
11 not generally known to the public, Plaintiffs, or Class members.

12 172. Because of the concealment and/or suppression of the facts, Plaintiffs and
13 Class members have sustained damage because they own vehicles that are diminished
14 in value as a result of GM's concealment of the true quality and quantity of those
15 vehicles' emissions and GM's failure to timely disclose the defect or defective design
16 of the GM Clean Diesel engine system, the actual emissions qualities and quantities of
17 GM-branded vehicles, and the serious issues engendered by GM's corporate policies.
18 Had Plaintiffs and Class members been aware of the true emissions facts with regard
19 to the Affected Vehicles, and the Company's disregard for the truth and compliance
20 with applicable federal and state law and regulations, Plaintiffs and Class members
21 who purchased or leased new or certified previously owned vehicles would have paid
22 less for their vehicles or would not have purchased or leased them at all.

23 173. The value of Plaintiffs' and Class members' vehicles has diminished as a
24 result of GM's fraudulent concealment of the defective emissions controls of the
25 Affected Vehicles, and of the unlawfully high emissions of the Affected Vehicles, and
26 of the non-compliance with EPA emissions requirements, all of which has greatly
27 tarnished the GM brand name attached to Plaintiffs' and Class members' vehicles and
28

1 made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let
2 alone pay what otherwise would have been fair market value for the vehicles.

3 174. Accordingly, GM is liable to Plaintiffs and Class members for damages in
4 an amount to be proven at trial.

5 175. GM's acts were done wantonly, maliciously, oppressively, deliberately,
6 with intent to defraud, and in reckless disregard of Plaintiffs' and Class members'
7 rights and the representations that GM made to them, in order to enrich GM. GM's
8 conduct warrants an assessment of punitive damages in an amount sufficient to deter
9 such conduct in the future, which amount is to be determined according to proof.

10 **A. Claims Brought on Behalf of the California Class**

11 **COUNT I**

12 **VIOLATIONS OF THE CALIFORNIA UNFAIR COMPETITION LAW**
13 **(CAL. BUS. & PROF. CODE §§ 17200, *ET SEQ.*)**

14 176. Plaintiffs (for purposes of all California Class Counts) incorporate by
15 reference all paragraphs as though fully set forth herein.

16 177. This claim is brought on behalf of the California Class members.

17 178. California's Unfair Competition Law ("UCL"), Cal. Bus. & Prof. Code
18 §§ 17200, *et seq.*, proscribes acts of unfair competition, including "any unlawful,
19 unfair or fraudulent business act or practice and unfair, deceptive, untrue or
20 misleading advertising."

21 179. GM's conduct, as described herein, was and is in violation of the UCL.
22 GM's conduct violates the UCL in at least the following ways:

- 23 i. By failing to disclose that the NOx reduction system in the
24 Affected Vehicles turns off or is limited during normal driving conditions;
- 25 ii. By selling and leasing Affected Vehicles that suffer from a
26 defective emissions control system and that emit unlawfully high levels of
27 pollutants under normal driving conditions;

1 iii. By knowingly and intentionally concealing from Plaintiffs and the
2 other Class members that the NOx reduction system in the Affected Vehicles
3 turns off or is limited during normal driving conditions and that the Affected
4 Vehicles suffer from a defective emissions control system and emit unlawfully
5 high levels of pollutants under normal driving conditions;

6 iv. By marketing Affected Vehicles as reduced emissions vehicles
7 possessing functional and defect-free, EPA-compliant diesel engine systems;

8 vi. By violating federal laws, including the Clean Air Act; and

9 vii. By violating other California laws, including California consumer
10 protection laws and California laws governing vehicle emissions and emission
11 testing requirements.

12 180. GM intentionally and knowingly misrepresented material facts regarding
13 the Affected Vehicles with an intent to mislead Plaintiffs and the Class.

14 181. In purchasing or leasing the Affected Vehicles, Plaintiffs and the other
15 Class members were deceived by GM's failure to disclose the NOx reduction system
16 in the Affected Vehicles turns off or is limited during normal driving conditions, that
17 the emissions controls were defective, and that the Affected Vehicles emitted
18 unlawfully high levels of pollutants, including NOx, as described above.

19 182. Plaintiffs and Class members reasonably relied upon GM's false
20 misrepresentations. They had no way of knowing that GM's representations were
21 false and gravely misleading. As alleged herein, GM engaged in extremely
22 sophisticated methods of deception. Plaintiffs and Class members did not, and could
23 not, unravel GM's deception on their own.

24 183. GM knew or should have known that its conduct violated the UCL.

25 184. GM owed Plaintiffs and the Class a duty to disclose the truth about its
26 emissions systems manipulation because GM:

27 a. Possessed exclusive knowledge that it
28 manipulated the emissions system in the Affected Vehicles

1 to turn off or limit effectiveness in normal driving
2 conditions;

3 b. Intentionally concealed the foregoing from
4 Plaintiffs and the Class; and/or

5 c. Made incomplete representations that it
6 manipulated the emissions system in the Affected Vehicles
7 to turn off or limit effectiveness in normal driving
8 conditions, while purposefully withholding material facts
9 from Plaintiffs and the Class that contradicted these
10 representations.

11 185. GM had a duty to disclose that the NOx reduction system in the Affected
12 Vehicles turns off or is limited during normal driving conditions, and that these
13 Affected Vehicles were defective, employed a “Defeat Device,” emitted pollutants at a
14 much higher rate than gasoline powered vehicles, that the emissions far exceeded
15 those expected by a reasonable consumer, were non-EPA-compliant and unreliable,
16 because Plaintiffs and the other Class members relied on GM’s material
17 representations that the Affected Vehicles they were purchasing were reduced
18 emission vehicles, efficient, and free from defects.

19 186. GM’s conduct proximately caused injuries to Plaintiffs and the other
20 Class members.

21 187. Plaintiffs and the other Class members were injured and suffered
22 ascertainable loss, injury-in-fact, and/or actual damage as a proximate result of GM’s
23 conduct in that Plaintiffs and the other Class members overpaid for their Affected
24 Vehicles and did not receive the benefit of their bargain, and their Affected Vehicles
25 have suffered a diminution in value. These injuries are the direct and natural
26 consequence of GM’s misrepresentations and omissions.

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

189. GM's misrepresentations and omissions alleged herein caused Plaintiffs and the other Class members to make their purchases or leases of their Affected Vehicles. Absent those misrepresentations and omissions, Plaintiffs and the other Class members would not have purchased or leased these vehicles, would not have purchased or leased these Affected Vehicles at the prices they paid, and/or would have purchased or leased less expensive alternative vehicles that did not contain defective GM Clean Diesel engine systems that failed to comply with EPA and California emissions standards.

190. Accordingly, Plaintiffs and the other Class members have suffered injury in fact, including lost money or property, as a result of GM's misrepresentations and omissions.

191. Plaintiffs request that this Court enter such orders or judgments as may be necessary to restore to Plaintiffs and members of the Class any money it acquired by unfair competition, including restitution and/or restitutionary disgorgement, as provided in Cal. Bus. & Prof. Code § 17203 and Cal. Civ. Code § 3345; and for such other as may be appropriate.

COUNT II

VIOLATIONS OF THE CALIFORNIA FALSE ADVERTISING LAW (CAL. BUS. & PROF. CODE §§ 17500, *ET SEQ.*)

192. Plaintiffs incorporate by reference all paragraphs as though fully set forth herein.

193. This claim is brought on behalf of the California Class.

194. California Bus. & Prof. Code § 17500 states: "It is unlawful for any ... corporation ... with intent directly or indirectly to dispose of real or personal property ... to induce the public to enter into any obligation relating thereto, to make or disseminate or cause to be made or disseminated ... from this state before the public in any state, in any newspaper or other publication, or any advertising device, ... or in any other manner or means whatever, including over the Internet, any statement ...

1 which is untrue or misleading, and which is known, or which by the exercise of
2 reasonable care should be known, to be untrue or misleading.”

3 195. GM caused to be made or disseminated through California and the United
4 States, through advertising, marketing and other publications, statements that were
5 untrue or misleading, and which were known, or which by the exercise of reasonable
6 care should have been known to GM, to be untrue and misleading to consumers,
7 including Plaintiffs and the other Class members.

8 196. GM has violated § 17500 because the misrepresentations and omissions
9 regarding the functionality, reliability, environmental-friendliness, lawfulness, and
10 safety of Affected Vehicles as set forth in this Complaint were material and likely to
11 deceive a reasonable consumer.

12 197. Plaintiffs and the other Class members have suffered an injury in fact,
13 including the loss of money or property, as a result of GM’s unfair, unlawful, and/or
14 deceptive practices. In purchasing or leasing their Affected Vehicles, Plaintiffs and
15 the other Class members relied on the misrepresentations and/or omissions of GM
16 with respect to the functionality, reliability, environmental-friendliness, and
17 lawfulness of the Affected Vehicles. GM’s representations turned out not to be true
18 because the NOx reduction system in the Affected Vehicles turns off or is limited
19 during normal driving conditions and the Affected Vehicles are distributed with GM
20 Clean Diesel engine systems that include defective emissions controls and a “Defeat
21 Device”. Had Plaintiffs and the other Class members known this, they would not have
22 purchased or leased their Affected Vehicles and/or paid as much for them.
23 Accordingly, Plaintiffs and the other Class members overpaid for their Affected
24 Vehicles and did not receive the benefit of their bargain.

25 198. All of the wrongful conduct alleged herein occurred, and continues to
26 occur, in the conduct of GM’s business. GM’s wrongful conduct is part of a pattern or
27
28

1 generalized course of conduct that is still perpetuated and repeated, both in the State of
2 California and nationwide.

3 199. Plaintiffs, individually and on behalf of the other Class members, request
4 that this Court enter such orders or judgments as may be necessary to restore to
5 Plaintiffs and the other Class members any money GM acquired by unfair
6 competition, including restitution and/or restitutionary disgorgement and for such
7 other relief as may be appropriate.

8 **COUNT III**

9 **BREACH OF CONTRACT** 10 **(BASED ON CALIFORNIA LAW)**

11 200. Plaintiffs incorporate by reference all paragraphs as though fully set forth
12 herein.

13 201. Plaintiffs bring this Count on behalf of the California Class members.

14 202. GM's misrepresentations and omissions alleged herein, including GM's
15 failure to disclose the existence of the GM Clean Diesel engine system's defect and/or
16 defective design of the emissions controls as alleged herein, caused Plaintiffs and the
17 other Class members to make their purchases or leases of their Affected Vehicles.
18 Absent those misrepresentations and omissions, Plaintiffs and the other Class
19 members would not have purchased or leased these Affected Vehicles, would not have
20 purchased or leased these Affected Vehicles at the prices they paid, and/or would have
21 purchased or leased less expensive alternative vehicles that did not contain the
22 defective GM Clean Diesel engine system and which were not marketed as including
23 such a system. Accordingly, Plaintiffs and the other Class members overpaid for their
24 Affected Vehicles and did not receive the benefit of their bargain.

25 203. Each and every sale or lease of an Affected Vehicle constitutes a contract
26 between GM and the purchaser or lessee. GM breached these contracts by selling or
27 leasing to Plaintiffs and the other Class members defective Affected Vehicles and by
28 misrepresenting or failing to disclose that the NOx reduction system in the Affected

1 Vehicles turns off or is limited during normal driving conditions and the existence of
2 the GM Clean Diesel engine system's defect and/or defective design of the emissions
3 controls, including information known to GM, rendering each Affected Vehicle non-
4 EPA-compliant, and thus less valuable than vehicles not equipped with the defective
5 GM Clean Diesel engine system.

6 204. As a direct and proximate result of GM's breach of contract, Plaintiffs
7 and the Class have been damaged in an amount to be proven at trial, which shall
8 include, but is not limited to, all compensatory damages, incidental and consequential
9 damages, and other damages allowed by law.

10 **COUNT IV**

11 **FRAUDULENT CONCEALMENT** 12 **(BASED ON CALIFORNIA LAW)**

13 205. Plaintiffs incorporate by reference all paragraphs as though fully set forth
14 herein.

15 206. This claim is brought on behalf of the California Class.

16 207. GM intentionally concealed that the NOx reduction system in the
17 Affected Vehicles turns off or is limited during normal driving conditions, that the
18 Affected Vehicles had defective emissions controls, emitted pollutants at a higher
19 level than gasoline powered vehicles, emitted pollutants higher than a reasonable
20 consumer would expect in light of GM's advertising campaign, emitted unlawfully
21 high levels of pollutants such as NOx, and were non-compliant with EPA emission
22 requirements, or GM acted with reckless disregard for the truth, and denied Plaintiffs
23 and the other Class members information that is highly relevant to their purchasing
24 decision.

25 208. GM further affirmatively misrepresented to Plaintiffs in advertising and
26 other forms of communication, including standard and uniform material provided with
27 each car, that the Affected Vehicles it was selling had no significant defects, were
28

1 Earth-friendly and low emission vehicles, complied with EPA regulations, and would
2 perform and operate properly when driven in normal usage.

3 209. GM knew these representations were false when made.

4 210. The Affected Vehicles purchased or leased by Plaintiffs and the other
5 Class members were, in fact, defective, emitting pollutants at a much higher rate than
6 gasoline powered vehicles and at a much higher rate than a reasonable consumer
7 would expect in light of GM's advertising campaign, non-EPA-compliant, and
8 unreliable because the NOx reduction system in the Affected Vehicles turns off or is
9 limited during normal driving conditions.

10 211. GM had a duty to disclose that the NOx reduction system in the Affected
11 Vehicles turns off or is limited during normal driving conditions, and that these
12 Affected Vehicles were defective, employed a "Defeat Device," emitted pollutants at a
13 much higher rate than gasoline powered vehicles, that the emissions far exceeded
14 those expected by a reasonable consumer, were non-EPA-compliant and unreliable,
15 because Plaintiffs and the other Class members relied on GM's material
16 representations that the Affected Vehicles they were purchasing were reduced
17 emission vehicles, efficient, and free from defects.

18 212. As alleged in this Complaint, at all relevant times, GM has held out the
19 Affected Vehicles to be reduced emissions, EPA-compliant vehicles. GM disclosed
20 certain details about the GM Clean Diesel engine, but nonetheless, GM intentionally
21 failed to disclose the important facts that the NOx reduction system in the Affected
22 Vehicles turns off or is limited during normal driving conditions, and that the Affected
23 Vehicles had defective emissions controls, deploy a "Defeat Device," emitted higher
24 levels of pollutants than expected by a reasonable consumer, emitted unlawfully high
25 levels of pollutants, and were non-compliant with EPA emissions requirements,
26 making other disclosures about the emission system deceptive.

1 213. The truth about the defective emissions controls and GM's manipulations
2 of those controls, unlawfully high emissions, the "Defeat Device," and non-
3 compliance with EPA emissions requirements was known only to GM; Plaintiffs and
4 the Class members did not know of these facts and GM actively concealed these facts
5 from Plaintiffs and Class members.

6 214. Plaintiffs and Class members reasonably relied upon GM's deception.
7 They had no way of knowing that GM's representations were false and/or misleading.
8 As consumers, Plaintiffs and Class members did not, and could not, unravel GM's
9 deception on their own. Rather, GM intended to deceive Plaintiffs and Class members
10 by concealing the true facts about the Affected Vehicle emissions.

11 215. GM also concealed and suppressed material facts concerning what is
12 evidently the true culture of GM—one characterized by an emphasis on profits and
13 sales above compliance with federal and state clean air laws and emissions regulations
14 that are meant to protect the public and consumers. It also emphasized profits and
15 sales above the trust that Plaintiffs and Class members placed in its representations.
16 Consumers buy diesel cars from GM because they feel they are clean diesel cars.
17 They do not want to be spewing noxious gases into the environment. And yet, that is
18 precisely what the Affected Vehicles are doing.

19 216. GM's false representations were material to consumers, because they
20 concerned the quality of the Affected Vehicles, because they concerned compliance
21 with applicable federal and state law and regulations regarding clean air and
22 emissions, and also because the representations played a significant role in the value
23 of the vehicles. As GM well knew, its customers, including Plaintiffs and Class
24 members, highly valued that the vehicles they were purchasing or leasing were fuel
25 efficient, clean diesel cars with reduced emissions, and they paid accordingly.

26 217. GM had a duty to disclose the emissions defect, defective design of the
27 emissions controls, and violations with respect to the Affected Vehicles because
28

1 details of the true facts were known and/or accessible only to GM, because GM had
2 exclusive knowledge as to such facts, and because GM knew these facts were not
3 known to or reasonably discoverable by Plaintiffs or Class members. GM also had a
4 duty to disclose because it made general affirmative representations about the qualities
5 of its vehicles with respect to emissions, starting with references to them as *reduced*
6 *emissions* diesel cars and as compliant with all laws in each state, which were
7 misleading, deceptive, and incomplete without the disclosure of the additional facts set
8 forth above regarding the actual emissions of its vehicles, its actual philosophy with
9 respect to compliance with federal and state clean air laws and emissions regulations,
10 and its actual practices with respect to the vehicles at issue. Having volunteered to
11 provide information to Plaintiffs and Class members, GM had the duty to disclose not
12 just the partial truth, but the entire truth. These omitted and concealed facts were
13 material because they directly impact the value of the Affected Vehicles purchased or
14 leased by Plaintiffs and Class members. Whether a manufacturer's products pollute,
15 comply with federal and state clean air laws and emissions regulations, and whether
16 that manufacturer tells the truth with respect to such compliance or non-compliance,
17 are material concerns to a consumer, including with respect to the emissions
18 certifications testing their vehicles must pass. GM represented to Plaintiffs and Class
19 members that they were purchasing or leasing *reduced emission* diesel vehicles, when
20 in fact, they were purchasing or leasing defective, high emission, and unlawfully high
21 emission vehicles.

22 218. GM actively concealed and/or suppressed these material facts, in whole
23 or in part, to pad and protect its profits and to avoid the perception that its vehicles
24 were not clean diesel vehicles and did not or could not comply with federal and state
25 laws governing clean air and emissions, which perception would hurt the brand's
26 image and cost GM money, and it did so at the expense of Plaintiffs and Class
27 members.
28

1 219. GM has still not made full and adequate disclosures, and continues to
2 defraud Plaintiffs and Class members by concealing material information regarding
3 the emissions qualities of its referenced vehicles.

4 220. Plaintiffs and Class members were unaware of the omitted material facts
5 referenced herein, and they would not have acted as they did if they had known of the
6 concealed and/or suppressed facts, in that they would not have purchased purportedly
7 reduced emissions diesel cars manufactured by GM, and/or would not have continued
8 to drive their heavily polluting vehicles, or would have taken other affirmative steps in
9 light of the information concealed from them. Plaintiffs' and Class members' actions
10 were justified. GM was in exclusive control of the material facts, and such facts were
11 not generally known to the public, Plaintiffs, or Class members.

12 221. Because of the concealment and/or suppression of the facts, Plaintiffs and
13 Class members have sustained damage because they own vehicles that are diminished
14 in value as a result of GM's concealment of the true quality and quantity of those
15 vehicles' emissions and GM's failure to timely disclose the defect or defective design
16 of the GM Clean Diesel engine system, the actual emissions qualities and quantities of
17 GM-branded vehicles, and the serious issues engendered by GM's corporate policies.
18 Had Plaintiffs and Class members been aware of the true emissions facts with regard
19 to the Affected Vehicles, and the Company's disregard for the truth and compliance
20 with applicable federal and state law and regulations, Plaintiffs and Class members
21 who purchased or leased new or certified previously owned vehicles would have paid
22 less for their vehicles or would not have purchased or leased them at all.

23 222. The value of Plaintiffs' and Class members' vehicles has diminished as a
24 result of GM's fraudulent concealment of the defective emissions controls of the
25 Affected Vehicles, and of the unlawfully high emissions of the Affected Vehicles, and
26 of the non-compliance with EPA emissions requirements, all of which has greatly
27 tarnished the GM brand name attached to Plaintiffs' and Class members' vehicles and
28

1 made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let
2 alone pay what otherwise would have been fair market value for the vehicles.

3 223. Accordingly, GM is liable to Plaintiffs and Class members for damages in
4 an amount to be proven at trial.

5 224. GM's acts were done wantonly, maliciously, oppressively, deliberately,
6 with intent to defraud, and in reckless disregard of Plaintiffs' and Class members'
7 rights and the representations that GM made to them, in order to enrich GM. GM's
8 conduct warrants an assessment of punitive damages in an amount sufficient to deter
9 such conduct in the future, which amount is to be determined according to proof.

10 **B. Claims Brought on Behalf of the Colorado Class**

11 **COUNT I**

12 **VIOLATIONS OF THE COLORADO CONSUMER PROTECTION ACT** 13 **(COLO. REV. STAT. §§ 6-1-101, *ET SEQ.*)**

14 225. Plaintiffs (for purposes of all Colorado Class Counts) incorporate by
15 reference all paragraphs as though fully set forth herein.

16 226. Plaintiffs bring this Count on behalf of the Colorado Class members.

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

26 228. GM is a "person" under § 6-1-102(6) of the Colorado CPA, COL. REV.
27 STAT. § 6-1-101, *et seq.*
28

1 229. Plaintiffs and Colorado Class members are “consumers” for the purpose
2 of COL. REV. STAT. § 6-1-113(1)(a) who purchased or leased one or more Affected
3 Vehicles.

4 230. In the course of GM’s business, it willfully failed to disclose and actively
5 concealed that the NOx reduction system in the Affected Vehicles turns off or is
6 limited during normal driving conditions, that the emissions controls were defective,
7 that the vehicles have a “Defeat Device,” and that the Affected Vehicles emitted
8 unlawfully high levels of pollutants, including NOx, as described above. Accordingly,
9 GM engaged in unfair and deceptive trade practices, including representing that the
10 Affected Vehicles have characteristics, uses, benefits, and qualities which they do not
11 have; representing that the Affected Vehicles are of a particular standard and quality
12 when they are not; advertising the Affected Vehicles with the intent not to sell them as
13 advertised; and otherwise engaging in conduct likely to deceive. Further, GM’s acts
14 and practices described herein offend established public policy because the harm they
15 cause to consumers, motorists, and pedestrians outweighs any benefit associated with
16 such practices, and because GM fraudulently concealed the defective nature of the
17 Affected Vehicles from consumers.

18 231. In purchasing or leasing the Affected Vehicles, Plaintiffs and the other
19 Class members were deceived by GM’s failure to disclose that the NOx reduction
20 system in the Affected Vehicles turns off or is limited during normal driving
21 conditions, that the emissions controls were defective, and that the Affected Vehicles
22 emitted unlawfully high levels of pollutants, including NOx, as described above.

23 232. Plaintiffs and Class members reasonably relied upon GM’s false
24 misrepresentations. They had no way of knowing that GM’s representations were
25 false and gravely misleading. As alleged herein, GM engaged in extremely
26 sophisticated methods of deception. Plaintiffs and Class members did not, and could
27 not, unravel GM’s deception on their own.

1 233. GM intentionally and knowingly misrepresented material facts regarding
2 the Affected Vehicles with an intent to mislead Plaintiffs and the Class.

3 234. GM knew or should have known that its conduct violated the Colorado
4 CPA.

5 235. GM's actions as set forth above occurred in the conduct of trade or
6 commerce.

7 236. GM owed Plaintiffs and the Class a duty to disclose the truth about its
8 emissions systems manipulation because GM:

9 a. Possessed exclusive knowledge that it
10 manipulated the emissions system in the Affected Vehicles
11 to turn off or limit effectiveness in normal driving
conditions;

12 b. Intentionally concealed the foregoing from
13 Plaintiffs and the Class; and/or

14 c. Made incomplete representations that it
15 manipulated the emissions system in the Affected Vehicles
16 to turn off or limit effectiveness in normal driving
17 conditions, while purposefully withholding material facts
from Plaintiffs and the Class that contradicted these
representations.

18 237. GM had a duty to disclose that the NOx reduction system in the Affected
19 Vehicles turns off or is limited during normal driving conditions, that these Affected
20 Vehicles were defective, employed a "Defeat Device," and emitted pollutants at a
21 much higher rate than gasoline powered vehicles, and that the emissions far exceeded
22 those expected by a reasonable consumer, were non-EPA-compliant and unreliable,
23 because Plaintiffs and the other Class members relied on GM's material
24 representations that the Affected Vehicles they were purchasing were reduced
25 emission vehicles, efficient, and free from defects.

26 238. GM's conduct proximately caused injuries to Plaintiffs and the other
27 Class members.
28

1 purchased or leased less expensive alternative vehicles that did not contain the
2 defective GM Clean Diesel engine system and which were not marketed as including
3 such a system. Accordingly, Plaintiffs and the other Class members overpaid for their
4 Affected Vehicles and did not receive the benefit of their bargain.

5 246. Each and every sale or lease of an Affected Vehicle constitutes a contract
6 between GM and the purchaser or lessee. GM breached these contracts by selling or
7 leasing to Plaintiffs and the other Class members defective Affected Vehicles and by
8 misrepresenting or failing to disclose that the NOx reduction system in the Affected
9 Vehicles turns off or is limited during normal driving conditions and the existence of
10 the GM Clean Diesel engine system's defect and/or defective design of the emissions
11 controls, including information known to GM, rendering each Affected Vehicle non-
12 EPA-compliant, and thus less valuable than vehicles not equipped with the defective
13 GM Clean Diesel engine system.

14 247. As a direct and proximate result of GM's breach of contract, Plaintiffs
15 and the Class have been damaged in an amount to be proven at trial, which shall
16 include, but is not limited to, all compensatory damages, incidental and consequential
17 damages, and other damages allowed by law.

18 **COUNT III**

19 **FRAUDULENT CONCEALMENT** 20 **(BASED ON COLORADO LAW)**

21 248. Plaintiffs incorporate by reference all paragraphs as though fully set forth
22 herein.

23 249. This claim is brought on behalf of the Colorado Class.

24 250. GM intentionally concealed that the NOx reduction system in the
25 Affected Vehicles turns off or is limited during normal driving conditions, that the
26 Affected Vehicles had defective emissions controls, emitted pollutants at a higher
27 level than gasoline powered vehicles, emitted pollutants higher than a reasonable
28 consumer would expect in light of GM's advertising campaign, emitted unlawfully

1 high levels of pollutants such as NO_x, and were non-compliant with EPA emission
2 requirements, or GM acted with reckless disregard for the truth, and denied Plaintiffs
3 and the other Class members information that is highly relevant to their purchasing
4 decision.

5 251. GM further affirmatively misrepresented to Plaintiffs in advertising and
6 other forms of communication, including standard and uniform material provided with
7 each car, that the Affected Vehicles it was selling had no significant defects, were
8 Earth-friendly and low emission vehicles, complied with EPA regulations, and would
9 perform and operate properly when driven in normal usage.

10 252. GM knew these representations were false when made.

11 253. The Affected Vehicles purchased or leased by Plaintiffs and the other
12 Class members were, in fact, defective, emitting pollutants at a much higher rate than
13 gasoline powered vehicles and at a much higher rate than a reasonable consumer
14 would expect in light of GM's advertising campaign, non-EPA-compliant, and
15 unreliable because the NO_x reduction system in the Affected Vehicles turns off or is
16 limited during normal driving conditions.

17 254. GM had a duty to disclose that the NO_x reduction system in the Affected
18 Vehicles turns off or is limited during normal driving conditions, that these Affected
19 Vehicles were defective, employed a "Defeat Device," and emitted pollutants at a
20 much higher rate than gasoline powered vehicles, and that the emissions far exceeded
21 those expected by a reasonable consumer, were non-EPA-compliant and unreliable,
22 because Plaintiffs and the other Class members relied on GM's material
23 representations that the Affected Vehicles they were purchasing were reduced
24 emission vehicles, efficient, and free from defects.

25 255. As alleged in this Complaint, at all relevant times, GM has held out the
26 Affected Vehicles to be reduced emissions, EPA-compliant vehicles. GM disclosed
27 certain details about the GM Clean Diesel engine, but nonetheless, GM intentionally
28

1 failed to disclose the important facts that the NOx reduction system in the Affected
2 Vehicles turns off or is limited during normal driving conditions, and that the Affected
3 Vehicles had defective emissions controls, deploy a “Defeat Device,” emitted higher
4 levels of pollutants than expected by a reasonable consumer, emitted unlawfully high
5 levels of pollutants, and were non-compliant with EPA emissions requirements,
6 making other disclosures about the emission system deceptive.

7 256. The truth about the defective emissions controls and GM’s manipulations
8 of those controls, unlawfully high emissions, the “Defeat Device,” and non-
9 compliance with EPA emissions requirements was known only to GM; Plaintiffs and
10 the Class members did not know of these facts and GM actively concealed these facts
11 from Plaintiffs and Class members.

12 257. Plaintiffs and Class members reasonably relied upon GM’s deception.
13 They had no way of knowing that GM’s representations were false and/or misleading.
14 As consumers, Plaintiffs and Class members did not, and could not, unravel GM’s
15 deception on their own. Rather, GM intended to deceive Plaintiffs and Class members
16 by concealing the true facts about the Affected Vehicle emissions.

17 258. GM also concealed and suppressed material facts concerning what is
18 evidently the true culture of GM—one characterized by an emphasis on profits and
19 sales above compliance with federal and state clean air laws and emissions regulations
20 that are meant to protect the public and consumers. It also emphasized profits and
21 sales above the trust that Plaintiffs and Class members placed in its representations.
22 Consumers buy diesel cars from GM because they feel they are clean diesel cars.
23 They do not want to be spewing noxious gases into the environment. And yet, that is
24 precisely what the Affected Vehicles are doing.

25 259. GM’s false representations were material to consumers, because they
26 concerned the quality of the Affected Vehicles, because they concerned compliance
27 with applicable federal and state law and regulations regarding clean air and
28

1 emissions, and also because the representations played a significant role in the value
2 of the vehicles. As GM well knew, its customers, including Plaintiffs and Class
3 members, highly valued that the vehicles they were purchasing or leasing were fuel
4 efficient, clean diesel cars with reduced emissions, and they paid accordingly.

5 260. GM had a duty to disclose the emissions defect, defective design of the
6 emissions controls, and violations with respect to the Affected Vehicles because
7 details of the true facts were known and/or accessible only to GM, because GM had
8 exclusive knowledge as to such facts, and because GM knew these facts were not
9 known to or reasonably discoverable by Plaintiffs or Class members. GM also had a
10 duty to disclose because it made general affirmative representations about the qualities
11 of its vehicles with respect to emissions, starting with references to them as *reduced*
12 *emissions* diesel cars and as compliant with all laws in each state, which were
13 misleading, deceptive, and incomplete without the disclosure of the additional facts set
14 forth above regarding the actual emissions of its vehicles, its actual philosophy with
15 respect to compliance with federal and state clean air laws and emissions regulations,
16 and its actual practices with respect to the vehicles at issue. Having volunteered to
17 provide information to Plaintiffs and Class members, GM had the duty to disclose not
18 just the partial truth, but the entire truth. These omitted and concealed facts were
19 material because they directly impact the value of the Affected Vehicles purchased or
20 leased by Plaintiffs and Class members. Whether a manufacturer's products pollute,
21 comply with federal and state clean air laws and emissions regulations, and whether
22 that manufacturer tells the truth with respect to such compliance or non-compliance,
23 are material concerns to a consumer, including with respect to the emissions
24 certifications testing their vehicles must pass. GM represented to Plaintiffs and Class
25 members that they were purchasing or leasing *reduced emission* diesel vehicles, when
26 in fact, they were purchasing or leasing defective, high emission, and unlawfully high
27 emission vehicles.

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

7 262. GM has still not made full and adequate disclosures, and continues to
8 defraud Plaintiffs and Class members by concealing material information regarding
9 the emissions qualities of its referenced vehicles.

10 263. Plaintiffs and Class members were unaware of the omitted material facts
11 referenced herein, and they would not have acted as they did if they had known of the
12 concealed and/or suppressed facts, in that they would not have purchased purportedly
13 reduced emissions diesel cars manufactured by GM, and/or would not have continued
14 to drive their heavily polluting vehicles, or would have taken other affirmative steps in
15 light of the information concealed from them. Plaintiffs' and Class members' actions
16 were justified. GM was in exclusive control of the material facts, and such facts were
17 not generally known to the public, Plaintiffs, or Class members.

18 264. Because of the concealment and/or suppression of the facts, Plaintiffs and
19 Class members have sustained damage because they own vehicles that are diminished
20 in value as a result of GM's concealment of the true quality and quantity of those
21 vehicles' emissions and GM's failure to timely disclose the defect or defective design
22 of the GM Clean Diesel engine system, the actual emissions qualities and quantities of
23 GM-branded vehicles, and the serious issues engendered by GM's corporate policies.
24 Had Plaintiffs and Class members been aware of the true emissions facts with regard
25 to the Affected Vehicles, and the Company's disregard for the truth and compliance
26 with applicable federal and state law and regulations, Plaintiffs and Class members
27
28

1 who purchased or leased new or certified previously owned vehicles would have paid
2 less for their vehicles or would not have purchased or leased them at all.

3 265. The value of Plaintiffs' and Class members' vehicles has diminished as a
4 result of GM's fraudulent concealment of the defective emissions controls of the
5 Affected Vehicles, of the unlawfully high emissions of the Affected Vehicles, and of
6 the non-compliance with EPA emissions requirements, all of which has greatly
7 tarnished the GM brand name attached to Plaintiffs' and Class members' vehicles and
8 made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let
9 alone pay what otherwise would have been fair market value for the vehicles.

10 266. Accordingly, GM is liable to Plaintiffs and Class members for damages in
11 an amount to be proven at trial.

12 267. GM's acts were done wantonly, maliciously, oppressively, deliberately,
13 with intent to defraud, and in reckless disregard of Plaintiffs' and Class members'
14 rights and the representations that GM made to them, in order to enrich GM. GM's
15 conduct warrants an assessment of punitive damages in an amount sufficient to deter
16 such conduct in the future, which amount is to be determined according to proof.

17 **C. Claims Brought on Behalf of the Connecticut Class**

18 **COUNT I**

19 **VIOLATIONS OF THE CONNECTICUT UNFAIR TRADE PRACTICES ACT** 20 **(CONN. GEN. STAT. ANN. §§ 42-110A, *ET SEQ.*)**

21 268. Plaintiffs (for purposes of all Connecticut Class Counts) incorporate by
22 reference all paragraphs as though fully set forth herein.

23 269. Plaintiffs bring this Count on behalf of the Connecticut Class members.

24 270. Plaintiffs and GM are each "persons" as defined by CONN. GEN. STAT.
25 ANN. § 42-110a(3).

26 271. The Connecticut Unfair Trade Practices Act ("Connecticut UTPA")
27 provides that "[n]o person shall engage in unfair methods of competition and unfair or
28 deceptive acts or practices in the conduct of any trade or commerce." CONN. GEN.

1 STAT. ANN. § 42-110b(a). The Connecticut UTPA further provides a private right of
2 action under CONN. GEN. STAT. ANN. § 42-110g(a). In the course of GM's business, it
3 willfully failed to disclose and actively concealed that the NOx reduction system in the
4 Affected Vehicles turns off or is limited during normal driving conditions, that the
5 Affected Vehicles emitted far more pollutants than gasoline powered vehicles, that the
6 Affected Vehicles emit far more pollution than a reasonable consumer would expect in
7 light of GM's advertising campaign, and that the Affected Vehicles emitted
8 unlawfully high levels of pollutants, including NOx, as described above. Accordingly,
9 GM engaged in unfair and deceptive trade practices because its conduct (1) offends
10 public policy as it has been established by statutes, the common law or other
11 established concept of unfairness, (2) is immoral, unethical, oppressive or
12 unscrupulous; or (3) causes substantial injury to consumers, competitors or other
13 business persons. The harm caused to consumers, motorists, and pedestrians
14 outweighs any benefit associated with such practices, and GM fraudulently concealed
15 the defective nature of the Affected Vehicles from consumers.

16 272. GM has also engaged in deceptive conduct because (1) it made
17 representations, omissions, or engaged in other conduct likely to mislead consumers;
18 (2) consumers interpret the message reasonably under the circumstances; and (3) the
19 misleading representation, omission, or practice is material—that is, likely to affect
20 consumer decisions or conduct.

21 273. In purchasing or leasing the Affected Vehicles, Plaintiffs and the other
22 Class members were deceived by GM's failure to disclose that the NOx reduction
23 system in the Affected Vehicles turns off or is limited during normal driving
24 conditions, that the emissions controls were defective, and that the Affected Vehicles
25 emitted unlawfully high levels of pollutants, including NOx, as described above.

26 274. Plaintiffs and Class members reasonably relied upon GM's false
27 misrepresentations. They had no way of knowing that GM's representations were
28

1 false and gravely misleading. As alleged herein, GM engaged in extremely
2 sophisticated methods of deception. Plaintiffs and Class members did not, and could
3 not, unravel GM's deception on their own.

4 275. GM's actions as set forth above occurred in the conduct of trade or
5 commerce.

6 276. GM's unfair or deceptive acts or practices were likely to and did in fact
7 deceive reasonable consumers.

8 277. GM intentionally and knowingly misrepresented material facts regarding
9 the Affected Vehicles with an intent to mislead Plaintiffs and the Class.

10 278. GM knew or should have known that its conduct violated the Connecticut
11 UTPA.

12 279. GM owed Plaintiffs and the Class a duty to disclose the truth about its
13 emissions systems manipulation because GM:

14 a. Possessed exclusive knowledge that it
15 manipulated the emissions system in the Affected Vehicles
16 to turn off or limit effectiveness in normal driving
conditions;

17 b. Intentionally concealed the foregoing from
18 Plaintiffs and the Class; and/or

19 c. Made incomplete representations that it
20 manipulated the emissions system in the Affected Vehicles
21 to turn off or limit effectiveness in normal driving
22 conditions, while purposefully withholding material facts
from Plaintiffs and the Class that contradicted these
representations.

23 280. GM had a duty to disclose that the NOx reduction system in the Affected
24 Vehicles turns off or is limited during normal driving conditions, that these Affected
25 Vehicles were defective, employed a "Defeat Device," and emitted pollutants at a
26 much higher rate than gasoline powered vehicles, and that the emissions far exceeded
27 those expected by a reasonable consumer, were non-EPA-compliant and unreliable,
28 because Plaintiffs and the other Class members relied on GM's material

1 representations that the Affected Vehicles they were purchasing were reduced
2 emission vehicles, efficient, and free from defects.

3 281. GM's conduct proximately caused injuries to Plaintiffs and the other
4 Class members.

5 282. Plaintiffs and the other Class members were injured and suffered
6 ascertainable loss, injury-in-fact, and/or actual damage as a proximate result of GM's
7 conduct in that Plaintiffs and the other Class members overpaid for their Affected
8 Vehicles and did not receive the benefit of their bargain, and their Affected Vehicles
9 have suffered a diminution in value. These injuries are the direct and natural
10 consequence of GM's misrepresentations and omissions.

11 283. GM's violations present a continuing risk to Plaintiffs as well as to the
12 general public. GM's unlawful acts and practices complained of herein affect the
13 public interest.

14 284. Plaintiffs and the other Class members sustained damages as a result of
15 GM's unlawful acts, and are therefore entitled to damages and other relief as provided
16 under the Connecticut UTPA.

17 285. Plaintiffs also seek court costs and attorneys' fees as a result of GM's
18 violation of the Connecticut UTPA as provided in CONN. GEN. STAT. ANN. § 42-
19 110g(d). A copy of this Complaint has been mailed to the Attorney General and the
20 Commissioner of Consumer Protection of the State of Connecticut in accordance with
21 CONN. GEN. STAT. ANN. § 42-110g(c).

22 **COUNT II**

23 **BREACH OF CONTRACT** 24 **(BASED ON CONNECTICUT LAW)**

25 286. Plaintiffs incorporate by reference all preceding allegations as though
26 fully set forth herein.

27 287. Plaintiffs bring this Count on behalf of the Connecticut Class members.
28

1 288. GM's misrepresentations and omissions alleged herein, including, but not
2 limited to, GM's failure to disclose that the NOx reduction system in the Affected
3 Vehicles turns off or is limited during normal driving conditions caused Plaintiffs and
4 the other Class members to make their purchases or leases of their Affected Vehicles.
5 Absent those misrepresentations and omissions, Plaintiffs and the other Class
6 members would not have purchased or leased these Affected Vehicles, would not have
7 purchased or leased these Affected Vehicles at the prices they paid, and/or would have
8 purchased or leased less expensive alternative vehicles that did not contain the
9 defective GM Clean Diesel engine system and which were not marketed as including
10 such a system. Accordingly, Plaintiffs and the other Class members overpaid for their
11 Affected Vehicles and did not receive the benefit of their bargain.

12 289. Each and every sale or lease of an Affected Vehicle constitutes a contract
13 between GM and the purchaser or lessee. GM breached these contracts by, among
14 other things, selling or leasing to Plaintiffs and the other Class members defective
15 Affected Vehicles and by misrepresenting or failing to disclose that the NOx reduction
16 system in the Affected Vehicles turns off or is limited during normal driving
17 conditions, rendering the Affected Vehicles less valuable than vehicles not equipped
18 with the defective GM Clean Diesel engine system.

19 290. As a direct and proximate result of GM's breach of contract, Plaintiffs
20 and the Class have been damaged in an amount to be proven at trial, which shall
21 include, but is not limited to, all compensatory damages, incidental and consequential
22 damages, and other damages allowed by law.

23 **COUNT III**

24 **FRAUDULENT NON-DISCLOSURE** 25 **(BASED ON CONNECTICUT LAW)**

26 291. Plaintiffs incorporate by reference all preceding allegations as though
27 fully set forth herein.

28 292. Plaintiffs bring this Count on behalf of the Connecticut Class.

1 293. GM intentionally concealed that the NOx reduction system in the
2 Affected Vehicles turns off or is limited during normal driving conditions, that the
3 Affected Vehicles had defective emissions controls, emitted pollutants at a higher
4 level than gasoline powered vehicles, emitted pollutants higher than a reasonable
5 consumer would expect in light of GM's advertising campaign, emitted unlawfully
6 high levels of pollutants such as NOx, and were non-compliant with EPA emission
7 requirements, or GM acted with reckless disregard for the truth, and denied Plaintiffs
8 and the other Class members information that is highly relevant to their purchasing
9 decision.

10 294. GM further affirmatively misrepresented to Plaintiffs in advertising and
11 other forms of communication, including standard and uniform material provided with
12 each car, that the Affected Vehicles it was selling had no significant defects, were
13 Earth-friendly and low emission vehicles, complied with EPA regulations, and would
14 perform and operate properly when driven in normal usage.

15 295. GM knew these representations were false when made.

16 296. The Affected Vehicles purchased or leased by Plaintiffs and the other
17 Class members were, in fact, defective, emitting pollutants at a much higher rate than
18 gasoline powered vehicles and at a much higher rate than a reasonable consumer
19 would expect in light of GM's advertising campaign, non-EPA-compliant, and
20 unreliable because the NOx reduction system in the Affected Vehicles turns off or is
21 limited during normal driving conditions.

22 297. GM had a duty to disclose that the NOx reduction system in the Affected
23 Vehicles turns off or is limited during normal driving conditions, that these Affected
24 Vehicles were defective, employed a "Defeat Device," and emitted pollutants at a
25 much higher rate than gasoline powered vehicles, and that the emissions far exceeded
26 those expected by a reasonable consumer, were non-EPA-compliant and unreliable,
27 because Plaintiffs and the other Class members relied on GM's material
28

1 representations that the Affected Vehicles they were purchasing were reduced
2 emission vehicles, efficient, and free from defects.

3 298. As alleged in this Complaint, at all relevant times, GM has held out the
4 Affected Vehicles to be reduced emissions, EPA-compliant vehicles. GM disclosed
5 certain details about the GM Clean Diesel engine, but nonetheless, GM intentionally
6 failed to disclose the important facts that the NOx reduction system in the Affected
7 Vehicles turns off or is limited during normal driving conditions, and that the Affected
8 Vehicles had defective emissions controls, deploy a “Defeat Device,” emitted higher
9 levels of pollutants than expected by a reasonable consumer, emitted unlawfully high
10 levels of pollutants, and were non-compliant with EPA emissions requirements,
11 making other disclosures about the emission system deceptive.

12 299. The truth about the defective emissions controls and GM’s manipulations
13 of those controls, unlawfully high emissions, the “Defeat Device,” and non-
14 compliance with EPA emissions requirements was known only to GM; Plaintiffs and
15 the Class members did not know of these facts and GM actively concealed these facts
16 from Plaintiffs and Class members.

17 300. Plaintiffs and Class members reasonably relied upon GM’s deception.
18 They had no way of knowing that GM’s representations were false and/or misleading.
19 As consumers, Plaintiffs and Class members did not, and could not, unravel GM’s
20 deception on their own. Rather, GM intended to deceive Plaintiffs and Class members
21 by concealing the true facts about the Affected Vehicle emissions.

22 301. GM also concealed and suppressed material facts concerning what is
23 evidently the true culture of GM—one characterized by an emphasis on profits and
24 sales above compliance with federal and state clean air laws and emissions regulations
25 that are meant to protect the public and consumers. It also emphasized profits and
26 sales above the trust that Plaintiffs and Class members placed in its representations.
27 Consumers buy diesel cars from GM because they feel they are clean diesel cars.
28

1 They do not want to be spewing noxious gases into the environment. And yet, that is
2 precisely what the Affected Vehicles are doing.

3 302. GM's false representations were material to consumers, because they
4 concerned the quality of the Affected Vehicles, because they concerned compliance
5 with applicable federal and state law and regulations regarding clean air and
6 emissions, and also because the representations played a significant role in the value
7 of the vehicles. As GM well knew, its customers, including Plaintiffs and Class
8 members, highly valued that the vehicles they were purchasing or leasing were fuel
9 efficient, clean diesel cars with reduced emissions, and they paid accordingly.

10 303. GM had a duty to disclose the emissions defect, defective design of the
11 emissions controls, and violations with respect to the Affected Vehicles because
12 details of the true facts were known and/or accessible only to GM, because GM had
13 exclusive knowledge as to such facts, and because GM knew these facts were not
14 known to or reasonably discoverable by Plaintiffs or Class members. GM also had a
15 duty to disclose because it made general affirmative representations about the qualities
16 of its vehicles with respect to emissions, starting with references to them as *reduced*
17 *emissions* diesel cars and as compliant with all laws in each state, which were
18 misleading, deceptive, and incomplete without the disclosure of the additional facts set
19 forth above regarding the actual emissions of its vehicles, its actual philosophy with
20 respect to compliance with federal and state clean air laws and emissions regulations,
21 and its actual practices with respect to the vehicles at issue. Having volunteered to
22 provide information to Plaintiffs and Class members, GM had the duty to disclose not
23 just the partial truth, but the entire truth. These omitted and concealed facts were
24 material because they directly impact the value of the Affected Vehicles purchased or
25 leased by Plaintiffs and Class members. Whether a manufacturer's products pollute,
26 comply with federal and state clean air laws and emissions regulations, and whether
27 that manufacturer tells the truth with respect to such compliance or non-compliance,
28

1 are material concerns to a consumer, including with respect to the emissions
2 certifications testing their vehicles must pass. GM represented to Plaintiffs and Class
3 members that they were purchasing or leasing *reduced emission* diesel vehicles, when
4 in fact, they were purchasing or leasing defective, high emission, and unlawfully high
5 emission vehicles.

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

12 305. GM has still not made full and adequate disclosures, and continues to
13 defraud Plaintiffs and Class members by concealing material information regarding
14 the emissions qualities of its referenced vehicles.

15 306. Plaintiffs and Class members were unaware of the omitted material facts
16 referenced herein, and they would not have acted as they did if they had known of the
17 concealed and/or suppressed facts, in that they would not have purchased purportedly
18 reduced emissions diesel cars manufactured by GM, and/or would not have continued
19 to drive their heavily polluting vehicles, or would have taken other affirmative steps in
20 light of the information concealed from them. Plaintiffs' and Class members' actions
21 were justified. GM was in exclusive control of the material facts, and such facts were
22 not generally known to the public, Plaintiffs, or Class members.

23 307. Because of the concealment and/or suppression of the facts, Plaintiffs and
24 Class members have sustained damage because they own vehicles that are diminished
25 in value as a result of GM's concealment of the true quality and quantity of those
26 vehicles' emissions and GM's failure to timely disclose the defect or defective design
27 of the GM Clean Diesel engine system, the actual emissions qualities and quantities of
28

1 GM-branded vehicles, and the serious issues engendered by GM's corporate policies.
 2 Had Plaintiffs and Class members been aware of the true emissions facts with regard
 3 to the Affected Vehicles, and the Company's disregard for the truth and compliance
 4 with applicable federal and state law and regulations, Plaintiffs and Class members
 5 who purchased or leased new or certified previously owned vehicles would have paid
 6 less for their vehicles or would not have purchased or leased them at all.

7 308. The value of Plaintiffs' and Class members' vehicles has diminished as a
 8 result of GM's fraudulent concealment of the defective emissions controls of the
 9 Affected Vehicles, of the unlawfully high emissions of the Affected Vehicles, and of
 10 the non-compliance with EPA emissions requirements, all of which has greatly
 11 tarnished the GM brand name attached to Plaintiffs' and Class members' vehicles and
 12 made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let
 13 alone pay what otherwise would have been fair market value for the vehicles.

14 309. Accordingly, GM is liable to Plaintiffs and Class members for damages in
 15 an amount to be proven at trial.

16 310. GM's acts were done wantonly, maliciously, oppressively, deliberately,
 17 with intent to defraud, and in reckless disregard of Plaintiffs' and Class members'
 18 rights and the representations that GM made to them, in order to enrich GM. GM's
 19 conduct warrants an assessment of punitive damages in an amount sufficient to deter
 20 such conduct in the future, which amount is to be determined according to proof.

21 **D. Claims Brought on Behalf of the Delaware Class**

22 **COUNT I**

23 **VIOLATIONS OF THE DELAWARE CONSUMER FRAUD ACT** 24 **(DEL. CODE §§ 2513, *ET SEQ.*)**

25 311. Plaintiffs (for purposes of all Delaware Class Counts) incorporate by
 26 reference all paragraphs as though fully set forth herein.

27 312. Plaintiffs bring this Count on behalf of the Delaware Class members.

28 313. GM is a "person" within the meaning of 6 DEL. CODE § 2511(7).

1 314. The Delaware Consumer Fraud Act (“Delaware CFA”) prohibits the “act,
2 use or employment by any person of any deception, fraud, false pretense, false
3 promise, misrepresentation, or the concealment, suppression, or omission of any
4 material fact with intent that others rely upon such concealment, suppression or
5 omission, in connection with the sale, lease or advertisement of any merchandise,
6 whether or not any person has in fact been misled, deceived or damaged thereby.” 6
7 DEL. CODE § 2513(a). In the course of GM’s business, it willfully failed to disclose
8 and actively concealed that the NOx reduction system in the Affected Vehicles turns
9 off or is limited during normal driving conditions, that the Affected Vehicles emitted
10 far more pollutants than gasoline powered vehicles, that the Affected Vehicles emit far
11 more pollution than a reasonable consumer would expect in light of GM’s advertising
12 campaign, and that the Affected Vehicles emitted unlawfully high levels of pollutants,
13 including NOx, as described above. Accordingly, GM has engaged in deception,
14 fraud, false pretense, false promise, misrepresentation, or the concealment,
15 suppression, or omission of any material fact with intent that others rely upon such
16 concealment, suppression or omission, in connection with the sale, lease or
17 advertisement of the Affected Vehicles.

18 315. In purchasing or leasing the Affected Vehicles, Plaintiffs and the other
19 Class members were deceived by GM’s failure to disclose that the NOx reduction
20 system in the Affected Vehicles turns off or is limited during normal driving
21 conditions, that the emissions controls were defective, and that the Affected Vehicles
22 emitted unlawfully high levels of pollutants, including NOx, as described above.

23 316. Plaintiffs and Class members reasonably relied upon GM’s false
24 misrepresentations. They had no way of knowing that GM’s representations were
25 false and gravely misleading. As alleged herein, GM engaged in extremely
26 sophisticated methods of deception. Plaintiffs and Class members did not, and could
27 not, unravel GM’s deception on their own.
28

1 317. GM's actions as set forth above occurred in the conduct of trade or
2 commerce.

3 318. GM's unfair or deceptive acts or practices were likely to and did in fact
4 deceive reasonable consumers.

5 319. GM intentionally and knowingly misrepresented material facts regarding
6 the Affected Vehicles with an intent to mislead Plaintiffs and the Class.

7 320. GM knew or should have known that its conduct violated the Delaware
8 Consumer Fraud Act.

9 321. GM owed Plaintiffs and the Class a duty to disclose the truth about its
10 emissions systems manipulation because GM:

11 a. Possessed exclusive knowledge that it
12 manipulated the emissions system in the Affected Vehicles
13 to turn off or limit effectiveness in normal driving
conditions;

14 b. Intentionally concealed the foregoing from
15 Plaintiffs and the Class; and/or

16 c. Made incomplete representations that it
17 manipulated the emissions system in the Affected Vehicles
18 to turn off or limit effectiveness in normal driving
19 conditions, while purposefully withholding material facts
from Plaintiffs and the Class that contradicted these
representations.

20 322. GM had a duty to disclose that the NOx reduction system in the Affected
21 Vehicles turns off or is limited during normal driving conditions, that these Affected
22 Vehicles were defective, employed a "Defeat Device," and emitted pollutants at a
23 much higher rate than gasoline powered vehicles, and that the emissions far exceeded
24 those expected by a reasonable consumer, were non-EPA-compliant and unreliable,
25 because Plaintiffs and the other Class members relied on GM's material
26 representations that the Affected Vehicles they were purchasing were reduced
27 emission vehicles, efficient, and free from defects.
28

323. GM's conduct proximately caused injuries to Plaintiffs and the other Class members.

324. Plaintiffs and the other Class members were injured and suffered ascertainable loss, injury-in-fact, and/or actual damage as a proximate result of GM's conduct in that Plaintiffs and the other Class members overpaid for their Affected Vehicles and did not receive the benefit of their bargain, and their Affected Vehicles have suffered a diminution in value. These injuries are the direct and natural consequence of GM's misrepresentations and omissions.

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

326. Plaintiffs seeks damages under the Delaware CFA for injury resulting from the direct and natural consequences of GM's unlawful conduct. *See, e.g., Stephenson v. Capano Dev., Inc.*, 462 A.2d 1069, 1077 (Del. 1983). Plaintiffs also seek declaratory relief, attorneys' fees, and any other just and proper relief available under the Delaware CFA.

327. GM engaged in gross, oppressive, or aggravated conduct justifying the imposition of punitive damages.

COUNT II

BREACH OF CONTRACT (BASED ON DELAWARE LAW)

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

329. Plaintiffs bring this Count on behalf of the Delaware Class.

330. GM's misrepresentations and omissions alleged herein, including, but not limited to, GM's failure to disclose that the NOx reduction system in the Affected Vehicles turns off or is limited during normal driving conditions caused Plaintiffs and the other Class members to make their purchases or leases of their Affected Vehicles.

1 Absent those misrepresentations and omissions, Plaintiffs and the other Class
2 members would not have purchased or leased these Affected Vehicles, would not have
3 purchased or leased these Affected Vehicles at the prices they paid, and/or would have
4 purchased or leased less expensive alternative vehicles that did not contain the
5 defective GM Clean Diesel engine system and which were not marketed as including
6 such a system. Accordingly, Plaintiffs and the other Class members overpaid for their
7 Affected Vehicles and did not receive the benefit of their bargain.

8 331. Each and every sale or lease of an Affected Vehicle constitutes a contract
9 between GM and the purchaser or lessee. GM breached these contracts by, among
10 other things, selling or leasing to Plaintiffs and the other Class members defective
11 Affected Vehicles and by misrepresenting or failing to disclose that the NOx reduction
12 system in the Affected Vehicles turns off or is limited during normal driving
13 conditions, and that they are thus less valuable than vehicles not equipped with the
14 defective GM Clean Diesel engine system.

15 332. As a direct and proximate result of GM's breach of contract, Plaintiffs
16 and the Class have been damaged in an amount to be proven at trial, which shall
17 include, but is not limited to, all compensatory damages, incidental and consequential
18 damages, and other damages allowed by law.

19 **COUNT III**

20 **FRAUDULENT CONCEALMENT** 21 **(BASED ON DELAWARE LAW)**

22 333. Plaintiffs incorporate by reference all paragraphs as though fully set forth
23 herein.

24 334. This claim is brought on behalf of the Delaware Class.

25 335. GM intentionally concealed that the NOx reduction system in the
26 Affected Vehicles turns off or is limited during normal driving conditions, that the
27 Affected Vehicles had defective emissions controls, emitted pollutants at a higher
28 level than gasoline powered vehicles, emitted pollutants higher than a reasonable

1 consumer would expect in light of GM's advertising campaign, emitted unlawfully
2 high levels of pollutants such as NOx, and were non-compliant with EPA emission
3 requirements, or GM acted with reckless disregard for the truth, and denied Plaintiffs
4 and the other Class members information that is highly relevant to their purchasing
5 decision.

6 336. GM further affirmatively misrepresented to Plaintiffs in advertising and
7 other forms of communication, including standard and uniform material provided with
8 each car, that the Affected Vehicles it was selling had no significant defects, were
9 Earth-friendly and low emission vehicles, complied with EPA regulations, and would
10 perform and operate properly when driven in normal usage.

11 337. GM knew these representations were false when made.

12 338. The Affected Vehicles purchased or leased by Plaintiffs and the other
13 Class members were, in fact, defective, emitting pollutants at a much higher rate than
14 gasoline powered vehicles and at a much higher rate than a reasonable consumer
15 would expect in light of GM's advertising campaign, non-EPA-compliant, and
16 unreliable because the NOx reduction system in the Affected Vehicles turns off or is
17 limited during normal driving conditions.

18 339. GM had a duty to disclose that the NOx reduction system in the Affected
19 Vehicles turns off or is limited during normal driving conditions, that these Affected
20 Vehicles were defective, employed a "Defeat Device," and emitted pollutants at a
21 much higher rate than gasoline powered vehicles, and that the emissions far exceeded
22 those expected by a reasonable consumer, were non-EPA-compliant and unreliable,
23 because Plaintiffs and the other Class members relied on GM's material
24 representations that the Affected Vehicles they were purchasing were reduced
25 emission vehicles, efficient, and free from defects.

26 340. As alleged in this Complaint, at all relevant times, GM has held out the
27 Affected Vehicles to be reduced emissions, EPA-compliant vehicles. GM disclosed
28

1 certain details about the GM Clean Diesel engine, but nonetheless, GM intentionally
2 failed to disclose the important facts that the NOx reduction system in the Affected
3 Vehicles turns off or is limited during normal driving conditions, and that the Affected
4 Vehicles had defective emissions controls, deploy a “Defeat Device,” emitted higher
5 levels of pollutants than expected by a reasonable consumer, emitted unlawfully high
6 levels of pollutants, and were non-compliant with EPA emissions requirements,
7 making other disclosures about the emission system deceptive.

8 341. The truth about the defective emissions controls and GM’s manipulations
9 of those controls, unlawfully high emissions, the “Defeat Device,” and non-
10 compliance with EPA emissions requirements was known only to GM; Plaintiffs and
11 the Class members did not know of these facts and GM actively concealed these facts
12 from Plaintiffs and Class members.

13 342. Plaintiffs and Class members reasonably relied upon GM’s deception.
14 They had no way of knowing that GM’s representations were false and/or misleading.
15 As consumers, Plaintiffs and Class members did not, and could not, unravel GM’s
16 deception on their own. Rather, GM intended to deceive Plaintiffs and Class members
17 by concealing the true facts about the Affected Vehicle emissions.

18 343. GM also concealed and suppressed material facts concerning what is
19 evidently the true culture of GM—one characterized by an emphasis on profits and
20 sales above compliance with federal and state clean air laws and emissions regulations
21 that are meant to protect the public and consumers. It also emphasized profits and
22 sales above the trust that Plaintiffs and Class members placed in its representations.
23 Consumers buy diesel cars from GM because they feel they are clean diesel cars.
24 They do not want to be spewing noxious gases into the environment. And yet, that is
25 precisely what the Affected Vehicles are doing.

26 344. GM’s false representations were material to consumers, because they
27 concerned the quality of the Affected Vehicles, because they concerned compliance
28

1 with applicable federal and state law and regulations regarding clean air and
2 emissions, and also because the representations played a significant role in the value
3 of the vehicles. As GM well knew, its customers, including Plaintiffs and Class
4 members, highly valued that the vehicles they were purchasing or leasing were fuel
5 efficient, clean diesel cars with reduced emissions, and they paid accordingly.

6 345. GM had a duty to disclose the emissions defect, defective design of the
7 emissions controls, and violations with respect to the Affected Vehicles because
8 details of the true facts were known and/or accessible only to GM, because GM had
9 exclusive knowledge as to such facts, and because GM knew these facts were not
10 known to or reasonably discoverable by Plaintiffs or Class members. GM also had a
11 duty to disclose because it made general affirmative representations about the qualities
12 of its vehicles with respect to emissions, starting with references to them as *reduced*
13 *emissions* diesel cars and as compliant with all laws in each state, which were
14 misleading, deceptive, and incomplete without the disclosure of the additional facts set
15 forth above regarding the actual emissions of its vehicles, its actual philosophy with
16 respect to compliance with federal and state clean air laws and emissions regulations,
17 and its actual practices with respect to the vehicles at issue. Having volunteered to
18 provide information to Plaintiffs and Class members, GM had the duty to disclose not
19 just the partial truth, but the entire truth. These omitted and concealed facts were
20 material because they directly impact the value of the Affected Vehicles purchased or
21 leased by Plaintiffs and Class members. Whether a manufacturer's products pollute,
22 comply with federal and state clean air laws and emissions regulations, and whether
23 that manufacturer tells the truth with respect to such compliance or non-compliance,
24 are material concerns to a consumer, including with respect to the emissions
25 certifications testing their vehicles must pass. GM represented to Plaintiffs and Class
26 members that they were purchasing or leasing *reduced emission* diesel vehicles, when
27
28

1 in fact, they were purchasing or leasing defective, high emission, and unlawfully high
2 emission vehicles.

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

9 347. GM has still not made full and adequate disclosures, and continues to
10 defraud Plaintiffs and Class members by concealing material information regarding
11 the emissions qualities of its referenced vehicles.

12 348. Plaintiffs and Class members were unaware of the omitted material facts
13 referenced herein, and they would not have acted as they did if they had known of the
14 concealed and/or suppressed facts, in that they would not have purchased purportedly
15 reduced emissions diesel cars manufactured by GM, and/or would not have continued
16 to drive their heavily polluting vehicles, or would have taken other affirmative steps in
17 light of the information concealed from them. Plaintiffs' and Class members' actions
18 were justified. GM was in exclusive control of the material facts, and such facts were
19 not generally known to the public, Plaintiffs, or Class members.

20 349. Because of the concealment and/or suppression of the facts, Plaintiffs and
21 Class members have sustained damage because they own vehicles that are diminished
22 in value as a result of GM's concealment of the true quality and quantity of those
23 vehicles' emissions and GM's failure to timely disclose the defect or defective design
24 of the GM Clean Diesel engine system, the actual emissions qualities and quantities of
25 GM-branded vehicles, and the serious issues engendered by GM's corporate policies.
26 Had Plaintiffs and Class members been aware of the true emissions facts with regard
27 to the Affected Vehicles, and the Company's disregard for the truth and compliance
28

1 with applicable federal and state law and regulations, Plaintiffs and Class members
 2 who purchased or leased new or certified previously owned vehicles would have paid
 3 less for their vehicles or would not have purchased or leased them at all.

4 350. The value of Plaintiffs' and Class members' vehicles has diminished as a
 5 result of GM's fraudulent concealment of the defective emissions controls of the
 6 Affected Vehicles, of the unlawfully high emissions of the Affected Vehicles, and of
 7 the non-compliance with EPA emissions requirements, all of which has greatly
 8 tarnished the GM brand name attached to Plaintiffs' and Class members' vehicles and
 9 made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let
 10 alone pay what otherwise would have been fair market value for the vehicles.

11 351. Accordingly, GM is liable to Plaintiffs and Class members for damages in
 12 an amount to be proven at trial.

13 352. GM's acts were done wantonly, maliciously, oppressively, deliberately,
 14 with intent to defraud, and in reckless disregard of Plaintiffs' and Class members'
 15 rights and the representations that GM made to them, in order to enrich GM. GM's
 16 conduct warrants an assessment of punitive damages in an amount sufficient to deter
 17 such conduct in the future, which amount is to be determined according to proof.

18 **E. Claims Brought on Behalf of the Florida Class**

19 **COUNT I**

20 **VIOLATIONS OF THE FLORIDA UNFAIR AND DECEPTIVE TRADE** 21 **PRACTICES ACT** **(FLA. STAT. §§ 501.201, *ET SEQ.*)**

22 353. Plaintiffs (for purposes of all Florida Class Counts) incorporate by
 23 reference all preceding allegations as though fully set forth herein.

24 354. Plaintiffs bring this Count on behalf of the Florida Class members.

25 355. Plaintiffs and the Class are "consumers" within the meaning of Florida
 26 Unfair and Deceptive Trade Practices Act ("Florida UDTPA"), FLA. STAT.
 27 § 501.203(7).
 28

1 356. GM engaged in “trade or commerce” within the meaning of the FLA.
2 STAT. § 501.203(8).

3 357. Florida’s Deceptive and Unfair Trade Practices Act prohibits “[u]nfair
4 methods of competition, unconscionable acts or practices, and unfair or deceptive acts
5 or practices in the conduct of any trade or commerce.” FLA. STAT. § 501.204(1). GM
6 participated in unfair and deceptive trade practices that violated the Florida UDTPA as
7 described herein. In the course of GM’s business, it willfully failed to disclose and
8 actively concealed that the NOx reduction system in the Affected Vehicles turns off or
9 is limited during normal driving conditions, that the Affected Vehicles emitted far
10 more pollutants than gasoline powered vehicles, that the Affected Vehicles emit far
11 more pollution than a reasonable consumer would expect in light of GM’s advertising
12 campaign, and that the Affected Vehicles emitted unlawfully high levels of pollutants,
13 including NOx, as described above. Accordingly, GM engaged in unfair methods of
14 competition, unconscionable acts or practices, and unfair or deceptive acts or practices
15 as defined in FLA. STAT. § 501.204(1). GM’s conduct offends established public
16 policy, is immoral, unethical, oppressive, unscrupulous, or substantially injurious to
17 consumers, and is likely to mislead consumers.

18 358. In purchasing or leasing the Affected Vehicles, Plaintiffs and the other
19 Class members were deceived by GM’s failure to disclose that the NOx reduction
20 system in the Affected Vehicles turns off or is limited during normal driving
21 conditions, that the emissions controls were defective, and that the Affected Vehicles
22 emitted unlawfully high levels of pollutants, including NOx, as described above.

23 359. Plaintiffs and Class members reasonably relied upon GM’s false
24 misrepresentations. They had no way of knowing that GM’s representations were
25 false and gravely misleading. As alleged herein, GM engaged in extremely
26 sophisticated methods of deception. Plaintiffs and Class members did not, and could
27 not, unravel GM’s deception on their own.
28

1 360. GM's actions as set forth above occurred in the conduct of trade or
2 commerce.

3 361. GM's unfair or deceptive acts or practices were likely to and did in fact
4 deceive reasonable consumers.

5 362. GM intentionally and knowingly misrepresented material facts regarding
6 the Affected Vehicles with an intent to mislead Plaintiffs and the Class.

7 363. GM knew or should have known that its conduct violated the Florida
8 UDTPA.

9 364. GM owed Plaintiffs and the Class a duty to disclose the truth about its
10 emissions systems manipulation because GM:

11 a. Possessed exclusive knowledge that it
12 manipulated the emissions system in the Affected Vehicles
13 to turn off or limit effectiveness in normal driving
conditions;

14 b. Intentionally concealed the foregoing from
15 Plaintiffs and the Class; and/or

16 c. Made incomplete representations that it
17 manipulated the emissions system in the Affected Vehicles
18 to turn off or limit effectiveness in normal driving
19 conditions, while purposefully withholding material facts
20 from Plaintiffs and the Class that contradicted these
21 representations.

22 365. GM had a duty to disclose that the NOx reduction system in the Affected
23 Vehicles turns off or is limited during normal driving conditions, that these Affected
24 Vehicles were defective, employed a "Defeat Device," and emitted pollutants at a
25 much higher rate than gasoline powered vehicles, and that the emissions far exceeded
26 those expected by a reasonable consumer, were non-EPA-compliant and unreliable,
27 because Plaintiffs and the other Class members relied on GM's material
28 representations that the Affected Vehicles they were purchasing were reduced
emission vehicles, efficient, and free from defects.

1 such a system. Accordingly, Plaintiffs and the other Class members overpaid for their
2 Affected Vehicles and did not receive the benefit of their bargain.

3 373. Each and every sale or lease of an Affected Vehicle constitutes a contract
4 between GM and the purchaser or lessee. GM breached these contracts by selling or
5 leasing to Plaintiffs and the other Class members defective Affected Vehicles and by
6 misrepresenting or failing to disclose that the NOx reduction system in the Affected
7 Vehicles turns off or is limited during normal driving conditions and the existence of
8 the GM Clean Diesel engine system's defect and/or defective design of the emissions
9 controls, including information known to GM, rendering each Affected Vehicle non-
10 EPA-compliant, and that they are thus less valuable than vehicles not equipped with
11 the defective GM Clean Diesel engine system.

12 374. As a direct and proximate result of GM's breach of contract, Plaintiffs
13 and the Class have been damaged in an amount to be proven at trial, which shall
14 include, but is not limited to, all compensatory damages, incidental and consequential
15 damages, and other damages allowed by law.

16 **COUNT III**

17 **FRAUDULENT CONCEALMENT** 18 **(BASED ON FLORIDA LAW)**

19 375. Plaintiffs incorporate by reference all preceding allegations as though
20 fully set forth herein.

21 376. Plaintiffs bring this Count on behalf of the Florida Class.

22 377. GM intentionally concealed that the NOx reduction system in the
23 Affected Vehicles turns off or is limited during normal driving conditions, that the
24 Affected Vehicles had defective emissions controls, emitted pollutants at a higher
25 level than gasoline powered vehicles, emitted pollutants higher than a reasonable
26 consumer would expect in light of GM's advertising campaign, emitted unlawfully
27 high levels of pollutants such as NOx, and were non-compliant with EPA emission
28 requirements, or GM acted with reckless disregard for the truth, and denied Plaintiffs

1 and the other Class members information that is highly relevant to their purchasing
2 decision.

3 378. GM further affirmatively misrepresented to Plaintiffs in advertising and
4 other forms of communication, including standard and uniform material provided with
5 each car, that the Affected Vehicles it was selling had no significant defects, were
6 Earth-friendly and low emission vehicles, complied with EPA regulations, and would
7 perform and operate properly when driven in normal usage.

8 379. GM knew these representations were false when made.

9 380. The Affected Vehicles purchased or leased by Plaintiffs and the other
10 Class members were, in fact, defective, emitting pollutants at a much higher rate than
11 gasoline powered vehicles and at a much higher rate than a reasonable consumer
12 would expect in light of GM's advertising campaign, non-EPA-compliant, and
13 unreliable because the NOx reduction system in the Affected Vehicles turns off or is
14 limited during normal driving conditions.

15 381. GM had a duty to disclose that the NOx reduction system in the Affected
16 Vehicles turns off or is limited during normal driving conditions, that these Affected
17 Vehicles were defective, employed a "Defeat Device," and emitted pollutants at a
18 much higher rate than gasoline powered vehicles, and that the emissions far exceeded
19 those expected by a reasonable consumer, were non-EPA-compliant and unreliable,
20 because Plaintiffs and the other Class members relied on GM's material
21 representations that the Affected Vehicles they were purchasing were reduced
22 emission vehicles, efficient, and free from defects.

23 382. As alleged in this Complaint, at all relevant times, GM has held out the
24 Affected Vehicles to be reduced emissions, EPA-compliant vehicles. GM disclosed
25 certain details about the GM Clean Diesel engine, but nonetheless, GM intentionally
26 failed to disclose the important facts that the NOx reduction system in the Affected
27 Vehicles turns off or is limited during normal driving conditions, and that the Affected
28

1 Vehicles had defective emissions controls, deploy a “Defeat Device,” emitted higher
2 levels of pollutants than expected by a reasonable consumer, emitted unlawfully high
3 levels of pollutants, and were non-compliant with EPA emissions requirements,
4 making other disclosures about the emission system deceptive.

5 383. The truth about the defective emissions controls and GM’s manipulations
6 of those controls, unlawfully high emissions, the “Defeat Device,” and non-
7 compliance with EPA emissions requirements was known only to GM; Plaintiffs and
8 the Class members did not know of these facts and GM actively concealed these facts
9 from Plaintiffs and Class members.

10 384. Plaintiffs and Class members reasonably relied upon GM’s deception.
11 They had no way of knowing that GM’s representations were false and/or misleading.
12 As consumers, Plaintiffs and Class members did not, and could not, unravel GM’s
13 deception on their own. Rather, GM intended to deceive Plaintiffs and Class members
14 by concealing the true facts about the Affected Vehicle emissions.

15 385. GM also concealed and suppressed material facts concerning what is
16 evidently the true culture of GM—one characterized by an emphasis on profits and
17 sales above compliance with federal and state clean air laws and emissions regulations
18 that are meant to protect the public and consumers. It also emphasized profits and
19 sales above the trust that Plaintiffs and Class members placed in its representations.
20 Consumers buy diesel cars from GM because they feel they are clean diesel cars.
21 They do not want to be spewing noxious gases into the environment. And yet, that is
22 precisely what the Affected Vehicles are doing.

23 386. GM’s false representations were material to consumers, because they
24 concerned the quality of the Affected Vehicles, because they concerned compliance
25 with applicable federal and state law and regulations regarding clean air and
26 emissions, and also because the representations played a significant role in the value
27 of the vehicles. As GM well knew, its customers, including Plaintiffs and Class
28

1 members, highly valued that the vehicles they were purchasing or leasing were fuel
2 efficient, clean diesel cars with reduced emissions, and they paid accordingly.

3 387. GM had a duty to disclose the emissions defect, defective design of the
4 emissions controls, and violations with respect to the Affected Vehicles because
5 details of the true facts were known and/or accessible only to GM, because GM had
6 exclusive knowledge as to such facts, and because GM knew these facts were not
7 known to or reasonably discoverable by Plaintiffs or Class members. GM also had a
8 duty to disclose because it made general affirmative representations about the qualities
9 of its vehicles with respect to emissions, starting with references to them as *reduced*
10 *emissions* diesel cars and as compliant with all laws in each state, which were
11 misleading, deceptive, and incomplete without the disclosure of the additional facts set
12 forth above regarding the actual emissions of its vehicles, its actual philosophy with
13 respect to compliance with federal and state clean air laws and emissions regulations,
14 and its actual practices with respect to the vehicles at issue. Having volunteered to
15 provide information to Plaintiffs and Class members, GM had the duty to disclose not
16 just the partial truth, but the entire truth. These omitted and concealed facts were
17 material because they directly impact the value of the Affected Vehicles purchased or
18 leased by Plaintiffs and Class members. Whether a manufacturer's products pollute,
19 comply with federal and state clean air laws and emissions regulations, and whether
20 that manufacturer tells the truth with respect to such compliance or non-compliance,
21 are material concerns to a consumer, including with respect to the emissions
22 certifications testing their vehicles must pass. GM represented to Plaintiffs and Class
23 members that they were purchasing or leasing *reduced emission* diesel vehicles, when
24 in fact, they were purchasing or leasing defective, high emission, and unlawfully high
25 emission vehicles.

26 388. GM actively concealed and/or suppressed these material facts, in whole
27 or in part, to pad and protect its profits and to avoid the perception that its vehicles
28

1 were not clean diesel vehicles and did not or could not comply with federal and state
2 laws governing clean air and emissions, which perception would hurt the brand's
3 image and cost GM money, and it did so at the expense of Plaintiffs and Class
4 members.

5 389. GM has still not made full and adequate disclosures, and continues to
6 defraud Plaintiffs and Class members by concealing material information regarding
7 the emissions qualities of its referenced vehicles.

8 390. Plaintiffs and Class members were unaware of the omitted material facts
9 referenced herein, and they would not have acted as they did if they had known of the
10 concealed and/or suppressed facts, in that they would not have purchased purportedly
11 reduced emissions diesel cars manufactured by GM, and/or would not have continued
12 to drive their heavily polluting vehicles, or would have taken other affirmative steps in
13 light of the information concealed from them. Plaintiffs' and Class members' actions
14 were justified. GM was in exclusive control of the material facts, and such facts were
15 not generally known to the public, Plaintiffs, or Class members.

16 391. Because of the concealment and/or suppression of the facts, Plaintiffs and
17 Class members have sustained damage because they own vehicles that are diminished
18 in value as a result of GM's concealment of the true quality and quantity of those
19 vehicles' emissions and GM's failure to timely disclose the defect or defective design
20 of the GM Clean Diesel engine system, the actual emissions qualities and quantities of
21 GM-branded vehicles, and the serious issues engendered by GM's corporate policies.
22 Had Plaintiffs and Class members been aware of the true emissions facts with regard
23 to the Affected Vehicles, and the Company's disregard for the truth and compliance
24 with applicable federal and state law and regulations, Plaintiffs and Class members
25 who purchased or leased new or certified previously owned vehicles would have paid
26 less for their vehicles or would not have purchased or leased them at all.

1 392. The value of Plaintiffs' and Class members' vehicles has diminished as a
 2 result of GM's fraudulent concealment of the defective emissions controls of the
 3 Affected Vehicles, of the unlawfully high emissions of the Affected Vehicles, and of
 4 the non-compliance with EPA emissions requirements, all of which has greatly
 5 tarnished the GM brand name attached to Plaintiffs' and Class members' vehicles and
 6 made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let
 7 alone pay what otherwise would have been fair market value for the vehicles.

8 393. Accordingly, GM is liable to Plaintiffs and Class members for damages in
 9 an amount to be proven at trial.

10 394. GM's acts were done wantonly, maliciously, oppressively, deliberately,
 11 with intent to defraud, and in reckless disregard of Plaintiffs' and Class members'
 12 rights and the representations that GM made to them, in order to enrich GM. GM's
 13 conduct warrants an assessment of punitive damages in an amount sufficient to deter
 14 such conduct in the future, which amount is to be determined according to proof.

15 **F. Claims Brought on Behalf of the Georgia Class**

16 **COUNT I**

17 **VIOLATION OF GEORGIA'S FAIR BUSINESS PRACTICES ACT** 18 **(GA. CODE ANN. § 10-1-390, ET SEQ.)**

19 395. Plaintiffs (for purposes of all Georgia Class Counts) incorporate by
 20 reference all preceding allegations as though fully set forth herein.

21 396. Plaintiffs intend to assert a claim under the Georgia Fair Business
 22 Practices Act ("Georgia FBPA") which declares "[u]nfair or deceptive acts or
 23 practices in the conduct of consumer transactions and consumer acts or practices in
 24 trade or commerce" to be unlawful, GA. CODE. ANN. § 10-1-393(a), including but not
 25 limited to "representing that goods or services have sponsorship, approval,
 26 characteristics, ingredients, uses, benefits, or quantities that they do not have,"
 27 "[r]epresenting that goods or services are of a particular standard, quality, or grade ...
 28 if they are of another," and "[a]dvertising goods or services with intent not to sell them

1 as advertised.” GA. CODE. ANN. § 10-1-393(b). Plaintiffs will make a demand in
2 satisfaction of GA. CODE. ANN. § 10-1-399, and may amend this Complaint to assert
3 claims under the Georgia FBPA once the required 30 days have elapsed. This
4 paragraph is included for purposes of notice only and is not intended to actually assert
5 a claim under the Georgia FBPA.

6 **COUNT II**

7 **BREACH OF CONTRACT** 8 **(BASED ON GEORGIA LAW)**

9 397. Plaintiffs incorporate by reference all preceding allegations as though
10 fully set forth herein.

11 398. This claim is brought on behalf of the Georgia Class.

12 399. GM’s misrepresentations and omissions alleged herein, including GM’s
13 failure to disclose the existence of the GM Clean Diesel engine system’s defect and/or
14 defective design of the emissions controls as alleged herein, caused Plaintiffs and the
15 other Class members to make their purchases or leases of their Affected Vehicles.
16 Absent those misrepresentations and omissions, Plaintiffs and the other Class
17 members would not have purchased or leased these Affected Vehicles, would not have
18 purchased or leased these Affected Vehicles at the prices they paid, and/or would have
19 purchased or leased less expensive alternative vehicles that did not contain the
20 defective GM Clean Diesel engine system and which were not marketed as including
21 such a system. Accordingly, Plaintiffs and the other Class members overpaid for their
22 Affected Vehicles and did not receive the benefit of their bargain.

23 400. Each and every sale or lease of an Affected Vehicle constitutes a contract
24 between GM and the purchaser or lessee. GM breached these contracts by selling or
25 leasing to Plaintiffs and the other Class members defective Affected Vehicles and by
26 misrepresenting or failing to disclose that the NOx reduction system in the Affected
27 Vehicles turns off or is limited during normal driving conditions and the existence of
28 the GM Clean Diesel engine system’s defect and/or defective design of the emissions

1 controls, including information known to GM, rendering each Affected Vehicle non-
2 EPA-compliant, and that they are thus less valuable than vehicles not equipped with
3 the defective GM Clean Diesel engine system.

4 401. As a direct and proximate result of GM's breach of contract, Plaintiffs
5 and the Class have been damaged in an amount to be proven at trial, which shall
6 include, but is not limited to, all compensatory damages, incidental and consequential
7 damages, and other damages allowed by law.

8 **COUNT III**

9 **FRAUDULENT CONCEALMENT** 10 **(BASED ON GEORGIA LAW)**

11 402. Plaintiffs incorporate by reference all preceding allegations as though
12 fully set forth herein.

13 403. This claim is brought on behalf of the Georgia Class.

14 404. GM intentionally concealed that the NOx reduction system in the
15 Affected Vehicles turns off or is limited during normal driving conditions, that the
16 Affected Vehicles had defective emissions controls, emitted pollutants at a higher
17 level than gasoline powered vehicles, emitted pollutants higher than a reasonable
18 consumer would expect in light of GM's advertising campaign, emitted unlawfully
19 high levels of pollutants such as NOx, and were non-compliant with EPA emission
20 requirements, or GM acted with reckless disregard for the truth, and denied Plaintiffs
21 and the other Class members information that is highly relevant to their purchasing
22 decision.

23 405. GM further affirmatively misrepresented to Plaintiffs in advertising and
24 other forms of communication, including standard and uniform material provided with
25 each car, that the Affected Vehicles it was selling had no significant defects, were
26 Earth-friendly and low emission vehicles, complied with EPA regulations, and would
27 perform and operate properly when driven in normal usage.

28 406. GM knew these representations were false when made.

1 407. The Affected Vehicles purchased or leased by Plaintiffs and the other
2 Class members were, in fact, defective, emitting pollutants at a much higher rate than
3 gasoline powered vehicles and at a much higher rate than a reasonable consumer
4 would expect in light of GM's advertising campaign, non-EPA-compliant, and
5 unreliable because the NOx reduction system in the Affected Vehicles turns off or is
6 limited during normal driving conditions.

7 408. GM had a duty to disclose that the NOx reduction system in the Affected
8 Vehicles turns off or is limited during normal driving conditions, that these Affected
9 Vehicles were defective, employed a "Defeat Device," and emitted pollutants at a
10 much higher rate than gasoline powered vehicles, and that the emissions far exceeded
11 those expected by a reasonable consumer, were non-EPA-compliant and unreliable,
12 because Plaintiffs and the other Class members relied on GM's material
13 representations that the Affected Vehicles they were purchasing were reduced
14 emission vehicles, efficient, and free from defects.

15 409. As alleged in this Complaint, at all relevant times, GM has held out the
16 Affected Vehicles to be reduced emissions, EPA-compliant vehicles. GM disclosed
17 certain details about the GM Clean Diesel engine, but nonetheless, GM intentionally
18 failed to disclose the important facts that the NOx reduction system in the Affected
19 Vehicles turns off or is limited during normal driving conditions, and that the Affected
20 Vehicles had defective emissions controls, deploy a "Defeat Device," emitted higher
21 levels of pollutants than expected by a reasonable consumer, emitted unlawfully high
22 levels of pollutants, and were non-compliant with EPA emissions requirements,
23 making other disclosures about the emission system deceptive.

24 410. The truth about the defective emissions controls and GM's manipulations
25 of those controls, unlawfully high emissions, the "Defeat Device," and non-
26 compliance with EPA emissions requirements was known only to GM; Plaintiffs and
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1 the Class members did not know of these facts and GM actively concealed these facts
2 from Plaintiffs and Class members.

3 411. Plaintiffs and Class members reasonably relied upon GM's deception.
4 They had no way of knowing that GM's representations were false and/or misleading.
5 As consumers, Plaintiffs and Class members did not, and could not, unravel GM's
6 deception on their own. Rather, GM intended to deceive Plaintiffs and Class members
7 by concealing the true facts about the Affected Vehicle emissions.

8 412. GM also concealed and suppressed material facts concerning what is
9 evidently the true culture of GM—one characterized by an emphasis on profits and
10 sales above compliance with federal and state clean air laws and emissions regulations
11 that are meant to protect the public and consumers. It also emphasized profits and
12 sales above the trust that Plaintiffs and Class members placed in its representations.
13 Consumers buy diesel cars from GM because they feel they are clean diesel cars.
14 They do not want to be spewing noxious gases into the environment. And yet, that is
15 precisely what the Affected Vehicles are doing.

16 413. GM's false representations were material to consumers, because they
17 concerned the quality of the Affected Vehicles, because they concerned compliance
18 with applicable federal and state law and regulations regarding clean air and
19 emissions, and also because the representations played a significant role in the value
20 of the vehicles. As GM well knew, its customers, including Plaintiffs and Class
21 members, highly valued that the vehicles they were purchasing or leasing were fuel
22 efficient, clean diesel cars with reduced emissions, and they paid accordingly.

23 414. GM had a duty to disclose the emissions defect, defective design of the
24 emissions controls, and violations with respect to the Affected Vehicles because
25 details of the true facts were known and/or accessible only to GM, because GM had
26 exclusive knowledge as to such facts, and because GM knew these facts were not
27 known to or reasonably discoverable by Plaintiffs or Class members. GM also had a
28

1 duty to disclose because it made general affirmative representations about the qualities
2 of its vehicles with respect to emissions, starting with references to them as *reduced*
3 *emissions* diesel cars and as compliant with all laws in each state, which were
4 misleading, deceptive, and incomplete without the disclosure of the additional facts set
5 forth above regarding the actual emissions of its vehicles, its actual philosophy with
6 respect to compliance with federal and state clean air laws and emissions regulations,
7 and its actual practices with respect to the vehicles at issue. Having volunteered to
8 provide information to Plaintiffs and Class members, GM had the duty to disclose not
9 just the partial truth, but the entire truth. These omitted and concealed facts were
10 material because they directly impact the value of the Affected Vehicles purchased or
11 leased by Plaintiffs and Class members. Whether a manufacturer's products pollute,
12 comply with federal and state clean air laws and emissions regulations, and whether
13 that manufacturer tells the truth with respect to such compliance or non-compliance,
14 are material concerns to a consumer, including with respect to the emissions
15 certifications testing their vehicles must pass. GM represented to Plaintiffs and Class
16 members that they were purchasing or leasing *reduced emission* diesel vehicles, when
17 in fact, they were purchasing or leasing defective, high emission, and unlawfully high
18 emission vehicles.

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

25 416. GM has still not made full and adequate disclosures, and continues to
26 defraud Plaintiffs and Class members by concealing material information regarding
27 the emissions qualities of its referenced vehicles.
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1 417. Plaintiffs and Class members were unaware of the omitted material facts
2 referenced herein, and they would not have acted as they did if they had known of the
3 concealed and/or suppressed facts, in that they would not have purchased purportedly
4 reduced emissions diesel cars manufactured by GM, and/or would not have continued
5 to drive their heavily polluting vehicles, or would have taken other affirmative steps in
6 light of the information concealed from them. Plaintiffs' and Class members' actions
7 were justified. GM was in exclusive control of the material facts, and such facts were
8 not generally known to the public, Plaintiffs, or Class members.

9 418. Because of the concealment and/or suppression of the facts, Plaintiffs and
10 Class members have sustained damage because they own vehicles that are diminished
11 in value as a result of GM's concealment of the true quality and quantity of those
12 vehicles' emissions and GM's failure to timely disclose the defect or defective design
13 of the GM Clean Diesel engine system, the actual emissions qualities and quantities of
14 GM-branded vehicles, and the serious issues engendered by GM's corporate policies.
15 Had Plaintiffs and Class members been aware of the true emissions facts with regard
16 to the Affected Vehicles, and the Company's disregard for the truth and compliance
17 with applicable federal and state law and regulations, Plaintiffs and Class members
18 who purchased or leased new or certified previously owned vehicles would have paid
19 less for their vehicles or would not have purchased or leased them at all.

20 419. The value of Plaintiffs' and Class members' vehicles has diminished as a
21 result of GM's fraudulent concealment of the defective emissions controls of the
22 Affected Vehicles, of the unlawfully high emissions of the Affected Vehicles, and of
23 the non-compliance with EPA emissions requirements, all of which has greatly
24 tarnished the GM brand name attached to Plaintiffs' and Class members' vehicles and
25 made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let
26 alone pay what otherwise would have been fair market value for the vehicles.

1 420. Accordingly, GM is liable to Plaintiffs and Class members for damages in
2 an amount to be proven at trial.

3 421. GM's acts were done wantonly, maliciously, oppressively, deliberately,
4 with intent to defraud, and in reckless disregard of Plaintiffs' and Class members'
5 rights and the representations that GM made to them, in order to enrich GM. GM's
6 conduct warrants an assessment of punitive damages in an amount sufficient to deter
7 such conduct in the future, which amount is to be determined according to proof.

8 **G. Claims Brought on Behalf of the Idaho Class**

9 **COUNT I**

10 **VIOLATIONS OF THE IDAHO CONSUMER PROTECTION ACT** 11 **(IDAHO CIV. CODE §§ 48-601, ET SEQ.)**

12 422. Plaintiffs (for purposes of all Idaho Class Counts) incorporate by
13 reference all paragraphs as though fully set forth herein.

14 423. Plaintiffs bring this Count on behalf of the Idaho Class members.

15 424. GM is a "person" under the Idaho Consumer Protection Act ("Idaho
16 CPA"), IDAHO CIV. CODE § 48-602(1).

17 425. GM's acts or practices as set forth above occurred in the conduct of
18 "trade" or "commerce" under IDAHO CIV. CODE § 48-602(2).

19 426. IDAHO CODE § 48-603 prohibits the following conduct in trade or
20 commerce: engaging in any act or practice which is otherwise misleading, false, or
21 deceptive to the consumer; and engaging in any unconscionable method, act or
22 practice in the conduct of trade or commerce, as provided in section 48-603C. GM
23 participated in misleading, false, or deceptive and unconscionable acts that violated
24 the Idaho CPA. In the course of GM's business, it willfully failed to disclose and
25 actively concealed that the NOx reduction system in the Affected Vehicles turns off or
26 is limited during normal driving conditions, that the Affected Vehicles emitted far
27 more pollutants than gasoline powered vehicles, that the Affected Vehicles emit far
28 more pollution than a reasonable consumer would expect in light of GM's advertising

1 campaign, and that the Affected Vehicles emitted unlawfully high levels of pollutants,
2 including NOx, as described above.

3 427. In purchasing or leasing the Affected Vehicles, Plaintiffs and the other
4 Class members were deceived by GM's failure to disclose that the NOx reduction
5 system in the Affected Vehicles turns off or is limited during normal driving
6 conditions, that the emissions controls were defective, and that the Affected Vehicles
7 emitted unlawfully high levels of pollutants, including NOx, as described above.

8 428. Plaintiffs and Class members reasonably relied upon GM's false
9 misrepresentations. They had no way of knowing that GM's representations were
10 false and gravely misleading. As alleged herein, GM engaged in extremely
11 sophisticated methods of deception. Plaintiffs and Class members did not, and could
12 not, unravel GM's deception on their own.

13 429. GM's actions as set forth above occurred in the conduct of trade or
14 commerce.

15 430. GM's unfair or deceptive acts or practices were likely to and did in fact
16 deceive reasonable consumers.

17 431. GM intentionally and knowingly misrepresented material facts regarding
18 the Affected Vehicles with an intent to mislead Plaintiffs and the Class.

19 432. GM knew or should have known that its conduct violated the Idaho CPA.

20 433. GM owed Plaintiffs and the Class a duty to disclose the truth about its
21 emissions systems manipulation because GM:

22 a. Possessed exclusive knowledge that it
23 manipulated the emissions system in the Affected Vehicles
24 to turn off or limit effectiveness in normal driving
conditions;

25 b. Intentionally concealed the foregoing from
26 Plaintiffs and the Class; and/or

27 c. Made incomplete representations that it
28 manipulated the emissions system in the Affected Vehicles
to turn off or limit effectiveness in normal driving

1 conditions, while purposefully withholding material facts
2 from Plaintiffs and the Class that contradicted these
3 representations.

4 434. GM had a duty to disclose that the NOx reduction system in the Affected
5 Vehicles turns off or is limited during normal driving conditions, that these Affected
6 Vehicles were defective, employed a “Defeat Device,” and emitted pollutants at a
7 much higher rate than gasoline powered vehicles, and that the emissions far exceeded
8 those expected by a reasonable consumer, were non-EPA-compliant and unreliable,
9 because Plaintiffs and the other Class members relied on GM’s material
10 representations that the Affected Vehicles they were purchasing were reduced
11 emission vehicles, efficient, and free from defects.

12 435. GM’s conduct proximately caused injuries to Plaintiffs and the other
13 Class members.

14 436. Plaintiffs and the other Class members were injured and suffered
15 ascertainable loss, injury-in-fact, and/or actual damage as a proximate result of GM’s
16 conduct in that Plaintiffs and the other Class members overpaid for their Affected
17 Vehicles and did not receive the benefit of their bargain, and their Affected Vehicles
18 have suffered a diminution in value. These injuries are the direct and natural
19 consequence of GM’s misrepresentations and omissions.

20 437. GM’s violations present a continuing risk to Plaintiffs as well as to the
21 general public. GM’s unlawful acts and practices complained of herein affect the
22 public interest.

23 438. Plaintiffs also seek attorneys’ fees and any other just and proper relief
24 available under the Idaho CPA.

25 439. Plaintiffs also seek punitive damages against GM because GM’s conduct
26 evidences an extreme deviation from reasonable standards. GM’s unlawful conduct
27 constitutes malice, oppression, and fraud warranting punitive damages.
28

COUNT II

**BREACH OF CONTRACT
(BASED ON IDAHO LAW)**

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

441. Plaintiffs bring this Count on behalf of the Idaho Class.

442. GM's misrepresentations and omissions alleged herein, including, but not limited to, GM's failure to disclose that the NOx reduction system in the Affected Vehicles turns off or is limited during normal driving conditions caused Plaintiffs and the other Class members to make their purchases or leases of their Affected Vehicles. Absent those misrepresentations and omissions, Plaintiffs and the other Class members would not have purchased or leased these Affected Vehicles, would not have purchased or leased these Affected Vehicles at the prices they paid, and/or would have purchased or leased less expensive alternative vehicles that did not contain the defective GM Clean Diesel engine system and which were not marketed as including such a system. Accordingly, Plaintiffs and the other Class members overpaid for their Affected Vehicles and did not receive the benefit of their bargain.

443. Each and every sale or lease of an Affected Vehicle constitutes a contract between GM and the purchaser or lessee. GM breached these contracts by, among other things, selling or leasing to Plaintiffs and the other Class members defective Affected Vehicles and by misrepresenting or failing to disclose that the NOx reduction system in the Affected Vehicles turns off or is limited during normal driving conditions, and that they were thus less valuable than vehicles not equipped with the defective GM Clean Diesel engine system.

444. As a direct and proximate result of GM's breach of contract, Plaintiffs and the Class have been damaged in an amount to be proven at trial, which shall include, but is not limited to, all compensatory damages, incidental and consequential damages, and other damages allowed by law.

COUNT III**FRAUDULENT CONCEALMENT
(BASED ON IDAHO LAW)**

445. Plaintiffs incorporate by reference all paragraphs as though fully set forth herein.

446. This claim is brought on behalf of the Idaho Class.

447. GM intentionally concealed that the NOx reduction system in the Affected Vehicles turns off or is limited during normal driving conditions, that the Affected Vehicles had defective emissions controls, emitted pollutants at a higher level than gasoline powered vehicles, emitted pollutants higher than a reasonable consumer would expect in light of GM's advertising campaign, emitted unlawfully high levels of pollutants such as NOx, and were non-compliant with EPA emission requirements, or GM acted with reckless disregard for the truth, and denied Plaintiffs and the other Class members information that is highly relevant to their purchasing decision.

448. GM further affirmatively misrepresented to Plaintiffs in advertising and other forms of communication, including standard and uniform material provided with each car, that the Affected Vehicles it was selling had no significant defects, were Earth-friendly and low emission vehicles, complied with EPA regulations, and would perform and operate properly when driven in normal usage.

449. GM knew these representations were false when made.

450. The Affected Vehicles purchased or leased by Plaintiffs and the other Class members were, in fact, defective, emitting pollutants at a much higher rate than gasoline powered vehicles and at a much higher rate than a reasonable consumer would expect in light of GM's advertising campaign, non-EPA-compliant, and unreliable because the NOx reduction system in the Affected Vehicles turns off or is limited during normal driving conditions.

1 451. GM had a duty to disclose that the NOx reduction system in the Affected
2 Vehicles turns off or is limited during normal driving conditions, that these Affected
3 Vehicles were defective, employed a “Defeat Device,” and emitted pollutants at a
4 much higher rate than gasoline powered vehicles, and that the emissions far exceeded
5 those expected by a reasonable consumer, were non-EPA-compliant and unreliable,
6 because Plaintiffs and the other Class members relied on GM’s material
7 representations that the Affected Vehicles they were purchasing were reduced
8 emission vehicles, efficient, and free from defects.

9 452. As alleged in this Complaint, at all relevant times, GM has held out the
10 Affected Vehicles to be reduced emissions, EPA-compliant vehicles. GM disclosed
11 certain details about the GM Clean Diesel engine, but nonetheless, GM intentionally
12 failed to disclose the important facts that the NOx reduction system in the Affected
13 Vehicles turns off or is limited during normal driving conditions, and that the Affected
14 Vehicles had defective emissions controls, deploy a “Defeat Device,” emitted higher
15 levels of pollutants than expected by a reasonable consumer, emitted unlawfully high
16 levels of pollutants, and were non-compliant with EPA emissions requirements,
17 making other disclosures about the emission system deceptive.

18 453. The truth about the defective emissions controls and GM’s manipulations
19 of those controls, unlawfully high emissions, the “Defeat Device,” and non-
20 compliance with EPA emissions requirements was known only to GM; Plaintiffs and
21 the Class members did not know of these facts and GM actively concealed these facts
22 from Plaintiffs and Class members.

23 454. Plaintiffs and Class members reasonably relied upon GM’s deception.
24 They had no way of knowing that GM’s representations were false and/or misleading.
25 As consumers, Plaintiffs and Class members did not, and could not, unravel GM’s
26 deception on their own. Rather, GM intended to deceive Plaintiffs and Class members
27 by concealing the true facts about the Affected Vehicle emissions.
28

1 455. GM also concealed and suppressed material facts concerning what is
2 evidently the true culture of GM—one characterized by an emphasis on profits and
3 sales above compliance with federal and state clean air laws and emissions regulations
4 that are meant to protect the public and consumers. It also emphasized profits and
5 sales above the trust that Plaintiffs and Class members placed in its representations.
6 Consumers buy diesel cars from GM because they feel they are clean diesel cars.
7 They do not want to be spewing noxious gases into the environment. And yet, that is
8 precisely what the Affected Vehicles are doing.

9 456. GM's false representations were material to consumers, because they
10 concerned the quality of the Affected Vehicles, because they concerned compliance
11 with applicable federal and state law and regulations regarding clean air and
12 emissions, and also because the representations played a significant role in the value
13 of the vehicles. As GM well knew, its customers, including Plaintiffs and Class
14 members, highly valued that the vehicles they were purchasing or leasing were fuel
15 efficient, clean diesel cars with reduced emissions, and they paid accordingly.

16 457. GM had a duty to disclose the emissions defect, defective design of the
17 emissions controls, and violations with respect to the Affected Vehicles because
18 details of the true facts were known and/or accessible only to GM, because GM had
19 exclusive knowledge as to such facts, and because GM knew these facts were not
20 known to or reasonably discoverable by Plaintiffs or Class members. GM also had a
21 duty to disclose because it made general affirmative representations about the qualities
22 of its vehicles with respect to emissions, starting with references to them as *reduced*
23 *emissions* diesel cars and as compliant with all laws in each state, which were
24 misleading, deceptive, and incomplete without the disclosure of the additional facts set
25 forth above regarding the actual emissions of its vehicles, its actual philosophy with
26 respect to compliance with federal and state clean air laws and emissions regulations,
27 and its actual practices with respect to the vehicles at issue. Having volunteered to
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1 provide information to Plaintiffs and Class members, GM had the duty to disclose not
2 just the partial truth, but the entire truth. These omitted and concealed facts were
3 material because they directly impact the value of the Affected Vehicles purchased or
4 leased by Plaintiffs and Class members. Whether a manufacturer's products pollute,
5 comply with federal and state clean air laws and emissions regulations, and whether
6 that manufacturer tells the truth with respect to such compliance or non-compliance,
7 are material concerns to a consumer, including with respect to the emissions
8 certifications testing their vehicles must pass. GM represented to Plaintiffs and Class
9 members that they were purchasing or leasing *reduced emission* diesel vehicles, when
10 in fact, they were purchasing or leasing defective, high emission, and unlawfully high
11 emission vehicles.

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

18 459. GM has still not made full and adequate disclosures, and continues to
19 defraud Plaintiffs and Class members by concealing material information regarding
20 the emissions qualities of its referenced vehicles.

21 460. Plaintiffs and Class members were unaware of the omitted material facts
22 referenced herein, and they would not have acted as they did if they had known of the
23 concealed and/or suppressed facts, in that they would not have purchased purportedly
24 reduced emissions diesel cars manufactured by GM, and/or would not have continued
25 to drive their heavily polluting vehicles, or would have taken other affirmative steps in
26 light of the information concealed from them. Plaintiffs' and Class members' actions
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1 were justified. GM was in exclusive control of the material facts, and such facts were
2 not generally known to the public, Plaintiffs, or Class members.

3 461. Because of the concealment and/or suppression of the facts, Plaintiffs and
4 Class members have sustained damage because they own vehicles that are diminished
5 in value as a result of GM's concealment of the true quality and quantity of those
6 vehicles' emissions and GM's failure to timely disclose the defect or defective design
7 of the GM Clean Diesel engine system, the actual emissions qualities and quantities of
8 GM-branded vehicles, and the serious issues engendered by GM's corporate policies.
9 Had Plaintiffs and Class members been aware of the true emissions facts with regard
10 to the Affected Vehicles, and the Company's disregard for the truth and compliance
11 with applicable federal and state law and regulations, Plaintiffs and Class members
12 who purchased or leased new or certified previously owned vehicles would have paid
13 less for their vehicles or would not have purchased or leased them at all.

14 462. The value of Plaintiffs' and Class members' vehicles has diminished as a
15 result of GM's fraudulent concealment of the defective emissions controls of the
16 Affected Vehicles, of the unlawfully high emissions of the Affected Vehicles, and of
17 the non-compliance with EPA emissions requirements, all of which has greatly
18 tarnished the GM brand name attached to Plaintiffs' and Class members' vehicles and
19 made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let
20 alone pay what otherwise would have been fair market value for the vehicles.

21 463. Accordingly, GM is liable to Plaintiffs and Class members for damages in
22 an amount to be proven at trial.

23 464. GM's acts were done wantonly, maliciously, oppressively, deliberately,
24 with intent to defraud, and in reckless disregard of Plaintiffs' and Class members'
25 rights and the representations that GM made to them, in order to enrich GM. GM's
26 conduct warrants an assessment of punitive damages in an amount sufficient to deter
27 such conduct in the future, which amount is to be determined according to proof.
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H. Claims Brought on Behalf of the Illinois Class

COUNT I

**VIOLATION OF THE ILLINOIS CONSUMER FRAUD AND
DECEPTIVE BUSINESS PRACTICES ACT
(815 ILCS 505/1, *ET SEQ.* AND 720 ILCS 295/1A)**

465. Plaintiffs (for purposes of all Illinois Class Counts) incorporate by reference all paragraphs as though fully set forth herein.

466. This claim is brought on behalf of the Illinois Class members.

467. Defendant is a “person” as that term is defined in 815 ILCS 505/1(c).

468. Plaintiffs and the Class members are “consumers” as that term is defined in 815 ILCS 505/1(e).

469. The Illinois Consumer Fraud and Deceptive Business Practices 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 any material fact, with intent that others rely upon 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 damaged thereby.” 815 ILCS 505/2.

470. In the course of GM’s business, it willfully failed to disclose and actively concealed that the NOx reduction system in the Affected Vehicles turns off or is limited during normal driving conditions, that the Affected Vehicles emitted far more pollutants than gasoline powered vehicles, that the Affected Vehicles emit far more pollution than a reasonable consumer would expect in light of GM’s advertising campaign, and that the Affected Vehicles emitted unlawfully high levels of pollutants, including NOx, as described above. Accordingly, GM engaged in 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 any material fact, with intent that others rely upon the concealment,

1 suppression or omission of such material fact in the conduct of trade or commerce as
2 prohibited by the Illinois CFA.

3 471. In purchasing or leasing the Affected Vehicles, Plaintiffs and the other
4 Class members were deceived by GM's failure to disclose that the NOx reduction
5 system in the Affected Vehicles turns off or is limited during normal driving
6 conditions, that the emissions controls were defective, and that the Affected Vehicles
7 emitted unlawfully high levels of pollutants, including NOx, as described above.

8 472. Plaintiffs and Class members reasonably relied upon GM's false
9 misrepresentations. They had no way of knowing that GM's representations were
10 false and gravely misleading. As alleged herein, GM engaged in extremely
11 sophisticated methods of deception. Plaintiffs and Class members did not, and could
12 not, unravel GM's deception on their own.

13 473. GM's actions as set forth above occurred in the conduct of trade or
14 commerce.

15 474. GM's unfair or deceptive acts or practices were likely to and did in fact
16 deceive reasonable consumers.

17 475. GM intentionally and knowingly misrepresented material facts regarding
18 the Affected Vehicles with an intent to mislead Plaintiffs and the Class.

19 476. GM knew or should have known that its conduct violated the Illinois
20 CFA.

21 477. GM owed Plaintiffs and the Class a duty to disclose the truth about its
22 emissions systems manipulation because GM:

23 a. Possessed exclusive knowledge that it
24 manipulated the emissions system in the Affected Vehicles
25 to turn off or limit effectiveness in normal driving
conditions;

26 b. Intentionally concealed the foregoing from
27 Plaintiffs and the Class; and/or
28

1 c. Made incomplete representations that it
2 manipulated the emissions system in the Affected Vehicles
3 to turn off or limit effectiveness in normal driving
4 conditions, while purposefully withholding material facts
 from Plaintiffs and the Class that contradicted these
 representations.

5 478. GM had a duty to disclose that the NOx reduction system in the Affected
6 Vehicles turns off or is limited during normal driving conditions, that these Affected
7 Vehicles were defective, employed a “Defeat Device,” and emitted pollutants at a
8 much higher rate than gasoline powered vehicles, and that the emissions far exceeded
9 those expected by a reasonable consumer, were non-EPA-compliant and unreliable,
10 because Plaintiffs and the other Class members relied on GM’s material
11 representations that the Affected Vehicles they were purchasing were reduced
12 emission vehicles, efficient, and free from defects.

13 479. GM’s conduct proximately caused injuries to Plaintiffs and the other
14 Class members.

15 480. Plaintiffs and the other Class members were injured and suffered
16 ascertainable loss, injury-in-fact, and/or actual damage as a proximate result of GM’s
17 conduct in that Plaintiffs and the other Class members overpaid for their Affected
18 Vehicles and did not receive the benefit of their bargain, and their Affected Vehicles
19 have suffered a diminution in value. These injuries are the direct and natural
20 consequence of GM’s misrepresentations and omissions.

21 481. GM’s violations present a continuing risk to Plaintiffs as well as to the
22 general public. GM’s unlawful acts and practices complained of herein affect the
23 public interest.

24 482. Pursuant to 815 ILCS 505/10a(a), Plaintiffs and the Class members seek
25 monetary relief against GM in the amount of actual damages, as well as punitive
26 damages because GM acted with fraud and/or malice and/or was grossly negligent.
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1 EPA-compliant, and that they were thus less valuable than vehicles not equipped with
2 the defective GM Clean Diesel engine system.

3 488. As a direct and proximate result of GM's breach of contract, Plaintiffs
4 and the Class have been damaged in an amount to be proven at trial, which shall
5 include, but is not limited to, all compensatory damages, incidental and consequential
6 damages, and other damages allowed by law.

7 **COUNT III**

8 **FRAUDULENT CONCEALMENT** 9 **(BASED ON ILLINOIS LAW)**

10 489. Plaintiffs incorporate by reference all preceding allegations as though
11 fully set forth herein.

12 490. This claim is brought on behalf of the Illinois Class.

13 491. GM intentionally concealed that the NOx reduction system in the
14 Affected Vehicles turns off or is limited during normal driving conditions, that the
15 Affected Vehicles had defective emissions controls, emitted pollutants at a higher
16 level than gasoline powered vehicles, emitted pollutants higher than a reasonable
17 consumer would expect in light of GM's advertising campaign, emitted unlawfully
18 high levels of pollutants such as NOx, and were non-compliant with EPA emission
19 requirements, or GM acted with reckless disregard for the truth, and denied Plaintiffs
20 and the other Class members information that is highly relevant to their purchasing
21 decision.

22 492. GM further affirmatively misrepresented to Plaintiffs in advertising and
23 other forms of communication, including standard and uniform material provided with
24 each car, that the Affected Vehicles it was selling had no significant defects, were
25 Earth-friendly and low emission vehicles, complied with EPA regulations, and would
26 perform and operate properly when driven in normal usage.

27 493. GM knew these representations were false when made.
28

1 494. The Affected Vehicles purchased or leased by Plaintiffs and the other
2 Class members were, in fact, defective, emitting pollutants at a much higher rate than
3 gasoline powered vehicles and at a much higher rate than a reasonable consumer
4 would expect in light of GM's advertising campaign, non-EPA-compliant, and
5 unreliable because the NOx reduction system in the Affected Vehicles turns off or is
6 limited during normal driving conditions.

7 495. GM had a duty to disclose that the NOx reduction system in the Affected
8 Vehicles turns off or is limited during normal driving conditions, that these Affected
9 Vehicles were defective, employed a "Defeat Device," and emitted pollutants at a
10 much higher rate than gasoline powered vehicles, and that the emissions far exceeded
11 those expected by a reasonable consumer, were non-EPA-compliant and unreliable,
12 because Plaintiffs and the other Class members relied on GM's material
13 representations that the Affected Vehicles they were purchasing were reduced
14 emission vehicles, efficient, and free from defects.

15 496. As alleged in this Complaint, at all relevant times, GM has held out the
16 Affected Vehicles to be reduced emissions, EPA-compliant vehicles. GM disclosed
17 certain details about the GM Clean Diesel engine, but nonetheless, GM intentionally
18 failed to disclose the important facts that the NOx reduction system in the Affected
19 Vehicles turns off or is limited during normal driving conditions, and that the Affected
20 Vehicles had defective emissions controls, deploy a "Defeat Device," emitted higher
21 levels of pollutants than expected by a reasonable consumer, emitted unlawfully high
22 levels of pollutants, and were non-compliant with EPA emissions requirements,
23 making other disclosures about the emission system deceptive.

24 497. The truth about the defective emissions controls and GM's manipulations
25 of those controls, unlawfully high emissions, the "Defeat Device," and non-
26 compliance with EPA emissions requirements was known only to GM; Plaintiffs and
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1 the Class members did not know of these facts and GM actively concealed these facts
2 from Plaintiffs and Class members.

3 498. Plaintiffs and Class members reasonably relied upon GM's deception.
4 They had no way of knowing that GM's representations were false and/or misleading.
5 As consumers, Plaintiffs and Class members did not, and could not, unravel GM's
6 deception on their own. Rather, GM intended to deceive Plaintiffs and Class members
7 by concealing the true facts about the Affected Vehicle emissions.

8 499. GM also concealed and suppressed material facts concerning what is
9 evidently the true culture of GM—one characterized by an emphasis on profits and
10 sales above compliance with federal and state clean air laws and emissions regulations
11 that are meant to protect the public and consumers. It also emphasized profits and
12 sales above the trust that Plaintiffs and Class members placed in its representations.
13 Consumers buy diesel cars from GM because they feel they are clean diesel cars.
14 They do not want to be spewing noxious gases into the environment. And yet, that is
15 precisely what the Affected Vehicles are doing.

16 500. GM's false representations were material to consumers, because they
17 concerned the quality of the Affected Vehicles, because they concerned compliance
18 with applicable federal and state law and regulations regarding clean air and
19 emissions, and also because the representations played a significant role in the value
20 of the vehicles. As GM well knew, its customers, including Plaintiffs and Class
21 members, highly valued that the vehicles they were purchasing or leasing were fuel
22 efficient, clean diesel cars with reduced emissions, and they paid accordingly.

23 501. GM had a duty to disclose the emissions defect, defective design of the
24 emissions controls, and violations with respect to the Affected Vehicles because
25 details of the true facts were known and/or accessible only to GM, because GM had
26 exclusive knowledge as to such facts, and because GM knew these facts were not
27 known to or reasonably discoverable by Plaintiffs or Class members. GM also had a
28

1 duty to disclose because it made general affirmative representations about the qualities
2 of its vehicles with respect to emissions, starting with references to them as *reduced*
3 *emissions* diesel cars and as compliant with all laws in each state, which were
4 misleading, deceptive, and incomplete without the disclosure of the additional facts set
5 forth above regarding the actual emissions of its vehicles, its actual philosophy with
6 respect to compliance with federal and state clean air laws and emissions regulations,
7 and its actual practices with respect to the vehicles at issue. Having volunteered to
8 provide information to Plaintiffs and Class members, GM had the duty to disclose not
9 just the partial truth, but the entire truth. These omitted and concealed facts were
10 material because they directly impact the value of the Affected Vehicles purchased or
11 leased by Plaintiffs and Class members. Whether a manufacturer's products pollute,
12 comply with federal and state clean air laws and emissions regulations, and whether
13 that manufacturer tells the truth with respect to such compliance or non-compliance,
14 are material concerns to a consumer, including with respect to the emissions
15 certifications testing their vehicles must pass. GM represented to Plaintiffs and Class
16 members that they were purchasing or leasing *reduced emission* diesel vehicles, when
17 in fact, they were purchasing or leasing defective, high emission, and unlawfully high
18 emission vehicles.

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

25 503. GM has still not made full and adequate disclosures, and continues to
26 defraud Plaintiffs and Class members by concealing material information regarding
27 the emissions qualities of its referenced vehicles.
28

1 504. Plaintiffs and Class members were unaware of the omitted material facts
2 referenced herein, and they would not have acted as they did if they had known of the
3 concealed and/or suppressed facts, in that they would not have purchased purportedly
4 reduced emissions diesel cars manufactured by GM, and/or would not have continued
5 to drive their heavily polluting vehicles, or would have taken other affirmative steps in
6 light of the information concealed from them. Plaintiffs' and Class members' actions
7 were justified. GM was in exclusive control of the material facts, and such facts were
8 not generally known to the public, Plaintiffs, or Class members.

9 505. Because of the concealment and/or suppression of the facts, Plaintiffs and
10 Class members have sustained damage because they own vehicles that are diminished
11 in value as a result of GM's concealment of the true quality and quantity of those
12 vehicles' emissions and GM's failure to timely disclose the defect or defective design
13 of the GM Clean Diesel engine system, the actual emissions qualities and quantities of
14 GM-branded vehicles, and the serious issues engendered by GM's corporate policies.
15 Had Plaintiffs and Class members been aware of the true emissions facts with regard
16 to the Affected Vehicles, and the Company's disregard for the truth and compliance
17 with applicable federal and state law and regulations, Plaintiffs and Class members
18 who purchased or leased new or certified previously owned vehicles would have paid
19 less for their vehicles or would not have purchased or leased them at all.

20 506. The value of Plaintiffs' and Class members' vehicles has diminished as a
21 result of GM's fraudulent concealment of the defective emissions controls of the
22 Affected Vehicles, of the unlawfully high emissions of the Affected Vehicles, and of
23 the non-compliance with EPA emissions requirements, all of which has greatly
24 tarnished the GM brand name attached to Plaintiffs' and Class members' vehicles and
25 made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let
26 alone pay what otherwise would have been fair market value for the vehicles.
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1 507. Accordingly, GM is liable to Plaintiffs and Class members for damages in
2 an amount to be proven at trial.

3 508. GM's acts were done wantonly, maliciously, oppressively, deliberately,
4 with intent to defraud, and in reckless disregard of Plaintiffs' and Class members'
5 rights and the representations that GM made to them, in order to enrich GM. GM's
6 conduct warrants an assessment of punitive damages in an amount sufficient to deter
7 such conduct in the future, which amount is to be determined according to proof.

8 **I. Claims Brought on Behalf of the Kentucky Class**

9 **COUNT I**

10 **VIOLATIONS OF THE KENTUCKY CONSUMER PROTECTION ACT**
11 **(KY. REV. STAT. §§ 367.110, *ET SEQ.*)**

12 509. Plaintiffs (for purposes of all Kentucky Class Counts) incorporate by
13 reference all paragraphs as though fully set forth herein.

14 510. Plaintiffs bring this Count on behalf of the Kentucky Class members.

15 511. GM, Plaintiffs, and the Kentucky Class are "persons" within the meaning
16 of the KY. REV. STAT. § 367.110(1).

17 512. GM engaged in "trade" or "commerce" within the meaning of KY. REV.
18 STAT. § 367.110(2).

19 513. The Kentucky Consumer Protection Act ("Kentucky CPA") makes
20 unlawful "[u]nfair, false, misleading, or deceptive acts or practices in the conduct of
21 any trade or commerce" KY. REV. STAT. § 367.170(1). In the course of GM's
22 business, it willfully failed to disclose and actively concealed that the NOx reduction
23 system in the Affected Vehicles turns off or is limited during normal driving
24 conditions, that the Affected Vehicles emitted far more pollutants than gasoline
25 powered vehicles, that the Affected Vehicles emit far more pollution than a reasonable
26 consumer would expect in light of GM's advertising campaign, and that the Affected
27 Vehicles emitted unlawfully high levels of pollutants, including NOx, as described
28

1 above. Accordingly, GM engaged in deceptive business practices prohibited by the
2 Kentucky CPA.

3 514. In purchasing or leasing the Affected Vehicles, Plaintiffs and the other
4 Class members were deceived by GM's failure to disclose that the NOx reduction
5 system in the Affected Vehicles turns off or is limited during normal driving
6 conditions, that the emissions controls were defective, and that the Affected Vehicles
7 emitted unlawfully high levels of pollutants, including NOx, as described above.

8 515. Plaintiffs and Class members reasonably relied upon GM's false
9 misrepresentations. They had no way of knowing that GM's representations were
10 false and gravely misleading. As alleged herein, GM engaged in extremely
11 sophisticated methods of deception. Plaintiffs and Class members did not, and could
12 not, unravel GM's deception on their own.

13 516. GM's actions as set forth above occurred in the conduct of trade or
14 commerce.

15 517. GM's unfair or deceptive acts or practices were likely to and did in fact
16 deceive reasonable consumers.

17 518. GM intentionally and knowingly misrepresented material facts regarding
18 the Affected Vehicles with an intent to mislead Plaintiffs and the Class.

19 519. GM knew or should have known that its conduct violated the Kentucky
20 CPA.

21 520. GM owed Plaintiffs and the Class a duty to disclose the truth about its
22 emissions systems manipulation because GM:

23 a. Possessed exclusive knowledge that it
24 manipulated the emissions system in the Affected Vehicles
25 to turn off or limit effectiveness in normal driving
conditions;

26 b. Intentionally concealed the foregoing from
27 Plaintiffs and the Class; and/or
28

1 c. Made incomplete representations that it
2 manipulated the emissions system in the Affected Vehicles
3 to turn off or limit effectiveness in normal driving
4 conditions, while purposefully withholding material facts
 from Plaintiffs and the Class that contradicted these
 representations.

5 521. GM had a duty to disclose that the NOx reduction system in the Affected
6 Vehicles turns off or is limited during normal driving conditions, that these Affected
7 Vehicles were defective, employed a “Defeat Device,” and emitted pollutants at a
8 much higher rate than gasoline powered vehicles, and that the emissions far exceeded
9 those expected by a reasonable consumer, were non-EPA-compliant and unreliable,
10 because Plaintiffs and the other Class members relied on GM’s material
11 representations that the Affected Vehicles they were purchasing were reduced
12 emission vehicles, efficient, and free from defects.

13 522. GM’s conduct proximately caused injuries to Plaintiffs and the other
14 Class members.

15 523. Plaintiffs and the other Class members were injured and suffered
16 ascertainable loss, injury-in-fact, and/or actual damage as a proximate result of GM’s
17 conduct in that Plaintiffs and the other Class members overpaid for their Affected
18 Vehicles and did not receive the benefit of their bargain, and their Affected Vehicles
19 have suffered a diminution in value. These injuries are the direct and natural
20 consequence of GM’s misrepresentations and omissions.

21 524. GM’s violations present a continuing risk to Plaintiffs as well as to the
22 general public. GM’s unlawful acts and practices complained of herein affect the
23 public interest.

24 525. Pursuant to KY. REV. STAT. ANN. § 367.220, Plaintiffs and the Class seek
25 to recover actual damages in an amount to be determined at trial; declaratory relief;
26 attorneys’ fees; and any other just and proper relief available under KY. REV. STAT.
27 ANN. § 367.220.
28

COUNT II

**BREACH OF CONTRACT
(BASED ON KENTUCKY LAW)**

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

527. Plaintiffs bring this Count on behalf of the Kentucky Class.

528. GM's misrepresentations and omissions alleged herein, including, but not limited to, GM's failure to disclose that the NOx reduction system in the Affected Vehicles turns off or is limited during normal driving conditions caused Plaintiffs and the other Class members to make their purchases or leases of their Affected Vehicles. Absent those misrepresentations and omissions, Plaintiffs and the other Class members would not have purchased or leased these Affected Vehicles, would not have purchased or leased these Affected Vehicles at the prices they paid, and/or would have purchased or leased less expensive alternative vehicles that did not contain the defective GM Clean Diesel engine system and which were not marketed as including such a system. Accordingly, Plaintiffs and the other Class members overpaid for their Affected Vehicles and did not receive the benefit of their bargain.

529. Each and every sale or lease of an Affected Vehicle constitutes a contract between GM and the purchaser or lessee. GM breached these contracts by, among other things, selling or leasing to Plaintiffs and the other Class members defective Affected Vehicles and by misrepresenting or failing to disclose that the NOx reduction system in the Affected Vehicles turns off or is limited during normal driving conditions, and that they were thus less valuable than vehicles not equipped with the defective GM Clean Diesel engine system.

530. As a direct and proximate result of GM's breach of contract, Plaintiffs and the Class have been damaged in an amount to be proven at trial, which shall include, but is not limited to, all compensatory damages, incidental and consequential damages, and other damages allowed by law.

COUNT III
FRAUD BY OMISSION
(BASED ON KENTUCKY LAW)

531. Plaintiffs incorporate by reference all paragraphs as though fully set forth herein.

532. This claim is brought on behalf of the Kentucky Class.

533. GM intentionally concealed that the NOx reduction system in the Affected Vehicles turns off or is limited during normal driving conditions, that the Affected Vehicles had defective emissions controls, emitted pollutants at a higher level than gasoline powered vehicles, emitted pollutants higher than a reasonable consumer would expect in light of GM's advertising campaign, emitted unlawfully high levels of pollutants such as NOx, and were non-compliant with EPA emission requirements, or GM acted with reckless disregard for the truth, and denied Plaintiffs and the other Class members information that is highly relevant to their purchasing decision.

534. GM further affirmatively misrepresented to Plaintiffs in advertising and other forms of communication, including standard and uniform material provided with each car, that the Affected Vehicles it was selling had no significant defects, were Earth-friendly and low emission vehicles, complied with EPA regulations, and would perform and operate properly when driven in normal usage.

535. GM knew these representations were false when made.

536. The Affected Vehicles purchased or leased by Plaintiffs and the other Class members were, in fact, defective, emitting pollutants at a much higher rate than gasoline powered vehicles and at a much higher rate than a reasonable consumer would expect in light of GM's advertising campaign, non-EPA-compliant, and unreliable because the NOx reduction system in the Affected Vehicles turns off or is limited during normal driving conditions.

1 537. GM had a duty to disclose that the NOx reduction system in the Affected
2 Vehicles turns off or is limited during normal driving conditions, that these Affected
3 Vehicles were defective, employed a “Defeat Device,” and emitted pollutants at a
4 much higher rate than gasoline powered vehicles, and that the emissions far exceeded
5 those expected by a reasonable consumer, were non-EPA-compliant and unreliable,
6 because Plaintiffs and the other Class members relied on GM’s material
7 representations that the Affected Vehicles they were purchasing were reduced
8 emission vehicles, efficient, and free from defects.

9 538. As alleged in this Complaint, at all relevant times, GM has held out the
10 Affected Vehicles to be reduced emissions, EPA-compliant vehicles. GM disclosed
11 certain details about the GM Clean Diesel engine, but nonetheless, GM intentionally
12 failed to disclose the important facts that the NOx reduction system in the Affected
13 Vehicles turns off or is limited during normal driving conditions, and that the Affected
14 Vehicles had defective emissions controls, deploy a “Defeat Device,” emitted higher
15 levels of pollutants than expected by a reasonable consumer, emitted unlawfully high
16 levels of pollutants, and were non-compliant with EPA emissions requirements,
17 making other disclosures about the emission system deceptive.

18 539. The truth about the defective emissions controls and GM’s manipulations
19 of those controls, unlawfully high emissions, the “Defeat Device,” and non-
20 compliance with EPA emissions requirements was known only to GM; Plaintiffs and
21 the Class members did not know of these facts and GM actively concealed these facts
22 from Plaintiffs and Class members.

23 540. Plaintiffs and Class members reasonably relied upon GM’s deception.
24 They had no way of knowing that GM’s representations were false and/or misleading.
25 As consumers, Plaintiffs and Class members did not, and could not, unravel GM’s
26 deception on their own. Rather, GM intended to deceive Plaintiffs and Class members
27 by concealing the true facts about the Affected Vehicle emissions.
28

1 541. GM also concealed and suppressed material facts concerning what is
2 evidently the true culture of GM—one characterized by an emphasis on profits and
3 sales above compliance with federal and state clean air laws and emissions regulations
4 that are meant to protect the public and consumers. It also emphasized profits and
5 sales above the trust that Plaintiffs and Class members placed in its representations.
6 Consumers buy diesel cars from GM because they feel they are clean diesel cars.
7 They do not want to be spewing noxious gases into the environment. And yet, that is
8 precisely what the Affected Vehicles are doing.

9 542. GM's false representations were material to consumers, because they
10 concerned the quality of the Affected Vehicles, because they concerned compliance
11 with applicable federal and state law and regulations regarding clean air and
12 emissions, and also because the representations played a significant role in the value
13 of the vehicles. As GM well knew, its customers, including Plaintiffs and Class
14 members, highly valued that the vehicles they were purchasing or leasing were fuel
15 efficient, clean diesel cars with reduced emissions, and they paid accordingly.

16 543. GM had a duty to disclose the emissions defect, defective design of the
17 emissions controls, and violations with respect to the Affected Vehicles because
18 details of the true facts were known and/or accessible only to GM, because GM had
19 exclusive knowledge as to such facts, and because GM knew these facts were not
20 known to or reasonably discoverable by Plaintiffs or Class members. GM also had a
21 duty to disclose because it made general affirmative representations about the qualities
22 of its vehicles with respect to emissions, starting with references to them as *reduced*
23 *emissions* diesel cars and as compliant with all laws in each state, which were
24 misleading, deceptive, and incomplete without the disclosure of the additional facts set
25 forth above regarding the actual emissions of its vehicles, its actual philosophy with
26 respect to compliance with federal and state clean air laws and emissions regulations,
27 and its actual practices with respect to the vehicles at issue. Having volunteered to
28

1 provide information to Plaintiffs and Class members, GM had the duty to disclose not
2 just the partial truth, but the entire truth. These omitted and concealed facts were
3 material because they directly impact the value of the Affected Vehicles purchased or
4 leased by Plaintiffs and Class members. Whether a manufacturer's products pollute,
5 comply with federal and state clean air laws and emissions regulations, and whether
6 that manufacturer tells the truth with respect to such compliance or non-compliance,
7 are material concerns to a consumer, including with respect to the emissions
8 certifications testing their vehicles must pass. GM represented to Plaintiffs and Class
9 members that they were purchasing or leasing *reduced emission* diesel vehicles, when
10 in fact, they were purchasing or leasing defective, high emission, and unlawfully high
11 emission vehicles.

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

18 545. GM has still not made full and adequate disclosures, and continues to
19 defraud Plaintiffs and Class members by concealing material information regarding
20 the emissions qualities of its referenced vehicles.

21 546. Plaintiffs and Class members were unaware of the omitted material facts
22 referenced herein, and they would not have acted as they did if they had known of the
23 concealed and/or suppressed facts, in that they would not have purchased purportedly
24 reduced emissions diesel cars manufactured by GM, and/or would not have continued
25 to drive their heavily polluting vehicles, or would have taken other affirmative steps in
26 light of the information concealed from them. Plaintiffs' and Class members' actions
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1 were justified. GM was in exclusive control of the material facts, and such facts were
2 not generally known to the public, Plaintiffs, or Class members.

3 547. Because of the concealment and/or suppression of the facts, Plaintiffs and
4 Class members have sustained damage because they own vehicles that are diminished
5 in value as a result of GM's concealment of the true quality and quantity of those
6 vehicles' emissions and GM's failure to timely disclose the defect or defective design
7 of the GM Clean Diesel engine system, the actual emissions qualities and quantities of
8 GM-branded vehicles, and the serious issues engendered by GM's corporate policies.
9 Had Plaintiffs and Class members been aware of the true emissions facts with regard
10 to the Affected Vehicles, and the Company's disregard for the truth and compliance
11 with applicable federal and state law and regulations, Plaintiffs and Class members
12 who purchased or leased new or certified previously owned vehicles would have paid
13 less for their vehicles or would not have purchased or leased them at all.

14 548. The value of Plaintiffs' and Class members' vehicles has diminished as a
15 result of GM's fraudulent concealment of the defective emissions controls of the
16 Affected Vehicles, of the unlawfully high emissions of the Affected Vehicles, and of
17 the non-compliance with EPA emissions requirements, all of which has greatly
18 tarnished the GM brand name attached to Plaintiffs' and Class members' vehicles and
19 made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let
20 alone pay what otherwise would have been fair market value for the vehicles.

21 549. Accordingly, GM is liable to Plaintiffs and Class members for damages in
22 an amount to be proven at trial.

23 550. GM's acts were done wantonly, maliciously, oppressively, deliberately,
24 with intent to defraud, and in reckless disregard of Plaintiffs' and Class members'
25 rights and the representations that GM made to them, in order to enrich GM. GM's
26 conduct warrants an assessment of punitive damages in an amount sufficient to deter
27 such conduct in the future, which amount is to be determined according to proof.
28

J. Claims Brought on Behalf of the Maryland Class

COUNT I

**VIOLATIONS OF THE MARYLAND CONSUMER PROTECTION ACT
(MD. CODE COM. LAW §§ 13-101, *ET SEQ.*)**

551. Plaintiffs (for purposes of all Maryland Class Counts) incorporate by reference all preceding allegations as though fully set forth herein.

552. This claim is brought only on behalf of members of the Maryland Class members.

553. GM, Plaintiffs, and the Maryland Class are “persons” within the meaning of MD. CODE COM. LAW § 13-101(h).

554. The Maryland Consumer Protection Act (“Maryland CPA”) provides that a person may not engage in any unfair or deceptive trade practice in the sale of any consumer good. MD. COM. LAW CODE § 13-303. In the course of GM’s business, it willfully failed to disclose and actively concealed that the NOx reduction system in the Affected Vehicles turns off or is limited during normal driving conditions, that the emissions controls were defective, that the vehicles have “Defeat Device,” and that the Affected Vehicles emitted unlawfully high levels of pollutants, including NOx, as described above. Accordingly, GM engaged in unfair and deceptive trade practices. GM’s acts and practices offend public policy; were immoral, unethical, oppressive, or unscrupulous; caused substantial injury to consumers; had the capacity, tendency or effect of deceiving or misleading consumers; failed to state a material fact that deceives or tends to deceive; and constitute deception, fraud, false pretense, false premise, misrepresentation, or knowing concealment, suppression, or omission of any material fact with the intent that a consumer rely on the same in connection therewith.

555. In purchasing or leasing the Affected Vehicles, Plaintiffs and the other Class members were deceived by GM’s failure to disclose that the NOx reduction system in the Affected Vehicles turns off or is limited during normal driving

1 conditions, that the emissions controls were defective, and that the Affected Vehicles
2 emitted unlawfully high levels of pollutants, including NOx, as described above.

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

8 557. GM's actions as set forth above occurred in the conduct of trade or
9 commerce.

10 558. GM's unfair or deceptive acts or practices were likely to and did in fact
11 deceive reasonable consumers.

12 559. GM intentionally and knowingly misrepresented material facts regarding
13 the Affected Vehicles with an intent to mislead Plaintiffs and the Class.

14 560. GM knew or should have known that its conduct violated the Maryland
15 CPA.

16 561. GM owed Plaintiffs and the Class a duty to disclose the truth about its
17 emissions systems manipulation because GM:

18 a. Possessed exclusive knowledge that it
19 manipulated the emissions system in the Affected Vehicles
20 to turn off or limit effectiveness in normal driving
conditions;

21 b. Intentionally concealed the foregoing from
22 Plaintiffs and the Class; and/or

23 c. Made incomplete representations that it
24 manipulated the emissions system in the Affected Vehicles
25 to turn off or limit effectiveness in normal driving
26 conditions, while purposefully withholding material facts
from Plaintiffs and the Class that contradicted these
representations.

27 562. GM had a duty to disclose that the NOx reduction system in the Affected
28 Vehicles turns off or is limited during normal driving conditions, that these Affected

1 Vehicles were defective, employed a “Defeat Device,” and emitted pollutants at a
2 much higher rate than gasoline powered vehicles, and that the emissions far exceeded
3 those expected by a reasonable consumer, were non-EPA-compliant and unreliable,
4 because Plaintiffs and the other Class members relied on GM’s material
5 representations that the Affected Vehicles they were purchasing were reduced
6 emission vehicles, efficient, and free from defects.

7 563. GM’s conduct proximately caused injuries to Plaintiffs and the other
8 Class members.

9 564. Plaintiffs and the other Class members were injured and suffered
10 ascertainable loss, injury-in-fact, and/or actual damage as a proximate result of GM’s
11 conduct in that Plaintiffs and the other Class members overpaid for their Affected
12 Vehicles and did not receive the benefit of their bargain, and their Affected Vehicles
13 have suffered a diminution in value. These injuries are the direct and natural
14 consequence of GM’s misrepresentations and omissions.

15 565. GM’s violations present a continuing risk to Plaintiffs as well as to the
16 general public. GM’s unlawful acts and practices complained of herein affect the
17 public interest.

18 566. Pursuant to MD. CODE COM. LAW § 13-408, Plaintiffs and the Maryland
19 Class seek actual damages, attorneys’ fees, and any other just and proper relief
20 available under the Maryland CPA.

21 **COUNT II**

22 **BREACH OF CONTRACT** 23 **(BASED ON MARYLAND LAW)**

24 567. Plaintiffs incorporate by reference all preceding allegations as though
25 fully set forth herein.

26 568. Plaintiffs bring this Count on behalf of the Maryland Class members.

27 569. GM’s misrepresentations and omissions alleged herein, including, but not
28 limited to, GM’s failure to disclose that the NOx reduction system in the Affected

1 Vehicles turns off or is limited during normal driving conditions caused Plaintiffs and
2 the other Class members to make their purchases or leases of their Affected Vehicles.
3 Absent those misrepresentations and omissions, Plaintiffs and the other Class
4 members would not have purchased or leased these Affected Vehicles, would not have
5 purchased or leased these Affected Vehicles at the prices they paid, and/or would have
6 purchased or leased less expensive alternative vehicles that did not contain the
7 defective GM Clean Diesel engine system and which were not marketed as including
8 such a system. Accordingly, Plaintiffs and the other Class members overpaid for their
9 Affected Vehicles and did not receive the benefit of their bargain.

10 570. Each and every sale or lease of an Affected Vehicle constitutes a contract
11 between GM and the purchaser or lessee. GM breached these contracts by, among
12 other things, selling or leasing to Plaintiffs and the other Class members defective
13 Affected Vehicles and by misrepresenting or failing to disclose that the NOx reduction
14 system in the Affected Vehicles turns off or is limited during normal driving
15 conditions, and that they were thus less valuable than vehicles not equipped with the
16 defective GM Clean Diesel engine system.

17 571. As a direct and proximate result of GM's breach of contract, Plaintiffs
18 and the Class have been damaged in an amount to be proven at trial, which shall
19 include, but is not limited to, all compensatory damages, incidental and consequential
20 damages, and other damages allowed by law.

21 **COUNT III**

22 **FRAUDULENT CONCEALMENT** 23 **(BASED ON MARYLAND LAW)**

24 572. Plaintiffs incorporate by reference all preceding allegations as though
25 fully set forth herein.

26 573. This claim is brought on behalf of the Maryland Class.

27 574. GM intentionally concealed that the NOx reduction system in the
28 Affected Vehicles turns off or is limited during normal driving conditions, that the

1 Affected Vehicles had defective emissions controls, emitted pollutants at a higher
2 level than gasoline powered vehicles, emitted pollutants higher than a reasonable
3 consumer would expect in light of GM's advertising campaign, emitted unlawfully
4 high levels of pollutants such as NOx, and were non-compliant with EPA emission
5 requirements, or GM acted with reckless disregard for the truth, and denied Plaintiffs
6 and the other Class members information that is highly relevant to their purchasing
7 decision.

8 575. GM further affirmatively misrepresented to Plaintiffs in advertising and
9 other forms of communication, including standard and uniform material provided with
10 each car, that the Affected Vehicles it was selling had no significant defects, were
11 Earth-friendly and low emission vehicles, complied with EPA regulations, and would
12 perform and operate properly when driven in normal usage.

13 576. GM knew these representations were false when made.

14 577. The Affected Vehicles purchased or leased by Plaintiffs and the other
15 Class members were, in fact, defective, emitting pollutants at a much higher rate than
16 gasoline powered vehicles and at a much higher rate than a reasonable consumer
17 would expect in light of GM's advertising campaign, non-EPA-compliant, and
18 unreliable because the NOx reduction system in the Affected Vehicles turns off or is
19 limited during normal driving conditions.

20 578. GM had a duty to disclose that the NOx reduction system in the Affected
21 Vehicles turns off or is limited during normal driving conditions, that these Affected
22 Vehicles were defective, employed a "Defeat Device," and emitted pollutants at a
23 much higher rate than gasoline powered vehicles, and that the emissions far exceeded
24 those expected by a reasonable consumer, were non-EPA-compliant and unreliable,
25 because Plaintiffs and the other Class members relied on GM's material
26 representations that the Affected Vehicles they were purchasing were reduced
27 emission vehicles, efficient, and free from defects.

1 579. As alleged in this Complaint, at all relevant times, GM has held out the
2 Affected Vehicles to be reduced emissions, EPA-compliant vehicles. GM disclosed
3 certain details about the GM Clean Diesel engine, but nonetheless, GM intentionally
4 failed to disclose the important facts that the NOx reduction system in the Affected
5 Vehicles turns off or is limited during normal driving conditions, and that the Affected
6 Vehicles had defective emissions controls, deploy a “Defeat Device,” emitted higher
7 levels of pollutants than expected by a reasonable consumer, emitted unlawfully high
8 levels of pollutants, and were non-compliant with EPA emissions requirements,
9 making other disclosures about the emission system deceptive.

10 580. The truth about the defective emissions controls and GM’s manipulations
11 of those controls, unlawfully high emissions, the “Defeat Device,” and non-
12 compliance with EPA emissions requirements was known only to GM; Plaintiffs and
13 the Class members did not know of these facts and GM actively concealed these facts
14 from Plaintiffs and Class members.

15 581. Plaintiffs and Class members reasonably relied upon GM’s deception.
16 They had no way of knowing that GM’s representations were false and/or misleading.
17 As consumers, Plaintiffs and Class members did not, and could not, unravel GM’s
18 deception on their own. Rather, GM intended to deceive Plaintiffs and Class members
19 by concealing the true facts about the Affected Vehicle emissions.

20 582. GM also concealed and suppressed material facts concerning what is
21 evidently the true culture of GM—one characterized by an emphasis on profits and
22 sales above compliance with federal and state clean air laws and emissions regulations
23 that are meant to protect the public and consumers. It also emphasized profits and
24 sales above the trust that Plaintiffs and Class members placed in its representations.
25 Consumers buy diesel cars from GM because they feel they are clean diesel cars.
26 They do not want to be spewing noxious gases into the environment. And yet, that is
27 precisely what the Affected Vehicles are doing.
28

1 583. GM's false representations were material to consumers, because they
2 concerned the quality of the Affected Vehicles, because they concerned compliance
3 with applicable federal and state law and regulations regarding clean air and
4 emissions, and also because the representations played a significant role in the value
5 of the vehicles. As GM well knew, its customers, including Plaintiffs and Class
6 members, highly valued that the vehicles they were purchasing or leasing were fuel
7 efficient, clean diesel cars with reduced emissions, and they paid accordingly.

8 584. GM had a duty to disclose the emissions defect, defective design of the
9 emissions controls, and violations with respect to the Affected Vehicles because
10 details of the true facts were known and/or accessible only to GM, because GM had
11 exclusive knowledge as to such facts, and because GM knew these facts were not
12 known to or reasonably discoverable by Plaintiffs or Class members. GM also had a
13 duty to disclose because it made general affirmative representations about the qualities
14 of its vehicles with respect to emissions, starting with references to them as *reduced*
15 *emissions* diesel cars and as compliant with all laws in each state, which were
16 misleading, deceptive, and incomplete without the disclosure of the additional facts set
17 forth above regarding the actual emissions of its vehicles, its actual philosophy with
18 respect to compliance with federal and state clean air laws and emissions regulations,
19 and its actual practices with respect to the vehicles at issue. Having volunteered to
20 provide information to Plaintiffs and Class members, GM had the duty to disclose not
21 just the partial truth, but the entire truth. These omitted and concealed facts were
22 material because they directly impact the value of the Affected Vehicles purchased or
23 leased by Plaintiffs and Class members. Whether a manufacturer's products pollute,
24 comply with federal and state clean air laws and emissions regulations, and whether
25 that manufacturer tells the truth with respect to such compliance or non-compliance,
26 are material concerns to a consumer, including with respect to the emissions
27 certifications testing their vehicles must pass. GM represented to Plaintiffs and Class
28

1 members that they were purchasing or leasing *reduced emission* diesel vehicles, when
2 in fact, they were purchasing or leasing defective, high emission, and unlawfully high
3 emission vehicles.

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

10 586. GM has still not made full and adequate disclosures, and continues to
11 defraud Plaintiffs and Class members by concealing material information regarding
12 the emissions qualities of its referenced vehicles.

13 587. Plaintiffs and Class members were unaware of the omitted material facts
14 referenced herein, and they would not have acted as they did if they had known of the
15 concealed and/or suppressed facts, in that they would not have purchased purportedly
16 reduced emissions diesel cars manufactured by GM, and/or would not have continued
17 to drive their heavily polluting vehicles, or would have taken other affirmative steps in
18 light of the information concealed from them. Plaintiffs' and Class members' actions
19 were justified. GM was in exclusive control of the material facts, and such facts were
20 not generally known to the public, Plaintiffs, or Class members.

21 588. Because of the concealment and/or suppression of the facts, Plaintiffs and
22 Class members have sustained damage because they own vehicles that are diminished
23 in value as a result of GM's concealment of the true quality and quantity of those
24 vehicles' emissions and GM's failure to timely disclose the defect or defective design
25 of the GM Clean Diesel engine system, the actual emissions qualities and quantities of
26 GM-branded vehicles, and the serious issues engendered by GM's corporate policies.
27 Had Plaintiffs and Class members been aware of the true emissions facts with regard
28

1 to the Affected Vehicles, and the Company's disregard for the truth and compliance
 2 with applicable federal and state law and regulations, Plaintiffs and Class members
 3 who purchased or leased new or certified previously owned vehicles would have paid
 4 less for their vehicles or would not have purchased or leased them at all.

5 589. The value of Plaintiffs' and Class members' vehicles has diminished as a
 6 result of GM's fraudulent concealment of the defective emissions controls of the
 7 Affected Vehicles, of the unlawfully high emissions of the Affected Vehicles, and of
 8 the non-compliance with EPA emissions requirements, all of which has greatly
 9 tarnished the GM brand name attached to Plaintiffs' and Class members' vehicles and
 10 made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let
 11 alone pay what otherwise would have been fair market value for the vehicles.

12 590. Accordingly, GM is liable to Plaintiffs and Class members for damages in
 13 an amount to be proven at trial.

14 591. GM's acts were done wantonly, maliciously, oppressively, deliberately,
 15 with intent to defraud, and in reckless disregard of Plaintiffs' and Class members'
 16 rights and the representations that GM made to them, in order to enrich GM. GM's
 17 conduct warrants an assessment of punitive damages in an amount sufficient to deter
 18 such conduct in the future, which amount is to be determined according to proof.

19 **K. Claims Brought on Behalf of the Massachusetts Class**

20 **COUNT I**

21 **VIOLATIONS OF THE MASSACHUSETTS CONSUMER** 22 **PROTECTION ACT** **(MASS. GEN. LAWS CH. 93A)**

23 592. Plaintiffs (for purposes of all Massachusetts Class Counts) incorporate by
 24 reference all preceding allegations as though fully set forth herein.

25 593. Plaintiffs intend to assert a claim under the Massachusetts Consumer
 26 Protection Act ("MCPA"), which makes it unlawful to engage in any "[u]nfair
 27 methods of competition or deceptive acts or practices in the conduct of any trade or
 28 commerce." MASS. GEN. LAWS CH. 93A, § 2(1). Plaintiffs will make a demand in

1 satisfaction of MASS. GEN. LAWS CH. 93A, § 9(3), and may amend this Complaint to
2 assert claims under the MCPA once the required 30 days have elapsed. This
3 paragraph is included for purposes of notice only and is not intended to actually assert
4 a claim under the MCPA.

5 **COUNT II**

6 **BREACH OF CONTRACT** 7 **(BASED ON MASSACHUSETTS LAW)**

8 594. Plaintiffs incorporate by reference all preceding allegations as though
9 fully set forth herein.

10 595. Plaintiffs bring this Count on behalf of the Massachusetts Class members.

11 596. GM's misrepresentations and omissions alleged herein, including GM's
12 failure to disclose the existence of the GM Clean Diesel engine system's defect and/or
13 defective design of the emissions controls as alleged herein, caused Plaintiffs and the
14 other Class members to make their purchases or leases of their Affected Vehicles.
15 Absent those misrepresentations and omissions, Plaintiffs and the other Class
16 members would not have purchased or leased these Affected Vehicles, would not have
17 purchased or leased these Affected Vehicles at the prices they paid, and/or would have
18 purchased or leased less expensive alternative vehicles that did not contain the
19 defective GM Clean Diesel engine system and which were not marketed as including
20 such a system. Accordingly, Plaintiffs and the other Class members overpaid for their
21 Affected Vehicles and did not receive the benefit of their bargain.

22 597. Each and every sale or lease of an Affected Vehicle constitutes a contract
23 between GM and the purchaser or lessee. GM breached these contracts by selling or
24 leasing to Plaintiffs and the other Class members defective Affected Vehicles and by
25 misrepresenting or failing to disclose that the NOx reduction system in the Affected
26 Vehicles turns off or is limited during normal driving conditions and the existence of
27 the GM Clean Diesel engine system's defect and/or defective design of the emissions
28 controls, including information known to GM, rendering each Affected Vehicle non-

1 EPA-compliant, and that they were thus less valuable than vehicles not equipped with
2 the defective GM Clean Diesel engine system.

3 598. As a direct and proximate result of GM's breach of contract, Plaintiffs
4 and the Class have been damaged in an amount to be proven at trial, which shall
5 include, but is not limited to, all compensatory damages, incidental and consequential
6 damages, and other damages allowed by law.

7 **COUNT III**

8 **FRAUDULENT CONCEALMENT** 9 **(BASED ON MASSACHUSETTS LAW)**

10 599. Plaintiffs incorporate by reference all preceding allegations as though
11 fully set forth herein.

12 600. This claim is brought on behalf of the Massachusetts Class.

13 601. GM intentionally concealed that the NOx reduction system in the
14 Affected Vehicles turns off or is limited during normal driving conditions, that the
15 Affected Vehicles had defective emissions controls, emitted pollutants at a higher
16 level than gasoline powered vehicles, emitted pollutants higher than a reasonable
17 consumer would expect in light of GM's advertising campaign, emitted unlawfully
18 high levels of pollutants such as NOx, and were non-compliant with EPA emission
19 requirements, or GM acted with reckless disregard for the truth, and denied Plaintiffs
20 and the other Class members information that is highly relevant to their purchasing
21 decision.

22 602. GM further affirmatively misrepresented to Plaintiffs in advertising and
23 other forms of communication, including standard and uniform material provided with
24 each car, that the Affected Vehicles it was selling had no significant defects, were
25 Earth-friendly and low emission vehicles, complied with EPA regulations, and would
26 perform and operate properly when driven in normal usage.

27 603. GM knew these representations were false when made.
28

1 604. The Affected Vehicles purchased or leased by Plaintiffs and the other
2 Class members were, in fact, defective, emitting pollutants at a much higher rate than
3 gasoline powered vehicles and at a much higher rate than a reasonable consumer
4 would expect in light of GM's advertising campaign, non-EPA-compliant, and
5 unreliable because the NOx reduction system in the Affected Vehicles turns off or is
6 limited during normal driving conditions.

7 605. GM had a duty to disclose that the NOx reduction system in the Affected
8 Vehicles turns off or is limited during normal driving conditions, that these Affected
9 Vehicles were defective, employed a "Defeat Device," and emitted pollutants at a
10 much higher rate than gasoline powered vehicles, and that the emissions far exceeded
11 those expected by a reasonable consumer, were non-EPA-compliant and unreliable,
12 because Plaintiffs and the other Class members relied on GM's material
13 representations that the Affected Vehicles they were purchasing were reduced
14 emission vehicles, efficient, and free from defects.

15 606. As alleged in this Complaint, at all relevant times, GM has held out the
16 Affected Vehicles to be reduced emissions, EPA-compliant vehicles. GM disclosed
17 certain details about the GM Clean Diesel engine, but nonetheless, GM intentionally
18 failed to disclose the important facts that the NOx reduction system in the Affected
19 Vehicles turns off or is limited during normal driving conditions, and that the Affected
20 Vehicles had defective emissions controls, deploy a "Defeat Device," emitted higher
21 levels of pollutants than expected by a reasonable consumer, emitted unlawfully high
22 levels of pollutants, and were non-compliant with EPA emissions requirements,
23 making other disclosures about the emission system deceptive.

24 607. The truth about the defective emissions controls and GM's manipulations
25 of those controls, unlawfully high emissions, the "Defeat Device," and non-
26 compliance with EPA emissions requirements was known only to GM; Plaintiffs and
27
28

1 the Class members did not know of these facts and GM actively concealed these facts
2 from Plaintiffs and Class members.

3 608. Plaintiffs and Class members reasonably relied upon GM's deception.
4 They had no way of knowing that GM's representations were false and/or misleading.
5 As consumers, Plaintiffs and Class members did not, and could not, unravel GM's
6 deception on their own. Rather, GM intended to deceive Plaintiffs and Class members
7 by concealing the true facts about the Affected Vehicle emissions.

8 609. GM also concealed and suppressed material facts concerning what is
9 evidently the true culture of GM—one characterized by an emphasis on profits and
10 sales above compliance with federal and state clean air laws and emissions regulations
11 that are meant to protect the public and consumers. It also emphasized profits and
12 sales above the trust that Plaintiffs and Class members placed in its representations.
13 Consumers buy diesel cars from GM because they feel they are clean diesel cars.
14 They do not want to be spewing noxious gases into the environment. And yet, that is
15 precisely what the Affected Vehicles are doing.

16 610. GM's false representations were material to consumers, because they
17 concerned the quality of the Affected Vehicles, because they concerned compliance
18 with applicable federal and state law and regulations regarding clean air and
19 emissions, and also because the representations played a significant role in the value
20 of the vehicles. As GM well knew, its customers, including Plaintiffs and Class
21 members, highly valued that the vehicles they were purchasing or leasing were fuel
22 efficient, clean diesel cars with reduced emissions, and they paid accordingly.

23 611. GM had a duty to disclose the emissions defect, defective design of the
24 emissions controls, and violations with respect to the Affected Vehicles because
25 details of the true facts were known and/or accessible only to GM, because GM had
26 exclusive knowledge as to such facts, and because GM knew these facts were not
27 known to or reasonably discoverable by Plaintiffs or Class members. GM also had a
28

1 duty to disclose because it made general affirmative representations about the qualities
2 of its vehicles with respect to emissions, starting with references to them as *reduced*
3 *emissions* diesel cars and as compliant with all laws in each state, which were
4 misleading, deceptive, and incomplete without the disclosure of the additional facts set
5 forth above regarding the actual emissions of its vehicles, its actual philosophy with
6 respect to compliance with federal and state clean air laws and emissions regulations,
7 and its actual practices with respect to the vehicles at issue. Having volunteered to
8 provide information to Plaintiffs and Class members, GM had the duty to disclose not
9 just the partial truth, but the entire truth. These omitted and concealed facts were
10 material because they directly impact the value of the Affected Vehicles purchased or
11 leased by Plaintiffs and Class members. Whether a manufacturer's products pollute,
12 comply with federal and state clean air laws and emissions regulations, and whether
13 that manufacturer tells the truth with respect to such compliance or non-compliance,
14 are material concerns to a consumer, including with respect to the emissions
15 certifications testing their vehicles must pass. GM represented to Plaintiffs and Class
16 members that they were purchasing or leasing *reduced emission* diesel vehicles, when
17 in fact, they were purchasing or leasing defective, high emission, and unlawfully high
18 emission vehicles.

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

25 613. GM has still not made full and adequate disclosures, and continues to
26 defraud Plaintiffs and Class members by concealing material information regarding
27 the emissions qualities of its referenced vehicles.
28

1 614. Plaintiffs and Class members were unaware of the omitted material facts
2 referenced herein, and they would not have acted as they did if they had known of the
3 concealed and/or suppressed facts, in that they would not have purchased purportedly
4 reduced emissions diesel cars manufactured by GM, and/or would not have continued
5 to drive their heavily polluting vehicles, or would have taken other affirmative steps in
6 light of the information concealed from them. Plaintiffs' and Class members' actions
7 were justified. GM was in exclusive control of the material facts, and such facts were
8 not generally known to the public, Plaintiffs, or Class members.

9 615. Because of the concealment and/or suppression of the facts, Plaintiffs and
10 Class members have sustained damage because they own vehicles that are diminished
11 in value as a result of GM's concealment of the true quality and quantity of those
12 vehicles' emissions and GM's failure to timely disclose the defect or defective design
13 of the GM Clean Diesel engine system, the actual emissions qualities and quantities of
14 GM-branded vehicles, and the serious issues engendered by GM's corporate policies.
15 Had Plaintiffs and Class members been aware of the true emissions facts with regard
16 to the Affected Vehicles, and the Company's disregard for the truth and compliance
17 with applicable federal and state law and regulations, Plaintiffs and Class members
18 who purchased or leased new or certified previously owned vehicles would have paid
19 less for their vehicles or would not have purchased or leased them at all.

20 616. The value of Plaintiffs' and Class members' vehicles has diminished as a
21 result of GM's fraudulent concealment of the defective emissions controls of the
22 Affected Vehicles, of the unlawfully high emissions of the Affected Vehicles, and of
23 the non-compliance with EPA emissions requirements, all of which has greatly
24 tarnished the GM brand name attached to Plaintiffs' and Class members' vehicles and
25 made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let
26 alone pay what otherwise would have been fair market value for the vehicles.

1 617. Accordingly, GM is liable to Plaintiffs and Class members for damages in
2 an amount to be proven at trial.

3 618. GM's acts were done wantonly, maliciously, oppressively, deliberately,
4 with intent to defraud, and in reckless disregard of Plaintiffs' and Class members'
5 rights and the representations that GM made to them, in order to enrich GM. GM's
6 conduct warrants an assessment of punitive damages in an amount sufficient to deter
7 such conduct in the future, which amount is to be determined according to proof.

8 **L. Claims Brought on Behalf of the Michigan Class**

9 **COUNT I**

10 **VIOLATION OF THE MICHIGAN CONSUMER PROTECTION ACT**
11 **(MICH. COMP. LAWS § 445.903, *ET SEQ.*)**

12 619. Plaintiffs (for purposes of all Michigan Class Counts) incorporate by
13 reference all paragraphs as though fully set forth herein.

14 620. This claim is brought on behalf of the Michigan Class members.

15 621. Plaintiffs and the Michigan Class members were "person[s]" within the
16 meaning of MICH. COMP. LAWS § 445.902(1)(d).

17 622. The Michigan Consumer Protection Act ("Michigan CPA") prohibits
18 "[u]nfair, unconscionable, or deceptive methods, acts, or practices in the conduct of
19 trade or commerce ...", including: "(c) Representing that goods or services have ...
20 characteristics ... that they do not have;" "(e) Representing that goods or services
21 are of a particular standard ... if they are of another;" "(i) Making false or misleading
22 statements of fact concerning the reasons for, existence of, or amounts of price
23 reductions;" "(s) Failing to reveal a material fact, the omission of which tends to
24 mislead or deceive the consumer, and which fact could not reasonably be known by
25 the consumer;" "(bb) Making a representation of fact or statement of fact material to
26 the transaction such that a person reasonably believes the represented or suggested
27 state of affairs to be other than it actually is;" and "(cc) Failing to reveal facts that are
28 material to the transaction in light of representations of fact made in a positive

1 manner.” MICH. COMP. LAWS § 445.903(1). In the course of GM’s business, it
2 willfully failed to disclose and actively concealed that the NOx reduction system in the
3 Affected Vehicles turns off or is limited during normal driving conditions, that the
4 Affected Vehicles emitted far more pollutants than gasoline powered vehicles, that the
5 Affected Vehicles emit far more pollution than a reasonable consumer would expect in
6 light of GM’s advertising campaign, and that the Affected Vehicles emitted
7 unlawfully high levels of pollutants, including NOx, as described above. Accordingly,
8 GM engaged in unfair methods of competition, unconscionable acts or practices, and
9 unfair or deceptive acts or practices including representing that the Affected Vehicles
10 have characteristics, uses, benefits, and qualities which they do not have; representing
11 that the Affected Vehicles are of a particular standard and quality when they are not;
12 failing to reveal a material fact, the omission of which tends to mislead or deceive the
13 consumer, and which fact could not reasonably be known by the consumer; making a
14 representation of fact or statement of fact material to the transaction such that a person
15 reasonably believes the represented or suggested state of affairs to be other than it
16 actually is; failing to reveal facts that are material to the transaction in light of
17 representations of fact made in a positive manner.

18 623. In purchasing or leasing the Affected Vehicles, Plaintiffs and the other
19 Class members were deceived by GM’s failure to disclose that the NOx reduction
20 system in the Affected Vehicles turns off or is limited during normal driving
21 conditions, that the emissions controls were defective, and that the Affected Vehicles
22 emitted unlawfully high levels of pollutants, including NOx, as described above.

23 624. Plaintiffs and Class members reasonably relied upon GM’s false
24 misrepresentations. They had no way of knowing that GM’s representations were
25 false and gravely misleading. As alleged herein, GM engaged in extremely
26 sophisticated methods of deception. Plaintiffs and Class members did not, and could
27 not, unravel GM’s deception on their own.
28

1 625. GM's actions as set forth above occurred in the conduct of trade or
2 commerce.

3 626. GM's unfair or deceptive acts or practices were likely to and did in fact
4 deceive reasonable consumers.

5 627. GM intentionally and knowingly misrepresented material facts regarding
6 the Affected Vehicles with an intent to mislead Plaintiffs and the Class.

7 628. GM knew or should have known that its conduct violated the Michigan
8 CPA.

9 629. GM owed Plaintiffs and the Class a duty to disclose the truth about its
10 emissions systems manipulation because GM:

11 a. Possessed exclusive knowledge that it
12 manipulated the emissions system in the Affected Vehicles
13 to turn off or limit effectiveness in normal driving
conditions;

14 b. Intentionally concealed the foregoing from
15 Plaintiffs and the Class; and/or

16 c. Made incomplete representations that it
17 manipulated the emissions system in the Affected Vehicles
18 to turn off or limit effectiveness in normal driving
19 conditions, while purposefully withholding material facts
20 from Plaintiffs and the Class that contradicted these
21 representations.

22 630. GM had a duty to disclose that the NOx reduction system in the Affected
23 Vehicles turns off or is limited during normal driving conditions, that these Affected
24 Vehicles were defective, employed a "Defeat Device," and emitted pollutants at a
25 much higher rate than gasoline powered vehicles, and that the emissions far exceeded
26 those expected by a reasonable consumer, were non-EPA-compliant and unreliable,
27 because Plaintiffs and the other Class members relied on GM's material
28 representations that the Affected Vehicles they were purchasing were reduced
emission vehicles, efficient, and free from defects.

1 Vehicles turns off or is limited during normal driving conditions caused Plaintiffs and
2 the other Class members to make their purchases or leases of their Affected Vehicles.
3 Absent those misrepresentations and omissions, Plaintiffs and the other Class
4 members would not have purchased or leased these Affected Vehicles, would not have
5 purchased or leased these Affected Vehicles at the prices they paid, and/or would have
6 purchased or leased less expensive alternative vehicles that did not contain the
7 defective GM Clean Diesel engine system and which were not marketed as including
8 such a system. Accordingly, Plaintiffs and the other Class members overpaid for their
9 Affected Vehicles and did not receive the benefit of their bargain.

10 639. Each and every sale or lease of an Affected Vehicle constitutes a contract
11 between GM and the purchaser or lessee. GM breached these contracts by, among
12 other things, selling or leasing to Plaintiffs and the other Class members defective
13 Affected Vehicles and by misrepresenting or failing to disclose that the NOx reduction
14 system in the Affected Vehicles turns off or is limited during normal driving
15 conditions, and that they were thus less valuable than vehicles not equipped with the
16 defective GM Clean Diesel engine system.

17 640. As a direct and proximate result of GM's breach of contract, Plaintiffs
18 and the Class have been damaged in an amount to be proven at trial, which shall
19 include, but is not limited to, all compensatory damages, incidental and consequential
20 damages, and other damages allowed by law.

21 **COUNT III**

22 **FRAUDULENT CONCEALMENT** 23 **(BASED ON MICHIGAN LAW)**

24 641. Plaintiffs incorporate by reference all preceding allegations as though
25 fully set forth herein.

26 642. This claim is brought on behalf of the Michigan Class.

27 643. GM intentionally concealed that the NOx reduction system in the
28 Affected Vehicles turns off or is limited during normal driving conditions, that the

1 Affected Vehicles had defective emissions controls, emitted pollutants at a higher
2 level than gasoline powered vehicles, emitted pollutants higher than a reasonable
3 consumer would expect in light of GM's advertising campaign, emitted unlawfully
4 high levels of pollutants such as NOx, and were non-compliant with EPA emission
5 requirements, or GM acted with reckless disregard for the truth, and denied Plaintiffs
6 and the other Class members information that is highly relevant to their purchasing
7 decision.

8 644. GM further affirmatively misrepresented to Plaintiffs in advertising and
9 other forms of communication, including standard and uniform material provided with
10 each car, that the Affected Vehicles it was selling had no significant defects, were
11 Earth-friendly and low emission vehicles, complied with EPA regulations, and would
12 perform and operate properly when driven in normal usage.

13 645. GM knew these representations were false when made.

14 646. The Affected Vehicles purchased or leased by Plaintiffs and the other
15 Class members were, in fact, defective, emitting pollutants at a much higher rate than
16 gasoline powered vehicles and at a much higher rate than a reasonable consumer
17 would expect in light of GM's advertising campaign, non-EPA-compliant, and
18 unreliable because the NOx reduction system in the Affected Vehicles turns off or is
19 limited during normal driving conditions.

20 647. GM had a duty to disclose that the NOx reduction system in the Affected
21 Vehicles turns off or is limited during normal driving conditions, that these Affected
22 Vehicles were defective, employed a "Defeat Device," and emitted pollutants at a
23 much higher rate than gasoline powered vehicles, and that the emissions far exceeded
24 those expected by a reasonable consumer, were non-EPA-compliant and unreliable,
25 because Plaintiffs and the other Class members relied on GM's material
26 representations that the Affected Vehicles they were purchasing were reduced
27 emission vehicles, efficient, and free from defects.

1 648. As alleged in this Complaint, at all relevant times, GM has held out the
2 Affected Vehicles to be reduced emissions, EPA-compliant vehicles. GM disclosed
3 certain details about the GM Clean Diesel engine, but nonetheless, GM intentionally
4 failed to disclose the important facts that the NOx reduction system in the Affected
5 Vehicles turns off or is limited during normal driving conditions, and that the Affected
6 Vehicles had defective emissions controls, deploy a “Defeat Device,” emitted higher
7 levels of pollutants than expected by a reasonable consumer, emitted unlawfully high
8 levels of pollutants, and were non-compliant with EPA emissions requirements,
9 making other disclosures about the emission system deceptive.

10 649. The truth about the defective emissions controls and GM’s manipulations
11 of those controls, unlawfully high emissions, the “Defeat Device,” and non-
12 compliance with EPA emissions requirements was known only to GM; Plaintiffs and
13 the Class members did not know of these facts and GM actively concealed these facts
14 from Plaintiffs and Class members.

15 650. Plaintiffs and Class members reasonably relied upon GM’s deception.
16 They had no way of knowing that GM’s representations were false and/or misleading.
17 As consumers, Plaintiffs and Class members did not, and could not, unravel GM’s
18 deception on their own. Rather, GM intended to deceive Plaintiffs and Class members
19 by concealing the true facts about the Affected Vehicle emissions.

20 651. GM also concealed and suppressed material facts concerning what is
21 evidently the true culture of GM—one characterized by an emphasis on profits and
22 sales above compliance with federal and state clean air laws and emissions regulations
23 that are meant to protect the public and consumers. It also emphasized profits and
24 sales above the trust that Plaintiffs and Class members placed in its representations.
25 Consumers buy diesel cars from GM because they feel they are clean diesel cars.
26 They do not want to be spewing noxious gases into the environment. And yet, that is
27 precisely what the Affected Vehicles are doing.
28

1 652. GM's false representations were material to consumers, because they
2 concerned the quality of the Affected Vehicles, because they concerned compliance
3 with applicable federal and state law and regulations regarding clean air and
4 emissions, and also because the representations played a significant role in the value
5 of the vehicles. As GM well knew, its customers, including Plaintiffs and Class
6 members, highly valued that the vehicles they were purchasing or leasing were fuel
7 efficient, clean diesel cars with reduced emissions, and they paid accordingly.

8 653. GM had a duty to disclose the emissions defect, defective design of the
9 emissions controls, and violations with respect to the Affected Vehicles because
10 details of the true facts were known and/or accessible only to GM, because GM had
11 exclusive knowledge as to such facts, and because GM knew these facts were not
12 known to or reasonably discoverable by Plaintiffs or Class members. GM also had a
13 duty to disclose because it made general affirmative representations about the qualities
14 of its vehicles with respect to emissions, starting with references to them as *reduced*
15 *emissions* diesel cars and as compliant with all laws in each state, which were
16 misleading, deceptive, and incomplete without the disclosure of the additional facts set
17 forth above regarding the actual emissions of its vehicles, its actual philosophy with
18 respect to compliance with federal and state clean air laws and emissions regulations,
19 and its actual practices with respect to the vehicles at issue. Having volunteered to
20 provide information to Plaintiffs and Class members, GM had the duty to disclose not
21 just the partial truth, but the entire truth. These omitted and concealed facts were
22 material because they directly impact the value of the Affected Vehicles purchased or
23 leased by Plaintiffs and Class members. Whether a manufacturer's products pollute,
24 comply with federal and state clean air laws and emissions regulations, and whether
25 that manufacturer tells the truth with respect to such compliance or non-compliance,
26 are material concerns to a consumer, including with respect to the emissions
27 certifications testing their vehicles must pass. GM represented to Plaintiffs and Class
28

1 members that they were purchasing or leasing *reduced emission* diesel vehicles, when
2 in fact, they were purchasing or leasing defective, high emission, and unlawfully high
3 emission vehicles.

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

10 655. GM has still not made full and adequate disclosures, and continues to
11 defraud Plaintiffs and Class members by concealing material information regarding
12 the emissions qualities of its referenced vehicles.

13 656. Plaintiffs and Class members were unaware of the omitted material facts
14 referenced herein, and they would not have acted as they did if they had known of the
15 concealed and/or suppressed facts, in that they would not have purchased purportedly
16 reduced emissions diesel cars manufactured by GM, and/or would not have continued
17 to drive their heavily polluting vehicles, or would have taken other affirmative steps in
18 light of the information concealed from them. Plaintiffs' and Class members' actions
19 were justified. GM was in exclusive control of the material facts, and such facts were
20 not generally known to the public, Plaintiffs, or Class members.

21 657. Because of the concealment and/or suppression of the facts, Plaintiffs and
22 Class members have sustained damage because they own vehicles that are diminished
23 in value as a result of GM's concealment of the true quality and quantity of those
24 vehicles' emissions and GM's failure to timely disclose the defect or defective design
25 of the GM Clean Diesel engine system, the actual emissions qualities and quantities of
26 GM-branded vehicles, and the serious issues engendered by GM's corporate policies.
27 Had Plaintiffs and Class members been aware of the true emissions facts with regard
28

1 to the Affected Vehicles, and the Company's disregard for the truth and compliance
 2 with applicable federal and state law and regulations, Plaintiffs and Class members
 3 who purchased or leased new or certified previously owned vehicles would have paid
 4 less for their vehicles or would not have purchased or leased them at all.

5 658. The value of Plaintiffs' and Class members' vehicles has diminished as a
 6 result of GM's fraudulent concealment of the defective emissions controls of the
 7 Affected Vehicles, of the unlawfully high emissions of the Affected Vehicles, and of
 8 the non-compliance with EPA emissions requirements, all of which has greatly
 9 tarnished the GM brand name attached to Plaintiffs' and Class members' vehicles and
 10 made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let
 11 alone pay what otherwise would have been fair market value for the vehicles.

12 659. Accordingly, GM is liable to Plaintiffs and Class members for damages in
 13 an amount to be proven at trial.

14 660. GM's acts were done wantonly, maliciously, oppressively, deliberately,
 15 with intent to defraud, and in reckless disregard of Plaintiffs' and Class members'
 16 rights and the representations that GM made to them, in order to enrich GM. GM's
 17 conduct warrants an assessment of punitive damages in an amount sufficient to deter
 18 such conduct in the future, which amount is to be determined according to proof.

19 **M. Claims Brought on Behalf of the Minnesota Class**

20 **COUNT I**

21 **VIOLATION OF THE MINNESOTA PREVENTION OF CONSUMER FRAUD**
 22 **ACT**
(MINN. STAT. § 325F.68, ET SEQ.)

23 661. Plaintiffs (for purposes of all Minnesota Class Counts) incorporate by
 24 reference all paragraphs as though fully set forth herein.

25 662. This claim is brought on behalf of the Minnesota Class members.

26 663. The Affected Vehicles constitute "merchandise" within the meaning of
 27 MINN. STAT. § 325F.68(2).
 28

1 664. The Minnesota Prevention of Consumer Fraud Act (“Minnesota CFA”)
2 prohibits “[t]he act, use, or employment by any person of any fraud, false pretense,
3 false promise, misrepresentation, misleading statement or deceptive practice, with the
4 intent that others rely thereon in connection with the sale of any merchandise, whether
5 or not any person has in fact been misled, deceived, or damaged thereby” MINN.
6 STAT. § 325F.69(1). The Minnesota CFA also prohibits the dissemination, directly or
7 indirectly, of an advertisement “of any sort regarding merchandise,” where that
8 advertisement contains “any material assertion, representation, or statement of fact
9 which is untrue, deceptive, or misleading.” MINN. STAT. § 325F.67. In the course of
10 GM’s business, it willfully failed to disclose and actively concealed that the NOx
11 reduction system in the Affected Vehicles turns off or is limited during normal driving
12 conditions, that the Affected Vehicles emitted far more pollutants than gasoline
13 powered vehicles, that the Affected Vehicles emit far more pollution than a reasonable
14 consumer would expect in light of GM’s advertising campaign, and that the Affected
15 Vehicles emitted unlawfully high levels of pollutants, including NOx, as described
16 above. Accordingly, GM used or employed a fraud, false pretense, false promise,
17 misrepresentation, misleading statement or deceptive practice, with the intent that
18 others rely thereon in connection with the sale of any merchandise, whether or not any
19 person has in fact been misled, deceived, or damaged thereby and disseminated
20 advertisements containing material assertions, representations, or statements of fact
21 which were untrue, deceptive, or misleading, all in violation of the Minnesota CFA.

22 665. In purchasing or leasing the Affected Vehicles, Plaintiffs and the other
23 Class members were deceived by GM’s failure to disclose that the NOx reduction
24 system in the Affected Vehicles turns off or is limited during normal driving
25 conditions, that the emissions controls were defective, and that the Affected Vehicles
26 emitted unlawfully high levels of pollutants, including NOx, as described above.

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

6 667. GM's actions as set forth above occurred in the conduct of trade or
7 commerce.

8 668. GM's unfair or deceptive acts or practices were likely to and did in fact
9 deceive reasonable consumers.

10 669. GM intentionally and knowingly misrepresented material facts regarding
11 the Affected Vehicles with an intent to mislead Plaintiffs and the Class.

12 670. GM knew or should have known that its conduct violated the Minnesota
13 CFA.

14 671. GM owed Plaintiffs and the Class a duty to disclose the truth about its
15 emissions systems manipulation because GM:

16 a. Possessed exclusive knowledge that it
17 manipulated the emissions system in the Affected Vehicles
18 to turn off or limit effectiveness in normal driving
conditions;

19 b. Intentionally concealed the foregoing from
20 Plaintiffs and the Class; and/or

21 c. Made incomplete representations that it
22 manipulated the emissions system in the Affected Vehicles
23 to turn off or limit effectiveness in normal driving
24 conditions, while purposefully withholding material facts
from Plaintiffs and the Class that contradicted these
representations.

25 672. GM had a duty to disclose that the NOx reduction system in the Affected
26 Vehicles turns off or is limited during normal driving conditions, that these Affected
27 Vehicles were defective, employed a "Defeat Device," and emitted pollutants at a
28 much higher rate than gasoline powered vehicles, and that the emissions far exceeded

1 those expected by a reasonable consumer, were non-EPA-compliant and unreliable,
2 because Plaintiffs and the other Class members relied on GM's material
3 representations that the Affected Vehicles they were purchasing were reduced
4 emission vehicles, efficient, and free from defects.

5 673. GM's conduct proximately caused injuries to Plaintiffs and the other
6 Class members.

7 674. Plaintiffs and the other Class members were injured and suffered
8 ascertainable loss, injury-in-fact, and/or actual damage as a proximate result of GM's
9 conduct in that Plaintiffs and the other Class members overpaid for their Affected
10 Vehicles and did not receive the benefit of their bargain, and their Affected Vehicles
11 have suffered a diminution in value. These injuries are the direct and natural
12 consequence of GM's misrepresentations and omissions.

13 675. GM's violations present a continuing risk to Plaintiffs as well as to the
14 general public. GM's unlawful acts and practices complained of herein affect the
15 public interest.

16 676. Pursuant to MINN. STAT. § 8.31(3a), Plaintiffs and the Minnesota Class
17 seek actual damages, attorneys' fees, and any other just and proper relief available
18 under the Minnesota CFA.

19 677. Plaintiffs also seek punitive damages under MINN. STAT. § 549.20(1)(a)
20 given the clear and convincing evidence that GM's acts show deliberate disregard for
21 the rights of others.

22 **COUNT II**

23 **BREACH OF CONTRACT** 24 **(BASED ON MINNESOTA LAW)**

25 678. Plaintiffs incorporate by reference all preceding allegations as though
26 fully set forth herein.

27 679. Plaintiffs bring this Count on behalf of the Minnesota Class.
28

1 685. GM intentionally concealed that the NOx reduction system in the
2 Affected Vehicles turns off or is limited during normal driving conditions, that the
3 Affected Vehicles had defective emissions controls, emitted pollutants at a higher
4 level than gasoline powered vehicles, emitted pollutants higher than a reasonable
5 consumer would expect in light of GM's advertising campaign, emitted unlawfully
6 high levels of pollutants such as NOx, and were non-compliant with EPA emission
7 requirements, or GM acted with reckless disregard for the truth, and denied Plaintiffs
8 and the other Class members information that is highly relevant to their purchasing
9 decision.

10 686. GM further affirmatively misrepresented to Plaintiffs in advertising and
11 other forms of communication, including standard and uniform material provided with
12 each car, that the Affected Vehicles it was selling had no significant defects, were
13 Earth-friendly and low emission vehicles, complied with EPA regulations, and would
14 perform and operate properly when driven in normal usage.

15 687. GM knew these representations were false when made.

16 688. The Affected Vehicles purchased or leased by Plaintiffs and the other
17 Class members were, in fact, defective, emitting pollutants at a much higher rate than
18 gasoline powered vehicles and at a much higher rate than a reasonable consumer
19 would expect in light of GM's advertising campaign, non-EPA-compliant, and
20 unreliable because the NOx reduction system in the Affected Vehicles turns off or is
21 limited during normal driving conditions.

22 689. GM had a duty to disclose that the NOx reduction system in the Affected
23 Vehicles turns off or is limited during normal driving conditions, that these Affected
24 Vehicles were defective, employed a "Defeat Device," and emitted pollutants at a
25 much higher rate than gasoline powered vehicles, and that the emissions far exceeded
26 those expected by a reasonable consumer, were non-EPA-compliant and unreliable,
27 because Plaintiffs and the other Class members relied on GM's material
28

1 representations that the Affected Vehicles they were purchasing were reduced
2 emission vehicles, efficient, and free from defects.

3 690. As alleged in this Complaint, at all relevant times, GM has held out the
4 Affected Vehicles to be reduced emissions, EPA-compliant vehicles. GM disclosed
5 certain details about the GM Clean Diesel engine, but nonetheless, GM intentionally
6 failed to disclose the important facts that the NOx reduction system in the Affected
7 Vehicles turns off or is limited during normal driving conditions, and that the Affected
8 Vehicles had defective emissions controls, deploy a “Defeat Device,” emitted higher
9 levels of pollutants than expected by a reasonable consumer, emitted unlawfully high
10 levels of pollutants, and were non-compliant with EPA emissions requirements,
11 making other disclosures about the emission system deceptive.

12 691. The truth about the defective emissions controls and GM’s manipulations
13 of those controls, unlawfully high emissions, the “Defeat Device,” and non-
14 compliance with EPA emissions requirements was known only to GM; Plaintiffs and
15 the Class members did not know of these facts and GM actively concealed these facts
16 from Plaintiffs and Class members.

17 692. Plaintiffs and Class members reasonably relied upon GM’s deception.
18 They had no way of knowing that GM’s representations were false and/or misleading.
19 As consumers, Plaintiffs and Class members did not, and could not, unravel GM’s
20 deception on their own. Rather, GM intended to deceive Plaintiffs and Class members
21 by concealing the true facts about the Affected Vehicle emissions.

22 693. GM also concealed and suppressed material facts concerning what is
23 evidently the true culture of GM—one characterized by an emphasis on profits and
24 sales above compliance with federal and state clean air laws and emissions regulations
25 that are meant to protect the public and consumers. It also emphasized profits and
26 sales above the trust that Plaintiffs and Class members placed in its representations.
27 Consumers buy diesel cars from GM because they feel they are clean diesel cars.
28

1 They do not want to be spewing noxious gases into the environment. And yet, that is
2 precisely what the Affected Vehicles are doing.

3 694. GM's false representations were material to consumers, because they
4 concerned the quality of the Affected Vehicles, because they concerned compliance
5 with applicable federal and state law and regulations regarding clean air and
6 emissions, and also because the representations played a significant role in the value
7 of the vehicles. As GM well knew, its customers, including Plaintiffs and Class
8 members, highly valued that the vehicles they were purchasing or leasing were fuel
9 efficient, clean diesel cars with reduced emissions, and they paid accordingly.

10 695. GM had a duty to disclose the emissions defect, defective design of the
11 emissions controls, and violations with respect to the Affected Vehicles because
12 details of the true facts were known and/or accessible only to GM, because GM had
13 exclusive knowledge as to such facts, and because GM knew these facts were not
14 known to or reasonably discoverable by Plaintiffs or Class members. GM also had a
15 duty to disclose because it made general affirmative representations about the qualities
16 of its vehicles with respect to emissions, starting with references to them as *reduced*
17 *emissions* diesel cars and as compliant with all laws in each state, which were
18 misleading, deceptive, and incomplete without the disclosure of the additional facts set
19 forth above regarding the actual emissions of its vehicles, its actual philosophy with
20 respect to compliance with federal and state clean air laws and emissions regulations,
21 and its actual practices with respect to the vehicles at issue. Having volunteered to
22 provide information to Plaintiffs and Class members, GM had the duty to disclose not
23 just the partial truth, but the entire truth. These omitted and concealed facts were
24 material because they directly impact the value of the Affected Vehicles purchased or
25 leased by Plaintiffs and Class members. Whether a manufacturer's products pollute,
26 comply with federal and state clean air laws and emissions regulations, and whether
27 that manufacturer tells the truth with respect to such compliance or non-compliance,
28

1 are material concerns to a consumer, including with respect to the emissions
2 certifications testing their vehicles must pass. GM represented to Plaintiffs and Class
3 members that they were purchasing or leasing *reduced emission* diesel vehicles, when
4 in fact, they were purchasing or leasing defective, high emission, and unlawfully high
5 emission vehicles.

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

12 697. GM has still not made full and adequate disclosures, and continues to
13 defraud Plaintiffs and Class members by concealing material information regarding
14 the emissions qualities of its referenced vehicles.

15 698. Plaintiffs and Class members were unaware of the omitted material facts
16 referenced herein, and they would not have acted as they did if they had known of the
17 concealed and/or suppressed facts, in that they would not have purchased purportedly
18 reduced emissions diesel cars manufactured by GM, and/or would not have continued
19 to drive their heavily polluting vehicles, or would have taken other affirmative steps in
20 light of the information concealed from them. Plaintiffs' and Class members' actions
21 were justified. GM was in exclusive control of the material facts, and such facts were
22 not generally known to the public, Plaintiffs, or Class members.

23 699. Because of the concealment and/or suppression of the facts, Plaintiffs and
24 Class members have sustained damage because they own vehicles that are diminished
25 in value as a result of GM's concealment of the true quality and quantity of those
26 vehicles' emissions and GM's failure to timely disclose the defect or defective design
27 of the GM Clean Diesel engine system, the actual emissions qualities and quantities of
28

1 GM-branded vehicles, and the serious issues engendered by GM's corporate policies.
 2 Had Plaintiffs and Class members been aware of the true emissions facts with regard
 3 to the Affected Vehicles, and the Company's disregard for the truth and compliance
 4 with applicable federal and state law and regulations, Plaintiffs and Class members
 5 who purchased or leased new or certified previously owned vehicles would have paid
 6 less for their vehicles or would not have purchased or leased them at all.

7 700. The value of Plaintiffs' and Class members' vehicles has diminished as a
 8 result of GM's fraudulent concealment of the defective emissions controls of the
 9 Affected Vehicles, of the unlawfully high emissions of the Affected Vehicles, and of
 10 the non-compliance with EPA emissions requirements, all of which has greatly
 11 tarnished the GM brand name attached to Plaintiffs' and Class members' vehicles and
 12 made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let
 13 alone pay what otherwise would have been fair market value for the vehicles.

14 701. Accordingly, GM is liable to Plaintiffs and Class members for damages in
 15 an amount to be proven at trial.

16 702. GM's acts were done wantonly, maliciously, oppressively, deliberately,
 17 with intent to defraud, and in reckless disregard of Plaintiffs' and Class members'
 18 rights and the representations that GM made to them, in order to enrich GM. GM's
 19 conduct warrants an assessment of punitive damages in an amount sufficient to deter
 20 such conduct in the future, which amount is to be determined according to proof.

21 **N. Claims Brought on Behalf of the Missouri Class**

22 **COUNT I**

23 **VIOLATIONS OF THE MISSOURI MERCHANDISING PRACTICES ACT** 24 **(MO. REV. STAT. §§ 407.010, *ET SEQ.*)**

25 703. Plaintiffs (for purposes of all Missouri Class Counts) incorporate by
 26 reference all paragraphs as though fully set forth herein.

27 704. Plaintiffs bring this Count on behalf of the Missouri Class members.
 28

1 705. GM, Plaintiffs and the Missouri Class are “persons” within the meaning
2 of MO. REV. STAT. § 407.010(5).

3 706. GM engaged in “trade” or “commerce” in the State of Missouri within the
4 meaning of MO. REV. STAT. § 407.010(7).

5 707. The Missouri Merchandising Practices Act (“Missouri MPA”) makes
6 unlawful the “act, use or employment by any person of any deception, fraud, false
7 pretense, misrepresentation, unfair practice, or the concealment, suppression, or
8 omission of any material fact in connection with the sale or advertisement of any
9 merchandise.” MO. REV. STAT. § 407.020. In the course of GM’s business, it
10 willfully failed to disclose and actively concealed that the NOx reduction system in the
11 Affected Vehicles turns off or is limited during normal driving conditions, that the
12 Affected Vehicles emitted far more pollutants than gasoline powered vehicles, that the
13 Affected Vehicles emit far more pollution than a reasonable consumer would expect in
14 light of GM’s advertising campaign, and that the Affected Vehicles emitted
15 unlawfully high levels of pollutants, including NOx, as described above. Accordingly,
16 GM used or employed deception, fraud, false pretense, false promise,
17 misrepresentation, unfair practice or the concealment, suppression, or omission of any
18 material fact in connection with the sale or advertisement of any merchandise in trade
19 or commerce, in violation of the Missouri MPA. GM’s conduct offends public policy;
20 is unethical, oppressive, or unscrupulous; and presents a risk of, or causes, substantial
21 injury to consumers.

22 708. In purchasing or leasing the Affected Vehicles, Plaintiffs and the other
23 Class members were deceived by GM’s failure to disclose that the NOx reduction
24 system in the Affected Vehicles turns off or is limited during normal driving
25 conditions, that the emissions controls were defective, and that the Affected Vehicles
26 emitted unlawfully high levels of pollutants, including NOx, as described above.

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

6 710. GM's actions as set forth above occurred in the conduct of trade or
7 commerce.

8 711. GM's unfair or deceptive acts or practices were likely to and did in fact
9 deceive reasonable consumers.

10 712. GM intentionally and knowingly misrepresented material facts regarding
11 the Affected Vehicles with an intent to mislead Plaintiffs and the Class.

12 713. GM knew or should have known that its conduct violated the Missouri
13 MPA.

14 714. GM owed Plaintiffs and the Class a duty to disclose the truth about its
15 emissions systems manipulation because GM:

16 a. Possessed exclusive knowledge that it
17 manipulated the emissions system in the Affected Vehicles
18 to turn off or limit effectiveness in normal driving
conditions;

19 b. Intentionally concealed the foregoing from
20 Plaintiffs and the Class; and/or

21 c. Made incomplete representations that it
22 manipulated the emissions system in the Affected Vehicles
23 to turn off or limit effectiveness in normal driving
24 conditions, while purposefully withholding material facts
from Plaintiffs and the Class that contradicted these
representations.

25 715. GM had a duty to disclose that the NOx reduction system in the Affected
26 Vehicles turns off or is limited during normal driving conditions, that these Affected
27 Vehicles were defective, employed a "Defeat Device," and emitted pollutants at a
28 much higher rate than gasoline powered vehicles, and that the emissions far exceeded

1 those expected by a reasonable consumer, were non-EPA-compliant and unreliable,
2 because Plaintiffs and the other Class members relied on GM's material
3 representations that the Affected Vehicles they were purchasing were reduced
4 emission vehicles, efficient, and free from defects.

5 716. GM's conduct proximately caused injuries to Plaintiffs and the other
6 Class members.

7 717. Plaintiffs and the other Class members were injured and suffered
8 ascertainable loss, injury-in-fact, and/or actual damage as a proximate result of GM's
9 conduct in that Plaintiffs and the other Class members overpaid for their Affected
10 Vehicles and did not receive the benefit of their bargain, and their Affected Vehicles
11 have suffered a diminution in value. These injuries are the direct and natural
12 consequence of GM's misrepresentations and omissions.

13 718. GM's violations present a continuing risk to Plaintiffs as well as to the
14 general public. GM's unlawful acts and practices complained of herein affect the
15 public interest.

16 719. GM is liable to Plaintiffs and the Missouri Class for damages in amounts
17 to be proven at trial, including attorneys' fees, costs, and punitive damages, and any
18 other just and proper relief under MO. REV. STAT. § 407.025.

19 **COUNT II**

20 **BREACH OF CONTRACT** 21 **(BASED ON MISSOURI LAW)**

22 720. Plaintiffs incorporate by reference all preceding allegations as though
23 fully set forth herein.

24 721. Plaintiffs bring this Count on behalf of the Missouri Class members.

25 722. GM's misrepresentations and omissions alleged herein, including GM's
26 failure to disclose the existence of the GM Clean Diesel engine system's defect and/or
27 defective design of the emissions controls as alleged herein, caused Plaintiffs and the
28 other Class members to make their purchases or leases of their Affected Vehicles.

1 Absent those misrepresentations and omissions, Plaintiffs and the other Class
2 members would not have purchased or leased these Affected Vehicles, would not have
3 purchased or leased these Affected Vehicles at the prices they paid, and/or would have
4 purchased or leased less expensive alternative vehicles that did not contain the
5 defective GM Clean Diesel engine system and which were not marketed as including
6 such a system. Accordingly, Plaintiffs and the other Class members overpaid for their
7 Affected Vehicles and did not receive the benefit of their bargain.

8 723. Each and every sale or lease of an Affected Vehicle constitutes a contract
9 between GM and the purchaser or lessee. GM breached these contracts by selling or
10 leasing to Plaintiffs and the other Class members defective Affected Vehicles and by
11 misrepresenting or failing to disclose that the NOx reduction system in the Affected
12 Vehicles turns off or is limited during normal driving conditions and the existence of
13 the GM Clean Diesel engine system's defect and/or defective design of the emissions
14 controls, including information known to GM, rendering each Affected Vehicle non-
15 EPA-compliant, and thus less valuable than vehicles not equipped with the defective
16 GM Clean Diesel engine system.

17 724. As a direct and proximate result of GM's breach of contract, Plaintiffs
18 and the Class have been damaged in an amount to be proven at trial, which shall
19 include, but is not limited to, all compensatory damages, incidental and consequential
20 damages, and other damages allowed by law.

21 **COUNT III**

22 **FRAUDULENT CONCEALMENT** 23 **(BASED ON MISSOURI LAW)**

24 725. Plaintiffs incorporate by reference all preceding allegations as though
25 fully set forth herein.

26 726. This claim is brought on behalf of the Missouri Class.

27 727. GM intentionally concealed that the NOx reduction system in the
28 Affected Vehicles turns off or is limited during normal driving conditions, that the

1 Affected Vehicles had defective emissions controls, emitted pollutants at a higher
2 level than gasoline powered vehicles, emitted pollutants higher than a reasonable
3 consumer would expect in light of GM's advertising campaign, emitted unlawfully
4 high levels of pollutants such as NOx, and were non-compliant with EPA emission
5 requirements, or GM acted with reckless disregard for the truth, and denied Plaintiffs
6 and the other Class members information that is highly relevant to their purchasing
7 decision.

8 728. GM further affirmatively misrepresented to Plaintiffs in advertising and
9 other forms of communication, including standard and uniform material provided with
10 each car, that the Affected Vehicles it was selling had no significant defects, were
11 Earth-friendly and low emission vehicles, complied with EPA regulations, and would
12 perform and operate properly when driven in normal usage.

13 729. GM knew these representations were false when made.

14 730. The Affected Vehicles purchased or leased by Plaintiffs and the other
15 Class members were, in fact, defective, emitting pollutants at a much higher rate than
16 gasoline powered vehicles and at a much higher rate than a reasonable consumer
17 would expect in light of GM's advertising campaign, non-EPA-compliant, and
18 unreliable because the NOx reduction system in the Affected Vehicles turns off or is
19 limited during normal driving conditions.

20 731. GM had a duty to disclose that the NOx reduction system in the Affected
21 Vehicles turns off or is limited during normal driving conditions, that these Affected
22 Vehicles were defective, employed a "Defeat Device," and emitted pollutants at a
23 much higher rate than gasoline powered vehicles, and that the emissions far exceeded
24 those expected by a reasonable consumer, were non-EPA-compliant and unreliable,
25 because Plaintiffs and the other Class members relied on GM's material
26 representations that the Affected Vehicles they were purchasing were reduced
27 emission vehicles, efficient, and free from defects.

1 732. As alleged in this Complaint, at all relevant times, GM has held out the
2 Affected Vehicles to be reduced emissions, EPA-compliant vehicles. GM disclosed
3 certain details about the GM Clean Diesel engine, but nonetheless, GM intentionally
4 failed to disclose the important facts that the NOx reduction system in the Affected
5 Vehicles turns off or is limited during normal driving conditions, and that the Affected
6 Vehicles had defective emissions controls, deploy a “Defeat Device,” emitted higher
7 levels of pollutants than expected by a reasonable consumer, emitted unlawfully high
8 levels of pollutants, and were non-compliant with EPA emissions requirements,
9 making other disclosures about the emission system deceptive.

10 733. The truth about the defective emissions controls and GM’s manipulations
11 of those controls, unlawfully high emissions, the “Defeat Device,” and non-
12 compliance with EPA emissions requirements was known only to GM; Plaintiffs and
13 the Class members did not know of these facts and GM actively concealed these facts
14 from Plaintiffs and Class members.

15 734. Plaintiffs and Class members reasonably relied upon GM’s deception.
16 They had no way of knowing that GM’s representations were false and/or misleading.
17 As consumers, Plaintiffs and Class members did not, and could not, unravel GM’s
18 deception on their own. Rather, GM intended to deceive Plaintiffs and Class members
19 by concealing the true facts about the Affected Vehicle emissions.

20 735. GM also concealed and suppressed material facts concerning what is
21 evidently the true culture of GM—one characterized by an emphasis on profits and
22 sales above compliance with federal and state clean air laws and emissions regulations
23 that are meant to protect the public and consumers. It also emphasized profits and
24 sales above the trust that Plaintiffs and Class members placed in its representations.
25 Consumers buy diesel cars from GM because they feel they are clean diesel cars.
26 They do not want to be spewing noxious gases into the environment. And yet, that is
27 precisely what the Affected Vehicles are doing.
28

1 736. GM's false representations were material to consumers, because they
2 concerned the quality of the Affected Vehicles, because they concerned compliance
3 with applicable federal and state law and regulations regarding clean air and
4 emissions, and also because the representations played a significant role in the value
5 of the vehicles. As GM well knew, its customers, including Plaintiffs and Class
6 members, highly valued that the vehicles they were purchasing or leasing were fuel
7 efficient, clean diesel cars with reduced emissions, and they paid accordingly.

8 737. GM had a duty to disclose the emissions defect, defective design of the
9 emissions controls, and violations with respect to the Affected Vehicles because
10 details of the true facts were known and/or accessible only to GM, because GM had
11 exclusive knowledge as to such facts, and because GM knew these facts were not
12 known to or reasonably discoverable by Plaintiffs or Class members. GM also had a
13 duty to disclose because it made general affirmative representations about the qualities
14 of its vehicles with respect to emissions, starting with references to them as *reduced*
15 *emissions* diesel cars and as compliant with all laws in each state, which were
16 misleading, deceptive, and incomplete without the disclosure of the additional facts set
17 forth above regarding the actual emissions of its vehicles, its actual philosophy with
18 respect to compliance with federal and state clean air laws and emissions regulations,
19 and its actual practices with respect to the vehicles at issue. Having volunteered to
20 provide information to Plaintiffs and Class members, GM had the duty to disclose not
21 just the partial truth, but the entire truth. These omitted and concealed facts were
22 material because they directly impact the value of the Affected Vehicles purchased or
23 leased by Plaintiffs and Class members. Whether a manufacturer's products pollute,
24 comply with federal and state clean air laws and emissions regulations, and whether
25 that manufacturer tells the truth with respect to such compliance or non-compliance,
26 are material concerns to a consumer, including with respect to the emissions
27 certifications testing their vehicles must pass. GM represented to Plaintiffs and Class
28

1 members that they were purchasing or leasing *reduced emission* diesel vehicles, when
2 in fact, they were purchasing or leasing defective, high emission, and unlawfully high
3 emission vehicles.

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

10 739. GM has still not made full and adequate disclosures, and continues to
11 defraud Plaintiffs and Class members by concealing material information regarding
12 the emissions qualities of its referenced vehicles.

13 740. Plaintiffs and Class members were unaware of the omitted material facts
14 referenced herein, and they would not have acted as they did if they had known of the
15 concealed and/or suppressed facts, in that they would not have purchased purportedly
16 reduced emissions diesel cars manufactured by GM, and/or would not have continued
17 to drive their heavily polluting vehicles, or would have taken other affirmative steps in
18 light of the information concealed from them. Plaintiffs' and Class members' actions
19 were justified. GM was in exclusive control of the material facts, and such facts were
20 not generally known to the public, Plaintiffs, or Class members.

21 741. Because of the concealment and/or suppression of the facts, Plaintiffs and
22 Class members have sustained damage because they own vehicles that are diminished
23 in value as a result of GM's concealment of the true quality and quantity of those
24 vehicles' emissions and GM's failure to timely disclose the defect or defective design
25 of the GM Clean Diesel engine system, the actual emissions qualities and quantities of
26 GM-branded vehicles, and the serious issues engendered by GM's corporate policies.
27 Had Plaintiffs and Class members been aware of the true emissions facts with regard
28

1 to the Affected Vehicles, and the Company's disregard for the truth and compliance
 2 with applicable federal and state law and regulations, Plaintiffs and Class members
 3 who purchased or leased new or certified previously owned vehicles would have paid
 4 less for their vehicles or would not have purchased or leased them at all.

5 742. The value of Plaintiffs' and Class members' vehicles has diminished as a
 6 result of GM's fraudulent concealment of the defective emissions controls of the
 7 Affected Vehicles, of the unlawfully high emissions of the Affected Vehicles, and of
 8 the non-compliance with EPA emissions requirements, all of which has greatly
 9 tarnished the GM brand name attached to Plaintiffs' and Class members' vehicles and
 10 made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let
 11 alone pay what otherwise would have been fair market value for the vehicles.

12 743. Accordingly, GM is liable to Plaintiffs and Class members for damages in
 13 an amount to be proven at trial.

14 744. GM's acts were done wantonly, maliciously, oppressively, deliberately,
 15 with intent to defraud, and in reckless disregard of Plaintiffs' and Class members'
 16 rights and the representations that GM made to them, in order to enrich GM. GM's
 17 conduct warrants an assessment of punitive damages in an amount sufficient to deter
 18 such conduct in the future, which amount is to be determined according to proof.

19 **O. Claims Brought on Behalf of the Montana Class**

20 **COUNT I**

21 **VIOLATION OF MONTANA UNFAIR TRADE PRACTICES AND**
 22 **CONSUMER PROTECTION ACT OF 1973**
(MONT. CODE ANN. § 30-14-101, ET SEQ.)

23 745. Plaintiffs (for purposes of all Montana Class Counts) incorporate by
 24 reference all preceding allegations as though fully set forth herein.

25 746. This claim is brought only on behalf of the Montana Class members.

26 747. GM, Plaintiffs and the Montana Class are "persons" within the meaning
 27 of MONT. CODE ANN. § 30-14-102(6).
 28

1 748. Montana Class members are “consumer[s]” under MONT. CODE ANN.
2 § 30-14-102(1).

3 749. The sale or lease of the Affected Vehicles to Montana Class members
4 occurred within “trade and commerce” within the meaning of MONT. CODE ANN. § 30-
5 14-102(8), and GM committed deceptive and unfair acts in the conduct of “trade and
6 commerce” as defined in that statutory section.

7 750. The Montana Unfair Trade Practices and Consumer Protection Act
8 (“Montana CPA”) makes unlawful any “unfair methods of competition and unfair or
9 deceptive acts or practices in the conduct of any trade or commerce.” MONT. CODE
10 ANN. § 30-14-103. In the course of GM’s business, it willfully failed to disclose and
11 actively concealed that the NOx reduction system in the Affected Vehicles turns off or
12 is limited during normal driving conditions, that the Affected Vehicles emitted far
13 more pollutants than gasoline powered vehicles, that the Affected Vehicles emit far
14 more pollution than a reasonable consumer would expect in light of GM’s advertising
15 campaign, and that the Affected Vehicles emitted unlawfully high levels of pollutants,
16 including NOx, as described above. Accordingly, GM engaged in unfair methods of
17 competition and unfair or deceptive acts or practices in the conduct of any trade or
18 commerce in violation of the Montana CPA.

19 751. In purchasing or leasing the Affected Vehicles, Plaintiffs and the other
20 Class members were deceived by GM’s failure to disclose that the NOx reduction
21 system in the Affected Vehicles turns off or is limited during normal driving
22 conditions, that the emissions controls were defective, and that the Affected Vehicles
23 emitted unlawfully high levels of pollutants, including NOx, as described above.

24 752. Plaintiffs and Class members reasonably relied upon GM’s false
25 misrepresentations. They had no way of knowing that GM’s representations were
26 false and gravely misleading. As alleged herein, GM engaged in extremely
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1 sophisticated methods of deception. Plaintiffs and Class members did not, and could
2 not, unravel GM's deception on their own.

3 753. GM's actions as set forth above occurred in the conduct of trade or
4 commerce.

5 754. GM's unfair or deceptive acts or practices were likely to and did in fact
6 deceive reasonable consumers.

7 755. GM intentionally and knowingly misrepresented material facts regarding
8 the Affected Vehicles with an intent to mislead Plaintiffs and the Class.

9 756. GM knew or should have known that its conduct violated the Montana
10 CPA.

11 757. GM owed Plaintiffs and the Class a duty to disclose the truth about its
12 emissions systems manipulation because GM:

13 a. Possessed exclusive knowledge that it
14 manipulated the emissions system in the Affected Vehicles
15 to turn off or limit effectiveness in normal driving
conditions;

16 b. Intentionally concealed the foregoing from
17 Plaintiffs and the Class; and/or

18 c. Made incomplete representations that it
19 manipulated the emissions system in the Affected Vehicles
20 to turn off or limit effectiveness in normal driving
21 conditions, while purposefully withholding material facts
22 from Plaintiffs and the Class that contradicted these
23 representations.

24 758. GM had a duty to disclose that the NOx reduction system in the Affected
25 Vehicles turns off or is limited during normal driving conditions, that these Affected
26 Vehicles were defective, employed a "Defeat Device," and emitted pollutants at a
27 much higher rate than gasoline powered vehicles, and that the emissions far exceeded
28 those expected by a reasonable consumer, were non-EPA-compliant and unreliable,
because Plaintiffs and the other Class members relied on GM's material

1 representations that the Affected Vehicles they were purchasing were reduced
2 emission vehicles, efficient, and free from defects.

3 759. GM's conduct proximately caused injuries to Plaintiffs and the other
4 Class members.

5 760. Plaintiffs and the other Class members were injured and suffered
6 ascertainable loss, injury-in-fact, and/or actual damage as a proximate result of GM's
7 conduct in that Plaintiffs and the other Class members overpaid for their Affected
8 Vehicles and did not receive the benefit of their bargain, and their Affected Vehicles
9 have suffered a diminution in value. These injuries are the direct and natural
10 consequence of GM's misrepresentations and omissions.

11 761. GM's violations present a continuing risk to Plaintiffs as well as to the
12 general public. GM's unlawful acts and practices complained of herein affect the
13 public interest.

14 762. Because GM's unlawful methods, acts, and practices have caused
15 Plaintiffs and Montana Class members to suffer an ascertainable loss of money and
16 property, Plaintiffs and the Class seek from GM actual damages or \$500, whichever is
17 greater, discretionary treble damages, reasonable attorneys' fees, and any other relief
18 the Court considers necessary or proper, under MONT. CODE ANN. § 30-14-133.

19 **COUNT II**

20 **BREACH OF CONTRACT** 21 **(BASED ON MONTANA LAW)**

22 763. Plaintiffs incorporate by reference all preceding allegations as though
23 fully set forth herein.

24 764. Plaintiffs bring this Count on behalf of the Montana Class members.

25 765. GM's misrepresentations and omissions alleged herein, including, but not
26 limited to, GM's failure to disclose that the NOx reduction system in the Affected
27 Vehicles turns off or is limited during normal driving conditions caused Plaintiffs and
28 the other Class members to make their purchases or leases of their Affected Vehicles.

1 Absent those misrepresentations and omissions, Plaintiffs and the other Class
2 members would not have purchased or leased these Affected Vehicles, would not have
3 purchased or leased these Affected Vehicles at the prices they paid, and/or would have
4 purchased or leased less expensive alternative vehicles that did not contain the
5 defective GM Clean Diesel engine system and which were not marketed as including
6 such a system. Accordingly, Plaintiffs and the other Class members overpaid for their
7 Affected Vehicles and did not receive the benefit of their bargain.

8 766. Each and every sale or lease of an Affected Vehicle constitutes a contract
9 between GM and the purchaser or lessee. GM breached these contracts by, among
10 other things, selling or leasing to Plaintiffs and the other Class members defective
11 Affected Vehicles and by misrepresenting or failing to disclose that the NOx reduction
12 system in the Affected Vehicles turns off or is limited during normal driving
13 conditions, and that they were thus less valuable than vehicles not equipped with the
14 defective GM Clean Diesel engine system.

15 767. As a direct and proximate result of GM's breach of contract, Plaintiffs
16 and the Class have been damaged in an amount to be proven at trial, which shall
17 include, but is not limited to, all compensatory damages, incidental and consequential
18 damages, and other damages allowed by law.

19 **COUNT III**

20 **FRAUD BY CONCEALMENT** 21 **(BASED ON MONTANA LAW)**

22 768. Plaintiffs incorporate by reference all preceding allegations as though
23 fully set forth herein.

24 769. This claim is brought on behalf of the Montana Class.

25 770. GM intentionally concealed that the NOx reduction system in the
26 Affected Vehicles turns off or is limited during normal driving conditions, that the
27 Affected Vehicles had defective emissions controls, emitted pollutants at a higher
28 level than gasoline powered vehicles, emitted pollutants higher than a reasonable

1 consumer would expect in light of GM's advertising campaign, emitted unlawfully
2 high levels of pollutants such as NOx, and were non-compliant with EPA emission
3 requirements, or GM acted with reckless disregard for the truth, and denied Plaintiffs
4 and the other Class members information that is highly relevant to their purchasing
5 decision.

6 771. GM further affirmatively misrepresented to Plaintiffs in advertising and
7 other forms of communication, including standard and uniform material provided with
8 each car, that the Affected Vehicles it was selling had no significant defects, were
9 Earth-friendly and low emission vehicles, complied with EPA regulations, and would
10 perform and operate properly when driven in normal usage.

11 772. GM knew these representations were false when made.

12 773. The Affected Vehicles purchased or leased by Plaintiffs and the other
13 Class members were, in fact, defective, emitting pollutants at a much higher rate than
14 gasoline powered vehicles and at a much higher rate than a reasonable consumer
15 would expect in light of GM's advertising campaign, non-EPA-compliant, and
16 unreliable because the NOx reduction system in the Affected Vehicles turns off or is
17 limited during normal driving conditions.

18 774. GM had a duty to disclose that the NOx reduction system in the Affected
19 Vehicles turns off or is limited during normal driving conditions, that these Affected
20 Vehicles were defective, employed a "Defeat Device," and emitted pollutants at a
21 much higher rate than gasoline powered vehicles, and that the emissions far exceeded
22 those expected by a reasonable consumer, were non-EPA-compliant and unreliable,
23 because Plaintiffs and the other Class members relied on GM's material
24 representations that the Affected Vehicles they were purchasing were reduced
25 emission vehicles, efficient, and free from defects.

26 775. As alleged in this Complaint, at all relevant times, GM has held out the
27 Affected Vehicles to be reduced emissions, EPA-compliant vehicles. GM disclosed
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1 certain details about the GM Clean Diesel engine, but nonetheless, GM intentionally
2 failed to disclose the important facts that the NOx reduction system in the Affected
3 Vehicles turns off or is limited during normal driving conditions, and that the Affected
4 Vehicles had defective emissions controls, deploy a “Defeat Device,” emitted higher
5 levels of pollutants than expected by a reasonable consumer, emitted unlawfully high
6 levels of pollutants, and were non-compliant with EPA emissions requirements,
7 making other disclosures about the emission system deceptive.

8 776. The truth about the defective emissions controls and GM’s manipulations
9 of those controls, unlawfully high emissions, the “Defeat Device,” and non-
10 compliance with EPA emissions requirements was known only to GM; Plaintiffs and
11 the Class members did not know of these facts and GM actively concealed these facts
12 from Plaintiffs and Class members.

13 777. Plaintiffs and Class members reasonably relied upon GM’s deception.
14 They had no way of knowing that GM’s representations were false and/or misleading.
15 As consumers, Plaintiffs and Class members did not, and could not, unravel GM’s
16 deception on their own. Rather, GM intended to deceive Plaintiffs and Class members
17 by concealing the true facts about the Affected Vehicle emissions.

18 778. GM also concealed and suppressed material facts concerning what is
19 evidently the true culture of GM—one characterized by an emphasis on profits and
20 sales above compliance with federal and state clean air laws and emissions regulations
21 that are meant to protect the public and consumers. It also emphasized profits and
22 sales above the trust that Plaintiffs and Class members placed in its representations.
23 Consumers buy diesel cars from GM because they feel they are clean diesel cars.
24 They do not want to be spewing noxious gases into the environment. And yet, that is
25 precisely what the Affected Vehicles are doing.

26 779. GM’s false representations were material to consumers, because they
27 concerned the quality of the Affected Vehicles, because they concerned compliance
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1 with applicable federal and state law and regulations regarding clean air and
2 emissions, and also because the representations played a significant role in the value
3 of the vehicles. As GM well knew, its customers, including Plaintiffs and Class
4 members, highly valued that the vehicles they were purchasing or leasing were fuel
5 efficient, clean diesel cars with reduced emissions, and they paid accordingly.

6 780. GM had a duty to disclose the emissions defect, defective design of the
7 emissions controls, and violations with respect to the Affected Vehicles because
8 details of the true facts were known and/or accessible only to GM, because GM had
9 exclusive knowledge as to such facts, and because GM knew these facts were not
10 known to or reasonably discoverable by Plaintiffs or Class members. GM also had a
11 duty to disclose because it made general affirmative representations about the qualities
12 of its vehicles with respect to emissions, starting with references to them as *reduced*
13 *emissions* diesel cars and as compliant with all laws in each state, which were
14 misleading, deceptive, and incomplete without the disclosure of the additional facts set
15 forth above regarding the actual emissions of its vehicles, its actual philosophy with
16 respect to compliance with federal and state clean air laws and emissions regulations,
17 and its actual practices with respect to the vehicles at issue. Having volunteered to
18 provide information to Plaintiffs and Class members, GM had the duty to disclose not
19 just the partial truth, but the entire truth. These omitted and concealed facts were
20 material because they directly impact the value of the Affected Vehicles purchased or
21 leased by Plaintiffs and Class members. Whether a manufacturer's products pollute,
22 comply with federal and state clean air laws and emissions regulations, and whether
23 that manufacturer tells the truth with respect to such compliance or non-compliance,
24 are material concerns to a consumer, including with respect to the emissions
25 certifications testing their vehicles must pass. GM represented to Plaintiffs and Class
26 members that they were purchasing or leasing *reduced emission* diesel vehicles, when
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1 in fact, they were purchasing or leasing defective, high emission, and unlawfully high
2 emission vehicles.

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

9 782. GM has still not made full and adequate disclosures, and continues to
10 defraud Plaintiffs and Class members by concealing material information regarding
11 the emissions qualities of its referenced vehicles.

12 783. Plaintiffs and Class members were unaware of the omitted material facts
13 referenced herein, and they would not have acted as they did if they had known of the
14 concealed and/or suppressed facts, in that they would not have purchased purportedly
15 reduced emissions diesel cars manufactured by GM, and/or would not have continued
16 to drive their heavily polluting vehicles, or would have taken other affirmative steps in
17 light of the information concealed from them. Plaintiffs' and Class members' actions
18 were justified. GM was in exclusive control of the material facts, and such facts were
19 not generally known to the public, Plaintiffs, or Class members.

20 784. Because of the concealment and/or suppression of the facts, Plaintiffs and
21 Class members have sustained damage because they own vehicles that are diminished
22 in value as a result of GM's concealment of the true quality and quantity of those
23 vehicles' emissions and GM's failure to timely disclose the defect or defective design
24 of the GM Clean Diesel engine system, the actual emissions qualities and quantities of
25 GM-branded vehicles, and the serious issues engendered by GM's corporate policies.
26 Had Plaintiffs and Class members been aware of the true emissions facts with regard
27 to the Affected Vehicles, and the Company's disregard for the truth and compliance
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1 with applicable federal and state law and regulations, Plaintiffs and Class members
 2 who purchased or leased new or certified previously owned vehicles would have paid
 3 less for their vehicles or would not have purchased or leased them at all.

4 785. The value of Plaintiffs' and Class members' vehicles has diminished as a
 5 result of GM's fraudulent concealment of the defective emissions controls of the
 6 Affected Vehicles, of the unlawfully high emissions of the Affected Vehicles, and of
 7 the non-compliance with EPA emissions requirements, all of which has greatly
 8 tarnished the GM brand name attached to Plaintiffs' and Class members' vehicles and
 9 made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let
 10 alone pay what otherwise would have been fair market value for the vehicles.

11 786. Accordingly, GM is liable to Plaintiffs and Class members for damages in
 12 an amount to be proven at trial.

13 787. GM's acts were done wantonly, maliciously, oppressively, deliberately,
 14 with intent to defraud, and in reckless disregard of Plaintiffs' and Class members'
 15 rights and the representations that GM made to them, in order to enrich GM. GM's
 16 conduct warrants an assessment of punitive damages in an amount sufficient to deter
 17 such conduct in the future, which amount is to be determined according to proof.

18 **P. Claims Brought on Behalf of the Nevada Class**

19 **COUNT I**

20 **VIOLATIONS OF THE NEVADA DECEPTIVE TRADE PRACTICES ACT**
 21 **(NEV. REV. STAT. §§ 598.0903, *ET SEQ.*)**

22 788. Plaintiffs (for purposes of all Nevada Class Counts) incorporate by
 23 reference all paragraphs as though fully set forth herein.

24 789. Plaintiffs bring this Count on behalf of the Nevada Class members.

25 790. The Nevada Deceptive Trade Practices Act ("Nevada DTPA"), NEV.
 26 REV. STAT. § 598.0903, *et seq.*, prohibits deceptive trade practices. NEV. STAT.
 27 § 598.0915 provides that a person engages in a "deceptive trade practice" if, in the
 28 course of business or occupation, the person: "5. Knowingly makes a false

1 representation as to the characteristics, ingredients, uses, benefits, alterations or
2 quantities of goods or services for sale or lease or a false representation as to the
3 sponsorship, approval, status, affiliation or connection of a person therewith”; “7.
4 Represents that goods or services for sale or lease are of a particular standard, quality
5 or grade, or that such goods are of a particular style or model, if he or she knows or
6 should know that they are of another standard, quality, grade, style or model”; “9.
7 Advertises goods or services with intent not to sell or lease them as advertised”; or
8 “15. Knowingly makes any other false representation in a transaction.” Accordingly,
9 GM has violated the Nevada DTPA by knowingly representing that the Affected
10 Vehicles have uses and benefits which they do not have; representing that the Affected
11 Vehicles are of a particular standard, quality, and grade when they are not; advertising
12 the Affected Vehicles with the intent not to sell or lease them as advertised;
13 representing that the subject of a transaction involving Affected Vehicles has been
14 supplied in accordance with a previous representation when it has not; and knowingly
15 making other false representations in a transaction.

16 791. In purchasing or leasing the Affected Vehicles, Plaintiffs and the other
17 Class members were deceived by GM’s failure to disclose that the NOx reduction
18 system in the Affected Vehicles turns off or is limited during normal driving
19 conditions, that the emissions controls were defective, and that the Affected Vehicles
20 emitted unlawfully high levels of pollutants, including NOx, as described above.

21 792. Plaintiffs and Class members reasonably relied upon GM’s false
22 misrepresentations. They had no way of knowing that GM’s representations were
23 false and gravely misleading. As alleged herein, GM engaged in extremely
24 sophisticated methods of deception. Plaintiffs and Class members did not, and could
25 not, unravel GM’s deception on their own.

26 793. GM’s actions as set forth above occurred in the conduct of trade or
27 commerce.
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1 794. GM's unfair or deceptive acts or practices were likely to and did in fact
2 deceive reasonable consumers.

3 795. GM intentionally and knowingly misrepresented material facts regarding
4 the Affected Vehicles with an intent to mislead Plaintiffs and the Class.

5 796. GM knew or should have known that its conduct violated the Nevada
6 DTPA.

7 797. GM owed Plaintiffs and the Class a duty to disclose the truth about its
8 emissions systems manipulation because GM:

9 a. Possessed exclusive knowledge that it
10 manipulated the emissions system in the Affected Vehicles
11 to turn off or limit effectiveness in normal driving
conditions;

12 b. Intentionally concealed the foregoing from
13 Plaintiffs and the Class; and/or

14 c. Made incomplete representations that it
15 manipulated the emissions system in the Affected Vehicles
16 to turn off or limit effectiveness in normal driving
17 conditions, while purposefully withholding material facts
from Plaintiffs and the Class that contradicted these
representations.

18 798. GM had a duty to disclose that the NOx reduction system in the Affected
19 Vehicles turns off or is limited during normal driving conditions, and that these
20 Affected Vehicles were defective, employed a "Defeat Device," emitted pollutants at a
21 much higher rate than gasoline powered vehicles, that the emissions far exceeded
22 those expected by a reasonable consumer, were non-EPA-compliant and unreliable,
23 because Plaintiffs and the other Class members relied on GM's material
24 representations that the Affected Vehicles they were purchasing were reduced
25 emission vehicles, efficient, and free from defects.

26 799. GM's conduct proximately caused injuries to Plaintiffs and the other
27 Class members.
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1 such a system. Accordingly, Plaintiffs and the other Class members overpaid for their
2 Affected Vehicles and did not receive the benefit of their bargain.

3 806. Each and every sale or lease of an Affected Vehicle constitutes a contract
4 between GM and the purchaser or lessee. GM breached these contracts by selling or
5 leasing to Plaintiffs and the other Class members defective Affected Vehicles and by
6 misrepresenting or failing to disclose that the NOx reduction system in the Affected
7 Vehicles turns off or is limited during normal driving conditions and the existence of
8 the GM Clean Diesel engine system's defect and/or defective design of the emissions
9 controls, including information known to GM, rendering each Affected Vehicle non-
10 EPA-compliant, and thus less valuable than vehicles not equipped with the defective
11 GM Clean Diesel engine system.

12 807. As a direct and proximate result of GM's breach of contract, Plaintiffs
13 and the Class have been damaged in an amount to be proven at trial, which shall
14 include, but is not limited to, all compensatory damages, incidental and consequential
15 damages, and other damages allowed by law.

16 **COUNT III**

17 **FRAUDULENT CONCEALMENT** 18 **(BASED ON NEVADA LAW)**

19 808. Plaintiffs incorporate by reference all preceding allegations as though
20 fully set forth herein.

21 809. This claim is brought on behalf of the Nevada Class.

22 810. GM intentionally concealed that the NOx reduction system in the
23 Affected Vehicles turns off or is limited during normal driving conditions, that the
24 Affected Vehicles had defective emissions controls, emitted pollutants at a higher
25 level than gasoline powered vehicles, emitted pollutants higher than a reasonable
26 consumer would expect in light of GM's advertising campaign, emitted unlawfully
27 high levels of pollutants such as NOx, and were non-compliant with EPA emission
28 requirements, or GM acted with reckless disregard for the truth, and denied Plaintiffs

1 and the other Class members information that is highly relevant to their purchasing
2 decision.

3 811. GM further affirmatively misrepresented to Plaintiffs in advertising and
4 other forms of communication, including standard and uniform material provided with
5 each car, that the Affected Vehicles it was selling had no significant defects, were
6 Earth-friendly and low emission vehicles, complied with EPA regulations, and would
7 perform and operate properly when driven in normal usage.

8 812. GM knew these representations were false when made.

9 813. The Affected Vehicles purchased or leased by Plaintiffs and the other
10 Class members were, in fact, defective, emitting pollutants at a much higher rate than
11 gasoline powered vehicles and at a much higher rate than a reasonable consumer
12 would expect in light of GM's advertising campaign, non-EPA-compliant, and
13 unreliable because the NOx reduction system in the Affected Vehicles turns off or is
14 limited during normal driving conditions.

15 814. GM had a duty to disclose that the NOx reduction system in the Affected
16 Vehicles turns off or is limited during normal driving conditions, and that these
17 Affected Vehicles were defective, employed a "Defeat Device," emitted pollutants at a
18 much higher rate than gasoline powered vehicles, that the emissions far exceeded
19 those expected by a reasonable consumer, were non-EPA-compliant and unreliable,
20 because Plaintiffs and the other Class members relied on GM's material
21 representations that the Affected Vehicles they were purchasing were reduced
22 emission vehicles, efficient, and free from defects.

23 815. As alleged in this Complaint, at all relevant times, GM has held out the
24 Affected Vehicles to be reduced emission, EPA-compliant vehicles. GM disclosed
25 certain details about the GM Clean Diesel engine, but nonetheless, GM intentionally
26 failed to disclose the important facts that the NOx reduction system in the Affected
27 Vehicles turns off or is limited during normal driving conditions, and that the Affected
28

1 Vehicles had defective emissions controls, deployed a “Defeat Device,” emitted
2 higher levels of pollutants than expected by a reasonable consumer, emitted
3 unlawfully high levels of pollutants, and were non-compliant with EPA emissions
4 requirements, making other disclosures about the emission system deceptive.

5 816. The truth about the defective emissions controls and GM’s manipulations
6 of those controls, unlawfully high emissions, the “Defeat Device,” and non-
7 compliance with EPA emissions requirements was known only to GM; Plaintiffs and
8 the Class members did not know of these facts and GM actively concealed these facts
9 from Plaintiffs and Class members.

10 817. Plaintiffs and Class members reasonably relied upon GM’s deception.
11 They had no way of knowing that GM’s representations were false and/or misleading.
12 As consumers, Plaintiffs and Class members did not, and could not, unravel GM’s
13 deception on their own. Rather, GM intended to deceive Plaintiffs and Class members
14 by concealing the true facts about the Affected Vehicle emissions.

15 818. GM also concealed and suppressed material facts concerning what is
16 evidently the true culture of GM—one characterized by an emphasis on profits and
17 sales above compliance with federal and state clean air laws and emissions regulations
18 that are meant to protect the public and consumers. It also emphasized profits and
19 sales above the trust that Plaintiffs and Class members placed in its representations.
20 Consumers buy diesel cars from GM because they feel they are clean diesel cars.
21 They do not want to be spewing noxious gases into the environment. And yet, that is
22 precisely what the Affected Vehicles are doing.

23 819. GM’s false representations were material to consumers because they
24 concerned the quality of the Affected Vehicles, because they concerned compliance
25 with applicable federal and state law and regulations regarding clean air and
26 emissions, and also because the representations played a significant role in the value
27 of the vehicles. As GM well knew, its customers, including Plaintiffs and Class
28

1 members, highly valued that the vehicles they were purchasing or leasing were fuel
2 efficient, clean diesel cars with reduced emissions, and they paid accordingly.

3 820. GM had a duty to disclose the emissions defect, defective design of the
4 emissions controls, and violations with respect to the Affected Vehicles because
5 details of the true facts were known and/or accessible only to GM, because GM had
6 exclusive knowledge as to such facts, and because GM knew these facts were not
7 known to or reasonably discoverable by Plaintiffs or Class members. GM also had a
8 duty to disclose because it made general affirmative representations about the qualities
9 of its vehicles with respect to emissions, starting with references to them as *reduced*
10 *emissions* diesel cars and as compliant with all laws in each state, which were
11 misleading, deceptive, and incomplete without the disclosure of the additional facts set
12 forth above regarding the actual emissions of its vehicles, its actual philosophy with
13 respect to compliance with federal and state clean air laws and emissions regulations,
14 and its actual practices with respect to the vehicles at issue. Having volunteered to
15 provide information to Plaintiffs and Class members, GM had the duty to disclose not
16 just the partial truth, but the entire truth. These omitted and concealed facts were
17 material because they directly impact the value of the Affected Vehicles purchased or
18 leased by Plaintiffs and Class members. Whether a manufacturer's products pollute,
19 comply with federal and state clean air laws and emissions regulations, and whether
20 that manufacturer tells the truth with respect to such compliance or non-compliance,
21 are material concerns to a consumer, including with respect to the emissions
22 certifications testing their vehicles must pass. GM represented to Plaintiffs and Class
23 members that they were purchasing or leasing *reduced emissions* diesel vehicles, when
24 in fact, they were purchasing or leasing defective, high emission, and unlawfully high
25 emission vehicles.

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

5 822. GM has still not made full and adequate disclosures, and continues to
6 defraud Plaintiffs and Class members by concealing material information regarding
7 the emissions qualities of its referenced vehicles.

8 823. Plaintiffs and Class members were unaware of the omitted material facts
9 referenced herein, and they would not have acted as they did if they had known of the
10 concealed and/or suppressed facts, in that they would not have purchased purportedly
11 reduced emissions diesel cars manufactured by GM, and/or would not have continued
12 to drive their heavily polluting vehicles, or would have taken other affirmative steps in
13 light of the information concealed from them. Plaintiffs' and Class members' actions
14 were justified. GM was in exclusive control of the material facts, and such facts were
15 not generally known to the public, Plaintiffs, or Class members.

16 824. Because of the concealment and/or suppression of the facts, Plaintiffs and
17 Class members have sustained damage because they own vehicles that are diminished
18 in value as a result of GM's concealment of the true quality and quantity of those
19 vehicles' emissions and GM's failure to timely disclose the defect or defective design
20 of the GM Clean Diesel engine system, the actual emissions qualities and quantities of
21 GM-branded vehicles, and the serious issues engendered by GM's corporate policies.
22 Had Plaintiffs and Class members been aware of the true emissions facts with regard
23 to the Affected Vehicles, and the Company's disregard for the truth and compliance
24 with applicable federal and state law and regulations, Plaintiffs and Class members
25 who purchased or leased new or certified previously owned vehicles would have paid
26 less for their vehicles or would not have purchased or leased them at all.

1 825. The value of Plaintiffs' and Class members' vehicles has diminished as a
 2 result of GM's fraudulent concealment of the defective emissions controls of the
 3 Affected Vehicles, the unlawfully high emissions of the Affected Vehicles, and the
 4 non-compliance with EPA emissions requirements, all of which has greatly tarnished
 5 the GM brand name attached to Plaintiffs' and Class members' vehicles and made any
 6 reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay
 7 what otherwise would have been fair market value for the vehicles.

8 826. Accordingly, GM is liable to Plaintiffs and Class members for damages in
 9 an amount to be proven at trial.

10 827. GM's acts were done wantonly, maliciously, oppressively, deliberately,
 11 with intent to defraud, and in reckless disregard of Plaintiffs' and Class members'
 12 rights and the representations that GM made to them, in order to enrich GM. GM's
 13 conduct warrants an assessment of punitive damages in an amount sufficient to deter
 14 such conduct in the future, which amount is to be determined according to proof.

15 **Q. Claims Brought on Behalf of the New Jersey Class**

16 **COUNT I**

17 **VIOLATIONS OF THE NEW JERSEY CONSUMER FRAUD ACT**
 18 **(N.J.S.A. §§ 56:8-1, *ET SEQ.*)**

19 828. Plaintiffs incorporate by reference all preceding allegations as though
 20 fully set forth herein.

21 829. Plaintiffs bring this Count on behalf of New Jersey Class members.

22 830. The New Jersey Consumer Fraud Act, N.J.S.A. §§ 56:8-1, *et seq.* ("NJ
 23 CFA"), prohibits unfair or deceptive acts or practices in the conduct of any trade or
 24 commerce.

25 831. In the course of GM's business, it willfully failed to disclose and actively
 26 concealed that the NOx reduction system in the Affected Vehicles turns off or is
 27 limited during normal driving conditions, that the Affected Vehicles emitted far more
 28 pollutants than gasoline powered vehicles, that the Affected Vehicles emit far more

1 pollution than a reasonable consumer would expect in light of GM's advertising
2 campaign, and that the Affected Vehicles emitted unlawfully high levels of pollutants,
3 including NOx, as described above. Accordingly, GM engaged in unfair and
4 deceptive trade practices, including representing that the Affected Vehicles have
5 characteristics, uses, benefits, and qualities which they do not have; representing that
6 the Affected Vehicles are of a particular standard and quality when they are not;
7 advertising the Affected Vehicles with the intent not to sell them as advertised; and
8 otherwise engaging in conduct likely to deceive. Further, GM's acts and practices
9 described herein offend established public policy because the harm they cause to
10 consumers, motorists, and pedestrians outweighs any benefit associated with such
11 practices, and because GM fraudulently concealed the defective nature of the Affected
12 Vehicles from consumers.

13 832. GM's actions as set forth above occurred in the conduct of trade or
14 commerce.

15 833. GM's unfair or deceptive acts or practices were likely to and did in fact
16 deceive reasonable consumers.

17 834. GM intentionally and knowingly misrepresented material facts regarding
18 the Affected Vehicles with an intent to mislead Plaintiffs and the Class.

19 835. GM knew or should have known that its conduct violated the New Jersey
20 CFA.

21 836. GM owed Plaintiffs and the Class a duty to disclose the truth about its
22 emissions systems manipulation because GM:

23 a. Possessed exclusive knowledge that it
24 manipulated the emissions system in the Affected Vehicles
25 to turn off or limit effectiveness in normal driving
conditions;

26 b. Intentionally concealed the foregoing from
27 Plaintiffs and the Class; and/or
28

1 c. Made incomplete representations that it
2 manipulated the emissions system in the Affected Vehicles
3 to turn off or limit effectiveness in normal driving
4 conditions, while purposefully withholding material facts
 from Plaintiffs and the Class that contradicted these
 representations.

5 837. GM had a duty to disclose that the NOx reduction system in the Affected
6 Vehicles turns off or is limited during normal driving conditions, and that these
7 Affected Vehicles were defective, employed a “Defeat Device,” emitted pollutants at a
8 much higher rate than gasoline powered vehicles, that the emissions far exceeded
9 those expected by a reasonable consumer, were non-EPA-compliant and unreliable,
10 because Plaintiffs and the other Class members relied on GM’s material
11 representations that the Affected Vehicles they were purchasing were reduced
12 emission vehicles, efficient, and free from defects.

13 838. GM’s conduct proximately caused injuries to Plaintiffs and the other
14 Class members.

15 839. Plaintiffs and the other Class members were injured and suffered
16 ascertainable loss, injury-in-fact, and/or actual damage as a proximate result of GM’s
17 conduct in that Plaintiffs and the other Class members overpaid for their Affected
18 Vehicles and did not receive the benefit of their bargain, and their Affected Vehicles
19 have suffered a diminution in value. These injuries are the direct and natural
20 consequence of GM’s misrepresentations and omissions.

21 840. GM’s violations present a continuing risk to Plaintiffs as well as to the
22 general public. GM’s unlawful acts and practices complained of herein affect the
23 public interest.

24 841. Pursuant to N.J.S.A. § 56:8-20, Plaintiffs will serve the New Jersey
25 Attorney General with a copy of this Complaint within 10 days of filing.

COUNT II

**BREACH OF CONTRACT
(BASED ON NEW JERSEY LAW)**

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

843. Plaintiffs bring this Count on behalf of the New Jersey Class.

844. GM's misrepresentations and omissions alleged herein, including, but not limited to, GM's failure to disclose that the NOx reduction system in the Affected Vehicles turns off or is limited during normal driving conditions caused Plaintiffs and the other Class members to make their purchases or leases of their Affected Vehicles. Absent those misrepresentations and omissions, Plaintiffs and the other Class members would not have purchased or leased these Affected Vehicles, would not have purchased or leased these Affected Vehicles at the prices they paid, and/or would have purchased or leased less expensive alternative vehicles that did not contain the defective GM Clean Diesel engine system and which were not marketed as including such a system. Accordingly, Plaintiffs and the other Class members overpaid for their Affected Vehicles and did not receive the benefit of their bargain.

845. Each and every sale or lease of an Affected Vehicle constitutes a contract between GM and the purchaser or lessee. GM breached these contracts by, among other things, selling or leasing to Plaintiffs and the other New Jersey Class members defective Affected Vehicles and by misrepresenting or failing to disclose that the NOx reduction system in the Affected Vehicles turns off or is limited during normal driving conditions, and thus less valuable, than vehicles not equipped with the defective GM Clean Diesel engine system.

846. As a direct and proximate result of GM's breach of contract, Plaintiffs and the Class have been damaged in an amount to be proven at trial, which shall include, but is not limited to, all compensatory damages, incidental and consequential damages, and other damages allowed by law.

COUNT III**FRAUDULENT CONCEALMENT
(BASED ON NEW JERSEY LAW)**

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

848. Plaintiffs bring this Count on behalf of the New Jersey Class.

849. GM intentionally concealed that the NOx reduction system in the Affected Vehicles turns off or is limited during normal driving conditions, that the Affected Vehicles had defective emissions controls, emitted pollutants at a higher level than gasoline powered vehicles, emitted pollutants higher than a reasonable consumer would expect in light of GM's advertising campaign, emitted unlawfully high levels of pollutants such as NOx, and were non-compliant with EPA emission requirements, or GM acted with reckless disregard for the truth, and denied Plaintiffs and the other Class members information that is highly relevant to their purchasing decision.

850. GM further affirmatively misrepresented to Plaintiffs in advertising and other forms of communication, including standard and uniform material provided with each car, that the Affected Vehicles it was selling had no significant defects, were Earth-friendly and low emission vehicles, complied with EPA regulations, and would perform and operate properly when driven in normal usage.

851. GM knew these representations were false when made.

852. The Affected Vehicles purchased or leased by Plaintiffs and the other Class members were, in fact, defective, emitting pollutants at a much higher rate than gasoline powered vehicles and at a much higher rate than a reasonable consumer would expect in light of GM's advertising campaign, non-EPA-compliant, and unreliable because the NOx reduction system in the Affected Vehicles turns off or is limited during normal driving conditions.

1 853. GM had a duty to disclose that the NOx reduction system in the Affected
2 Vehicles turns off or is limited during normal driving conditions, and that these
3 Affected Vehicles were defective, employed a “Defeat Device,” emitted pollutants at a
4 much higher rate than gasoline powered vehicles, that the emissions far exceeded
5 those expected by a reasonable consumer, were non-EPA-compliant and unreliable,
6 because Plaintiffs and the other Class members relied on GM’s material
7 representations that the Affected Vehicles they were purchasing were reduced
8 emission vehicles, efficient, and free from defects.

9 854. As alleged in this Complaint, at all relevant times, GM has held out the
10 Affected Vehicles to be reduced emissions, EPA-compliant vehicles. GM disclosed
11 certain details about the GM Clean Diesel engine, but nonetheless, GM intentionally
12 failed to disclose the important facts that the NOx reduction system in the Affected
13 Vehicles turns off or is limited during normal driving conditions, and that the Affected
14 Vehicles had defective emissions controls, deploy a “Defeat Device,” emitted higher
15 levels of pollutants than expected by a reasonable consumer, emitted unlawfully high
16 levels of pollutants, and were non-compliant with EPA emissions requirements,
17 making other disclosures about the emission system deceptive.

18 855. The truth about the defective emissions controls and GM’s manipulations
19 of those controls, unlawfully high emissions, the “Defeat Device,” and non-
20 compliance with EPA emissions requirements was known only to GM; Plaintiffs and
21 the Class members did not know of these facts and GM actively concealed these facts
22 from Plaintiffs and Class members.

23 856. Plaintiffs and Class members reasonably relied upon GM’s deception.
24 They had no way of knowing that GM’s representations were false and/or misleading.
25 As consumers, Plaintiffs and Class members did not, and could not, unravel GM’s
26 deception on their own. Rather, GM intended to deceive Plaintiffs and Class members
27 by concealing the true facts about the Affected Vehicle emissions.
28

1 857. GM also concealed and suppressed material facts concerning what is
2 evidently the true culture of GM—one characterized by an emphasis on profits and
3 sales above compliance with federal and state clean air laws and emissions regulations
4 that are meant to protect the public and consumers. It also emphasized profits and
5 sales above the trust that Plaintiffs and Class members placed in its representations.
6 Consumers buy diesel cars from GM because they feel they are clean diesel cars.
7 They do not want to be spewing noxious gases into the environment. And yet, that is
8 precisely what the Affected Vehicles are doing.

9 858. GM's false representations were material to consumers, because they
10 concerned the quality of the Affected Vehicles, because they concerned compliance
11 with applicable federal and state law and regulations regarding clean air and
12 emissions, and also because the representations played a significant role in the value
13 of the vehicles. As GM well knew, its customers, including Plaintiffs and Class
14 members, highly valued that the vehicles they were purchasing or leasing were fuel
15 efficient, clean diesel cars with reduced emissions, and they paid accordingly.

16 859. GM had a duty to disclose the emissions defect, defective design of the
17 emissions controls, and violations with respect to the Affected Vehicles because
18 details of the true facts were known and/or accessible only to GM, because GM had
19 exclusive knowledge as to such facts, and because GM knew these facts were not
20 known to or reasonably discoverable by Plaintiffs or Class members. GM also had a
21 duty to disclose because it made general affirmative representations about the qualities
22 of its vehicles with respect to emissions, starting with references to them as *reduced*
23 *emissions* diesel cars and as compliant with all laws in each state, which were
24 misleading, deceptive, and incomplete without the disclosure of the additional facts set
25 forth above regarding the actual emissions of its vehicles, its actual philosophy with
26 respect to compliance with federal and state clean air laws and emissions regulations,
27 and its actual practices with respect to the vehicles at issue. Having volunteered to
28

1 provide information to Plaintiffs and Class members, GM had the duty to disclose not
2 just the partial truth, but the entire truth. These omitted and concealed facts were
3 material because they directly impact the value of the Affected Vehicles purchased or
4 leased by Plaintiffs and Class members. Whether a manufacturer's products pollute,
5 comply with federal and state clean air laws and emissions regulations, and whether
6 that manufacturer tells the truth with respect to such compliance or non-compliance,
7 are material concerns to a consumer, including with respect to the emissions
8 certifications testing their vehicles must pass. GM represented to Plaintiffs and Class
9 members that they were purchasing or leasing *reduced emission* diesel vehicles, when
10 in fact, they were purchasing or leasing defective, high emission, and unlawfully high
11 emission vehicles.

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

18 861. GM has still not made full and adequate disclosures, and continues to
19 defraud Plaintiffs and Class members by concealing material information regarding
20 the emissions qualities of its referenced vehicles.

21 862. Plaintiffs and Class members were unaware of the omitted material facts
22 referenced herein, and they would not have acted as they did if they had known of the
23 concealed and/or suppressed facts, in that they would not have purchased purportedly
24 reduced emissions diesel cars manufactured by GM, and/or would not have continued
25 to drive their heavily polluting vehicles, or would have taken other affirmative steps in
26 light of the information concealed from them. Plaintiffs' and Class members' actions
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28

1 were justified. GM was in exclusive control of the material facts, and such facts were
2 not generally known to the public, Plaintiffs, or Class members.

3 863. Because of the concealment and/or suppression of the facts, Plaintiffs and
4 Class members have sustained damage because they own vehicles that are diminished
5 in value as a result of GM's concealment of the true quality and quantity of those
6 vehicles' emissions and GM's failure to timely disclose the defect or defective design
7 of the GM Clean Diesel engine system, the actual emissions qualities and quantities of
8 GM-branded vehicles, and the serious issues engendered by GM's corporate policies.
9 Had Plaintiffs and Class members been aware of the true emissions facts with regard
10 to the Affected Vehicles, and the Company's disregard for the truth and compliance
11 with applicable federal and state law and regulations, Plaintiffs and Class members
12 who purchased or leased new or certified previously owned vehicles would have paid
13 less for their vehicles or would not have purchased or leased them at all.

14 864. The value of Plaintiffs' and Class members' vehicles has diminished as a
15 result of GM's fraudulent concealment of the defective emissions controls of the
16 Affected Vehicles, and of the unlawfully high emissions of the Affected Vehicles, and
17 of the non-compliance with EPA emissions requirements, all of which has greatly
18 tarnished the GM brand name attached to Plaintiffs' and Class members' vehicles and
19 made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let
20 alone pay what otherwise would have been fair market value for the vehicles.

21 865. Accordingly, GM is liable to Plaintiffs and Class members for damages in
22 an amount to be proven at trial.

23 866. GM's acts were done wantonly, maliciously, oppressively, deliberately,
24 with intent to defraud, and in reckless disregard of Plaintiffs' and Class members'
25 rights and the representations that GM made to them, in order to enrich GM. GM's
26 conduct warrants an assessment of punitive damages in an amount sufficient to deter
27 such conduct in the future, which amount is to be determined according to proof.
28

R. Claims Brought on Behalf of the New York Class

COUNT I

**VIOLATIONS OF NEW YORK GENERAL BUSINESS LAW § 349
(N.Y. GEN. BUS. LAW § 349)**

867. Plaintiffs (for purposes of all New York Class Counts) incorporate by reference all preceding allegations as though fully set forth herein.

868. This claim is brought on behalf of the New York Class members.

869. New York's General Business Law § 349 makes unlawful "[d]eceptive acts or practices in the conduct of any business, trade or commerce." In the course of GM's business, it willfully failed to disclose and actively concealed that the NOx reduction system in the Affected Vehicles turns off or is limited during normal driving conditions, that the Affected Vehicles emitted far more pollutants than gasoline powered vehicles, that the Affected Vehicles emit far more pollution than a reasonable consumer would expect in light of GM's advertising campaign, and that the Affected Vehicles emitted unlawfully high levels of pollutants, including NOx, as described above. The challenged act or practice was "consumer-oriented;" (2) that the act or practice was misleading in a material way; and (3) Plaintiffs suffered injury as a result of the deceptive act or practice. Accordingly, GM has violated New York General Business Law § 349.

870. In purchasing or leasing the Affected Vehicles, Plaintiffs and the other Class members were deceived by GM's failure to disclose that the NOx reduction system in the Affected Vehicles turns off or is limited during normal driving conditions, that the emissions controls were defective, and that the Affected Vehicles emitted unlawfully high levels of pollutants, including NOx, as described above.

871. Plaintiffs and Class members reasonably relied upon GM's false misrepresentations. They had no way of knowing that GM's representations were false and gravely misleading. As alleged herein, GM engaged in extremely

1 sophisticated methods of deception. Plaintiffs and Class members did not, and could
2 not, unravel GM's deception on their own.

3 872. GM's actions as set forth above occurred in the conduct of trade or
4 commerce.

5 873. GM's unfair or deceptive acts or practices were likely to and did in fact
6 deceive reasonable consumers.

7 874. GM intentionally and knowingly misrepresented material facts regarding
8 the Affected Vehicles with an intent to mislead Plaintiffs and the Class.

9 875. GM knew or should have known that its conduct violated New York
10 General Business Law § 349.

11 876. GM owed Plaintiffs and the Class a duty to disclose the truth about its
12 emissions systems manipulation because GM:

13 a. Possessed exclusive knowledge that it
14 manipulated the emissions system in the Affected Vehicles
15 to turn off or limit effectiveness in normal driving
conditions;

16 b. Intentionally concealed the foregoing from
17 Plaintiffs and the Class; and/or

18 c. Made incomplete representations that it
19 manipulated the emissions system in the Affected Vehicles
20 to turn off or limit effectiveness in normal driving
21 conditions, while purposefully withholding material facts
22 from Plaintiffs and the Class that contradicted these
23 representations.

24 877. GM had a duty to disclose that the NOx reduction system in the Affected
25 Vehicles turns off or is limited during normal driving conditions, and that these
26 Affected Vehicles were defective, employed a "Defeat Device," emitted pollutants at a
27 much higher rate than gasoline powered vehicles, that the emissions far exceeded
28 those expected by a reasonable consumer, were non-EPA-compliant and unreliable,
because Plaintiffs and the other Class members relied on GM's material

1 representations that the Affected Vehicles they were purchasing were reduced
2 emission vehicles, efficient, and free from defects.

3 878. GM's conduct proximately caused injuries to Plaintiffs and the other
4 Class members.

5 879. Plaintiffs and the other Class members were injured and suffered
6 ascertainable loss, injury-in-fact, and/or actual damage as a proximate result of GM's
7 conduct in that Plaintiffs and the other Class members overpaid for their Affected
8 Vehicles and did not receive the benefit of their bargain, and their Affected Vehicles
9 have suffered a diminution in value. These injuries are the direct and natural
10 consequence of GM's misrepresentations and omissions.

11 880. GM's violations present a continuing risk to Plaintiffs as well as to the
12 general public. GM's unlawful acts and practices complained of herein affect the
13 public interest.

14 881. Pursuant to N.Y. GEN. BUS. LAW § 349(h), Plaintiffs and each Class
15 member may recover actual damages, in addition to three times actual damages up to
16 \$1,000 for GM's willful and knowing violation of N.Y. GEN. BUS. LAW § 349.

17 **COUNT II**

18 **VIOLATIONS OF NEW YORK GENERAL BUSINESS LAW § 350** 19 **(N.Y. GEN. BUS. LAW § 350)**

20 882. Plaintiffs incorporate by reference all paragraphs as though fully set forth
21 herein.

22 883. This claim is brought on behalf of the New York Class.

23 884. New York's General Business Law § 350 makes unlawful "[f]alse
24 advertising in the conduct of any business, trade or commerce[.]" False advertising
25 includes "advertising, including labeling, of a commodity ... if such advertising is
26 misleading in a material respect," taking into account "the extent to which the
27 advertising fails to reveal facts material in the light of ... representations [made] with
28 respect to the commodity...." N.Y. GEN. BUS. LAW § 350-a.

1 885. GM caused to be made or disseminated throughout New York, through
2 advertising, marketing, and other publications, statements that were untrue or
3 misleading, and which were known, or which by the exercise of reasonable care
4 should have been known to GM, to be untrue and misleading to consumers, including
5 Plaintiffs and the other Class members.

6 886. GM has violated N.Y. GEN. BUS. LAW § 350 because the
7 misrepresentations and omissions alleged herein, including, but not limited to, GM's
8 failure to disclose that the NOx reduction system in the Affected Vehicles turns off or
9 is limited during normal driving conditions.

10 887. In purchasing or leasing the Affected Vehicles, Plaintiffs and the other
11 Class members were deceived by GM's failure to disclose that the NOx reduction
12 system in the Affected Vehicles turns off or is limited during normal driving
13 conditions, that the emissions controls were defective, and that the Affected Vehicles
14 emitted unlawfully high levels of pollutants, including NOx, as described above.

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

20 889. GM's actions as set forth above occurred in the conduct of trade or
21 commerce.

22 890. GM's unfair or deceptive acts or practices were likely to and did in fact
23 deceive reasonable consumers.

24 891. GM intentionally and knowingly misrepresented material facts regarding
25 the Affected Vehicles with an intent to mislead Plaintiffs and the Class.

26 892. GM knew or should have known that its conduct violated New York
27 General Business Law § 350.
28

1 893. GM owed Plaintiffs and the Class a duty to disclose the truth about its
2 emissions systems manipulation because GM:

3 a. Possessed exclusive knowledge that it
4 manipulated the emissions system in the Affected Vehicles
5 to turn off or limit effectiveness in normal driving
conditions;

6 b. Intentionally concealed the foregoing from
7 Plaintiffs and the Class; and/or

8 c. Made incomplete representations that it
9 manipulated the emissions system in the Affected Vehicles
10 to turn off or limit effectiveness in normal driving
11 conditions, while purposefully withholding material facts
from Plaintiffs and the Class that contradicted these
representations.

12 894. GM had a duty to disclose that the NOx reduction system in the Affected
13 Vehicles turns off or is limited during normal driving conditions, and that these
14 Affected Vehicles were defective, employed a “Defeat Device,” emitted pollutants at a
15 much higher rate than gasoline powered vehicles, that the emissions far exceeded
16 those expected by a reasonable consumer, were non-EPA-compliant and unreliable,
17 because Plaintiffs and the other Class members relied on GM’s material
18 representations that the Affected Vehicles they were purchasing were reduced
19 emission vehicles, efficient, and free from defects.

20 895. GM’s conduct proximately caused injuries to Plaintiffs and the other
21 Class members.

22 896. Plaintiffs and the other Class members were injured and suffered
23 ascertainable loss, injury-in-fact, and/or actual damage as a proximate result of GM’s
24 conduct in that Plaintiffs and the other Class members overpaid for their Affected
25 Vehicles and did not receive the benefit of their bargain, and their Affected Vehicles
26 have suffered a diminution in value. These injuries are the direct and natural
27 consequence of GM’s misrepresentations and omissions.
28

1 Vehicles turns off or is limited during normal driving conditions and the existence of
2 the GM Clean Diesel engine system's defect and/or defective design of the emissions
3 controls, including information known to GM, rendering each Affected Vehicle non-
4 EPA-compliant, and thus less valuable than vehicles not equipped with the defective
5 GM Clean Diesel engine system.

6 903. As a direct and proximate result of GM's breach of contract, Plaintiffs
7 and the Class have been damaged in an amount to be proven at trial, which shall
8 include, but is not limited to, all compensatory damages, incidental and consequential
9 damages, and other damages allowed by law.

10 **COUNT IV**

11 **FRAUDULENT CONCEALMENT** 12 **(BASED ON NEW YORK LAW)**

13 904. Plaintiffs incorporate by reference all preceding allegations as though
14 fully set forth herein.

15 905. This claim is brought on behalf of the New York Class.

16 906. GM intentionally concealed that the NOx reduction system in the
17 Affected Vehicles turns off or is limited during normal driving conditions, that the
18 Affected Vehicles had defective emissions controls, emitted pollutants at a higher
19 level than gasoline powered vehicles, emitted pollutants higher than a reasonable
20 consumer would expect in light of GM's advertising campaign, emitted unlawfully
21 high levels of pollutants such as NOx, and were non-compliant with EPA emission
22 requirements, or GM acted with reckless disregard for the truth, and denied Plaintiffs
23 and the other Class members information that is highly relevant to their purchasing
24 decision.

25 907. GM further affirmatively misrepresented to Plaintiffs in advertising and
26 other forms of communication, including standard and uniform material provided with
27 each car, that the Affected Vehicles it was selling had no significant defects, were
28

1 Earth-friendly and low emission vehicles, complied with EPA regulations, and would
2 perform and operate properly when driven in normal usage.

3 908. GM knew these representations were false when made.

4 909. The Affected Vehicles purchased or leased by Plaintiffs and the other
5 Class members were, in fact, defective, emitting pollutants at a much higher rate than
6 gasoline powered vehicles and at a much higher rate than a reasonable consumer
7 would expect in light of GM's advertising campaign, non-EPA-compliant, and
8 unreliable because the NOx reduction system in the Affected Vehicles turns off or is
9 limited during normal driving conditions.

10 910. GM had a duty to disclose that the NOx reduction system in the Affected
11 Vehicles turns off or is limited during normal driving conditions, and that these
12 Affected Vehicles were defective, employed a "Defeat Device," emitted pollutants at a
13 much higher rate than gasoline powered vehicles, that the emissions far exceeded
14 those expected by a reasonable consumer, were non-EPA-compliant and unreliable,
15 because Plaintiffs and the other Class members relied on GM's material
16 representations that the Affected Vehicles they were purchasing were reduced
17 emission vehicles, efficient, and free from defects.

18 911. As alleged in this Complaint, at all relevant times, GM has held out the
19 Affected Vehicles to be reduced emission, EPA-compliant vehicles. GM disclosed
20 certain details about the GM Clean Diesel engine, but nonetheless, GM intentionally
21 failed to disclose the important facts that the NOx reduction system in the Affected
22 Vehicles turns off or is limited during normal driving conditions, and that the Affected
23 Vehicles had defective emissions controls, deployed a "Defeat Device," emitted
24 higher levels of pollutants than expected by a reasonable consumer, emitted
25 unlawfully high levels of pollutants, and were non-compliant with EPA emissions
26 requirements, making other disclosures about the emission system deceptive.

1 912. The truth about the defective emissions controls and GM's manipulations
2 of those controls, unlawfully high emissions, the "Defeat Device," and non-
3 compliance with EPA emissions requirements was known only to GM; Plaintiffs and
4 the Class members did not know of these facts and GM actively concealed these facts
5 from Plaintiffs and Class members.

6 913. Plaintiffs and Class members reasonably relied upon GM's deception.
7 They had no way of knowing that GM's representations were false and/or misleading.
8 As consumers, Plaintiffs and Class members did not, and could not, unravel GM's
9 deception on their own. Rather, GM intended to deceive Plaintiffs and Class members
10 by concealing the true facts about the Affected Vehicle emissions.

11 914. GM also concealed and suppressed material facts concerning what is
12 evidently the true culture of GM—one characterized by an emphasis on profits and
13 sales above compliance with federal and state clean air laws and emissions regulations
14 that are meant to protect the public and consumers. It also emphasized profits and
15 sales above the trust that Plaintiffs and Class members placed in its representations.
16 Consumers buy diesel cars from GM because they feel they are clean diesel cars.
17 They do not want to be spewing noxious gases into the environment. And yet, that is
18 precisely what the Affected Vehicles are doing.

19 915. GM's false representations were material to consumers because they
20 concerned the quality of the Affected Vehicles, because they concerned compliance
21 with applicable federal and state law and regulations regarding clean air and
22 emissions, and also because the representations played a significant role in the value
23 of the vehicles. As GM well knew, its customers, including Plaintiffs and Class
24 members, highly valued that the vehicles they were purchasing or leasing were fuel
25 efficient, clean diesel cars with reduced emissions, and they paid accordingly.

26 916. GM had a duty to disclose the emissions defect, defective design of the
27 emissions controls, and violations with respect to the Affected Vehicles because
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1 details of the true facts were known and/or accessible only to GM, because GM had
2 exclusive knowledge as to such facts, and because GM knew these facts were not
3 known to or reasonably discoverable by Plaintiffs or Class members. GM also had a
4 duty to disclose because it made general affirmative representations about the qualities
5 of its vehicles with respect to emissions, starting with references to them as *reduced*
6 *emissions* diesel cars and as compliant with all laws in each state, which were
7 misleading, deceptive, and incomplete without the disclosure of the additional facts set
8 forth above regarding the actual emissions of its vehicles, its actual philosophy with
9 respect to compliance with federal and state clean air laws and emissions regulations,
10 and its actual practices with respect to the vehicles at issue. Having volunteered to
11 provide information to Plaintiffs and Class members, GM had the duty to disclose not
12 just the partial truth, but the entire truth. These omitted and concealed facts were
13 material because they directly impact the value of the Affected Vehicles purchased or
14 leased by Plaintiffs and Class members. Whether a manufacturer's products pollute,
15 comply with federal and state clean air laws and emissions regulations, and whether
16 that manufacturer tells the truth with respect to such compliance or non-compliance,
17 are material concerns to a consumer, including with respect to the emissions
18 certifications testing their vehicles must pass. GM represented to Plaintiffs and Class
19 members that they were purchasing or leasing *reduced emissions* diesel vehicles, when
20 in fact, they were purchasing or leasing defective, high emission, and unlawfully high
21 emission vehicles.

22 917. GM actively concealed and/or suppressed these material facts, in whole
23 or in part, to pad and protect its profits and to avoid the perception that its vehicles
24 were not clean diesel vehicles and did not or could not comply with federal and state
25 laws governing clean air and emissions, which perception would hurt the brand's
26 image and cost GM money, and it did so at the expense of Plaintiffs and Class
27 members.
28

1 918. GM has still not made full and adequate disclosures, and continues to
2 defraud Plaintiffs and Class members by concealing material information regarding
3 the emissions qualities of its referenced vehicles.

4 919. Plaintiffs and Class members were unaware of the omitted material facts
5 referenced herein, and they would not have acted as they did if they had known of the
6 concealed and/or suppressed facts, in that they would not have purchased purportedly
7 reduced emissions diesel cars manufactured by GM, and/or would not have continued
8 to drive their heavily polluting vehicles, or would have taken other affirmative steps in
9 light of the information concealed from them. Plaintiffs' and Class members' actions
10 were justified. GM was in exclusive control of the material facts, and such facts were
11 not generally known to the public, Plaintiffs, or Class members.

12 920. Because of the concealment and/or suppression of the facts, Plaintiffs and
13 Class members have sustained damage because they own vehicles that are diminished
14 in value as a result of GM's concealment of the true quality and quantity of those
15 vehicles' emissions and GM's failure to timely disclose the defect or defective design
16 of the GM Clean Diesel engine system, the actual emissions qualities and quantities of
17 GM-branded vehicles, and the serious issues engendered by GM's corporate policies.
18 Had Plaintiffs and Class members been aware of the true emissions facts with regard
19 to the Affected Vehicles, and the Company's disregard for the truth and compliance
20 with applicable federal and state law and regulations, Plaintiffs and Class members
21 who purchased or leased new or certified previously owned vehicles would have paid
22 less for their vehicles or would not have purchased or leased them at all.

23 921. The value of Plaintiffs' and Class members' vehicles has diminished as a
24 result of GM's fraudulent concealment of the defective emissions controls of the
25 Affected Vehicles, the unlawfully high emissions of the Affected Vehicles, and the
26 non-compliance with EPA emissions requirements, all of which has greatly tarnished
27 the GM brand name attached to Plaintiffs' and Class members' vehicles and made any
28

1 reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay
2 what otherwise would have been fair market value for the vehicles.

3 922. Accordingly, GM is liable to Plaintiffs and Class members for damages in
4 an amount to be proven at trial.

5 923. GM's acts were done wantonly, maliciously, oppressively, deliberately,
6 with intent to defraud, and in reckless disregard of Plaintiffs' and Class members'
7 rights and the representations that GM made to them, in order to enrich GM. GM's
8 conduct warrants an assessment of punitive damages in an amount sufficient to deter
9 such conduct in the future, which amount is to be determined according to proof.

10 **S. Claims Brought on Behalf of the North Carolina Class**

11 **COUNT I**

12 **VIOLATIONS OF THE NORTH CAROLINA UNFAIR AND DECEPTIVE** 13 **ACTS** 14 **AND PRACTICES ACT** 15 **(N.C. GEN. STAT. §§ 75-1.1, *ET SEQ.*)**

16 924. Plaintiffs (for purposes of all North Carolina Class Counts) incorporate
17 by reference all paragraphs as though fully set forth herein.

18 925. Plaintiffs bring this Count on behalf of the North Carolina Class
19 members.

20 926. GM engaged in "commerce" within the meaning of N.C. GEN. STAT. §
21 75-1.1(b).

22 927. The North Carolina UDTPA broadly prohibits "unfair or deceptive acts or
23 practices in or affecting commerce." N.C. GEN. STAT. § 75-1.1(a). In the course of
24 GM's business, it willfully failed to disclose and actively concealed that the NOx
25 reduction system in the Affected Vehicles turns off or is limited during normal driving
26 conditions, that the Affected Vehicles emitted far more pollutants than gasoline
27 powered vehicles, that the Affected Vehicles emit far more pollution than a reasonable
28 consumer would expect in light of GM's advertising campaign, and that the Affected
Vehicles emitted unlawfully high levels of pollutants, including NOx, as described

1 above. Accordingly, GM engaged in unfair and deceptive trade practices because (1)
2 had the capacity or tendency to deceive, (2) offends public policy, (3) is immoral,
3 unethical, oppressive or unscrupulous, or (4) causes substantial injury to consumers.

4 928. In purchasing or leasing the Affected Vehicles, Plaintiffs and the other
5 Class members were deceived by GM's failure to disclose that the NOx reduction
6 system in the Affected Vehicles turns off or is limited during normal driving
7 conditions, that the emissions controls were defective, and that the Affected Vehicles
8 emitted unlawfully high levels of pollutants, including NOx, as described above.

9 929. Plaintiffs and Class members reasonably relied upon GM's false
10 misrepresentations. They had no way of knowing that GM's representations were
11 false and gravely misleading. As alleged herein, GM engaged in extremely
12 sophisticated methods of deception. Plaintiffs and Class members did not, and could
13 not, unravel GM's deception on their own.

14 930. GM's actions as set forth above occurred in the conduct of trade or
15 commerce.

16 931. GM's unfair or deceptive acts or practices were likely to and did in fact
17 deceive reasonable consumers.

18 932. GM intentionally and knowingly misrepresented material facts regarding
19 the Affected Vehicles with an intent to mislead Plaintiffs and the Class.

20 933. GM knew or should have known that its conduct violated the North
21 Carolina UDTPA.

22 934. GM owed Plaintiffs and the Class a duty to disclose the truth about its
23 emissions systems manipulation because GM:

24 a. Possessed exclusive knowledge that it
25 manipulated the emissions system in the Affected Vehicles
26 to turn off or limit effectiveness in normal driving
conditions;

27 b. Intentionally concealed the foregoing from
28 Plaintiffs and the Class; and/or

1 c. Made incomplete representations that it
2 manipulated the emissions system in the Affected Vehicles
3 to turn off or limit effectiveness in normal driving
4 conditions, while purposefully withholding material facts
 from Plaintiffs and the Class that contradicted these
 representations.

5 935. GM had a duty to disclose that the NOx reduction system in the Affected
6 Vehicles turns off or is limited during normal driving conditions, and that these
7 Affected Vehicles were defective, employed a “Defeat Device,” emitted pollutants at a
8 much higher rate than gasoline powered vehicles, that the emissions far exceeded
9 those expected by a reasonable consumer, were non-EPA-compliant and unreliable,
10 because Plaintiffs and the other Class members relied on GM’s material
11 representations that the Affected Vehicles they were purchasing were reduced
12 emission vehicles, efficient, and free from defects.

13 936. GM’s conduct proximately caused injuries to Plaintiffs and the other
14 Class members.

15 937. Plaintiffs and the other Class members were injured and suffered
16 ascertainable loss, injury-in-fact, and/or actual damage as a proximate result of GM’s
17 conduct in that Plaintiffs and the other Class members overpaid for their Affected
18 Vehicles and did not receive the benefit of their bargain, and their Affected Vehicles
19 have suffered a diminution in value. These injuries are the direct and natural
20 consequence of GM’s misrepresentations and omissions.

21 938. GM’s violations present a continuing risk to Plaintiffs as well as to the
22 general public. GM’s unlawful acts and practices complained of herein affect the
23 public interest.

24 939. Plaintiffs seek an order for treble their actual damages, costs of Court,
25 attorney’s fees, and any other just and proper relief available under the North Carolina
26 Act, N.C. GEN. STAT. § 75-16.

1 EPA-compliant, and thus less valuable than vehicles not equipped with the defective
2 GM Clean Diesel engine system.

3 945. As a direct and proximate result of GM's breach of contract, Plaintiffs
4 and the Class have been damaged in an amount to be proven at trial, which shall
5 include, but is not limited to, all compensatory damages, incidental and consequential
6 damages, and other damages allowed by law.

7 **COUNT III**

8 **FRAUDULENT CONCEALMENT** 9 **(BASED ON NORTH CAROLINA LAW)**

10 946. Plaintiffs incorporate by reference all preceding allegations as though
11 fully set forth herein.

12 947. This claim is brought on behalf of the North Carolina Class.

13 948. GM intentionally concealed that the NOx reduction system in the
14 Affected Vehicles turns off or is limited during normal driving conditions, that the
15 Affected Vehicles had defective emissions controls, emitted pollutants at a higher
16 level than gasoline powered vehicles, emitted pollutants higher than a reasonable
17 consumer would expect in light of GM's advertising campaign, emitted unlawfully
18 high levels of pollutants such as NOx, and were non-compliant with EPA emission
19 requirements, or GM acted with reckless disregard for the truth, and denied Plaintiffs
20 and the other Class members information that is highly relevant to their purchasing
21 decision.

22 949. GM further affirmatively misrepresented to Plaintiffs in advertising and
23 other forms of communication, including standard and uniform material provided with
24 each car, that the Affected Vehicles it was selling had no significant defects, were
25 Earth-friendly and low emission vehicles, complied with EPA regulations, and would
26 perform and operate properly when driven in normal usage.

27 950. GM knew these representations were false when made.
28

1 951. The Affected Vehicles purchased or leased by Plaintiffs and the other
2 Class members were, in fact, defective, emitting pollutants at a much higher rate than
3 gasoline powered vehicles and at a much higher rate than a reasonable consumer
4 would expect in light of GM's advertising campaign, non-EPA-compliant, and
5 unreliable because the NOx reduction system in the Affected Vehicles turns off or is
6 limited during normal driving conditions.

7 952. GM had a duty to disclose that the NOx reduction system in the Affected
8 Vehicles turns off or is limited during normal driving conditions, and that these
9 Affected Vehicles were defective, employed a "Defeat Device," emitted pollutants at a
10 much higher rate than gasoline powered vehicles, that the emissions far exceeded
11 those expected by a reasonable consumer, were non-EPA-compliant and unreliable,
12 because Plaintiffs and the other Class members relied on GM's material
13 representations that the Affected Vehicles they were purchasing were reduced
14 emission vehicles, efficient, and free from defects.

15 953. As alleged in this Complaint, at all relevant times, GM has held out the
16 Affected Vehicles to be reduced emission, EPA-compliant vehicles. GM disclosed
17 certain details about the GM Clean Diesel engine, but nonetheless, GM intentionally
18 failed to disclose the important facts that the NOx reduction system in the Affected
19 Vehicles turns off or is limited during normal driving conditions, and that the Affected
20 Vehicles had defective emissions controls, deployed a "Defeat Device," emitted
21 higher levels of pollutants than expected by a reasonable consumer, emitted
22 unlawfully high levels of pollutants, and were non-compliant with EPA emissions
23 requirements, making other disclosures about the emission system deceptive.

24 954. The truth about the defective emissions controls and GM's manipulations
25 of those controls, unlawfully high emissions, the "Defeat Device," and non-
26 compliance with EPA emissions requirements was known only to GM; Plaintiffs and
27
28

1 the Class members did not know of these facts and GM actively concealed these facts
2 from Plaintiffs and Class members.

3 955. Plaintiffs and Class members reasonably relied upon GM's deception.
4 They had no way of knowing that GM's representations were false and/or misleading.
5 As consumers, Plaintiffs and Class members did not, and could not, unravel GM's
6 deception on their own. Rather, GM intended to deceive Plaintiffs and Class members
7 by concealing the true facts about the Affected Vehicle emissions.

8 956. GM also concealed and suppressed material facts concerning what is
9 evidently the true culture of GM—one characterized by an emphasis on profits and
10 sales above compliance with federal and state clean air laws and emissions regulations
11 that are meant to protect the public and consumers. It also emphasized profits and
12 sales above the trust that Plaintiffs and Class members placed in its representations.
13 Consumers buy diesel cars from GM because they feel they are clean diesel cars.
14 They do not want to be spewing noxious gases into the environment. And yet, that is
15 precisely what the Affected Vehicles are doing.

16 957. GM's false representations were material to consumers because they
17 concerned the quality of the Affected Vehicles, because they concerned compliance
18 with applicable federal and state law and regulations regarding clean air and
19 emissions, and also because the representations played a significant role in the value
20 of the vehicles. As GM well knew, its customers, including Plaintiffs and Class
21 members, highly valued that the vehicles they were purchasing or leasing were fuel
22 efficient, clean diesel cars with reduced emissions, and they paid accordingly.

23 958. GM had a duty to disclose the emissions defect, defective design of the
24 emissions controls, and violations with respect to the Affected Vehicles because
25 details of the true facts were known and/or accessible only to GM, because GM had
26 exclusive knowledge as to such facts, and because GM knew these facts were not
27 known to or reasonably discoverable by Plaintiffs or Class members. GM also had a
28

1 duty to disclose because it made general affirmative representations about the qualities
2 of its vehicles with respect to emissions, starting with references to them as *reduced*
3 *emissions* diesel cars and as compliant with all laws in each state, which were
4 misleading, deceptive, and incomplete without the disclosure of the additional facts set
5 forth above regarding the actual emissions of its vehicles, its actual philosophy with
6 respect to compliance with federal and state clean air laws and emissions regulations,
7 and its actual practices with respect to the vehicles at issue. Having volunteered to
8 provide information to Plaintiffs and Class members, GM had the duty to disclose not
9 just the partial truth, but the entire truth. These omitted and concealed facts were
10 material because they directly impact the value of the Affected Vehicles purchased or
11 leased by Plaintiffs and Class members. Whether a manufacturer's products pollute,
12 comply with federal and state clean air laws and emissions regulations, and whether
13 that manufacturer tells the truth with respect to such compliance or non-compliance,
14 are material concerns to a consumer, including with respect to the emissions
15 certifications testing their vehicles must pass. GM represented to Plaintiffs and Class
16 members that they were purchasing or leasing *reduced emissions* diesel vehicles, when
17 in fact, they were purchasing or leasing defective, high emission, and unlawfully high
18 emission vehicles.

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

25 960. GM has still not made full and adequate disclosures, and continues to
26 defraud Plaintiffs and Class members by concealing material information regarding
27 the emissions qualities of its referenced vehicles.
28

1 961. Plaintiffs and Class members were unaware of the omitted material facts
2 referenced herein, and they would not have acted as they did if they had known of the
3 concealed and/or suppressed facts, in that they would not have purchased purportedly
4 reduced emissions diesel cars manufactured by GM, and/or would not have continued
5 to drive their heavily polluting vehicles, or would have taken other affirmative steps in
6 light of the information concealed from them. Plaintiffs' and Class members' actions
7 were justified. GM was in exclusive control of the material facts, and such facts were
8 not generally known to the public, Plaintiffs, or Class members.

9 962. Because of the concealment and/or suppression of the facts, Plaintiffs and
10 Class members have sustained damage because they own vehicles that are diminished
11 in value as a result of GM's concealment of the true quality and quantity of those
12 vehicles' emissions and GM's failure to timely disclose the defect or defective design
13 of the GM Clean Diesel engine system, the actual emissions qualities and quantities of
14 GM-branded vehicles, and the serious issues engendered by GM's corporate policies.
15 Had Plaintiffs and Class members been aware of the true emissions facts with regard
16 to the Affected Vehicles, and the Company's disregard for the truth and compliance
17 with applicable federal and state law and regulations, Plaintiffs and Class members
18 who purchased or leased new or certified previously owned vehicles would have paid
19 less for their vehicles or would not have purchased or leased them at all.

20 963. The value of Plaintiffs' and Class members' vehicles has diminished as a
21 result of GM's fraudulent concealment of the defective emissions controls of the
22 Affected Vehicles, the unlawfully high emissions of the Affected Vehicles, and the
23 non-compliance with EPA emissions requirements, all of which has greatly tarnished
24 the GM brand name attached to Plaintiffs' and Class members' vehicles and made any
25 reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay
26 what otherwise would have been fair market value for the vehicles.

1 964. Accordingly, GM is liable to Plaintiffs and Class members for damages in
2 an amount to be proven at trial.

3 965. GM's acts were done wantonly, maliciously, oppressively, deliberately,
4 with intent to defraud, and in reckless disregard of Plaintiffs' and Class members'
5 rights and the representations that GM made to them, in order to enrich GM. GM's
6 conduct warrants an assessment of punitive damages in an amount sufficient to deter
7 such conduct in the future, which amount is to be determined according to proof.

8 **T. Claims Brought on Behalf of the Ohio Class**

9 **COUNT I**

10 **VIOLATIONS OF THE CONSUMER SALES PRACTICES ACT**
11 **(OHIO REV. CODE §§ 1345.01, *ET SEQ.*)**

12 966. Plaintiffs (for purposes of all Ohio Class Counts) incorporate by reference
13 all preceding allegations as though fully set forth herein.

14 967. This claim is brought on behalf of the Ohio Class members.

15 968. Plaintiffs and the other Ohio Class members are "consumers" as defined
16 by the Ohio Consumer Sales Practices Act, OHIO REV. CODE § 1345.01 (Ohio CSPA).
17 GM is a "supplier" as defined by the OCSA. Plaintiffs' and the other Ohio Class
18 members' purchases or leases of Affected Vehicles were "consumer transactions" as
19 defined by the Ohio CSPA.

20 969. The Ohio CSPA, OHIO REV. CODE § 1345.02, broadly prohibits unfair or
21 deceptive acts or practices in connection with a consumer transaction. Specifically,
22 and without limitation of the broad prohibition, the Act prohibits suppliers from
23 representing (i) that goods have characteristics or uses or benefits which they do not
24 have; (ii) that their goods are of a particular quality or grade they are not; and (iii) the
25 subject of a consumer transaction has been supplied in accordance with a previous
26 representation, if it has not. *Id.* GM's conduct as alleged above and below constitutes
27 unfair and/or deceptive consumer sales practices in violation of OHIO REV. CODE
28 § 1345.02. In the course of GM's business, it willfully failed to disclose and actively

1 concealed that the NOx reduction system in the Affected Vehicles turns off or is
2 limited during normal driving conditions, that the Affected Vehicles emitted far more
3 pollutants than gasoline powered vehicles, that the Affected Vehicles emit far more
4 pollution than a reasonable consumer would expect in light of GM's advertising
5 campaign, and that the Affected Vehicles emitted unlawfully high levels of pollutants,
6 including NOx, as described above. Accordingly, GM engaged in unfair and deceptive
7 trade practices, including representing that the Affected Vehicles have characteristics,
8 uses, benefits, and qualities which they do not have; representing that the Affected
9 Vehicles are of a particular standard and quality when they are not; and supplying the
10 Affected Vehicles based on misrepresentations; and otherwise engaging in conduct
11 likely to deceive.

12 970. In purchasing or leasing the Affected Vehicles, Plaintiffs and the other
13 Class members were deceived by GM's failure to disclose that the NOx reduction
14 system in the Affected Vehicles turns off or is limited during normal driving
15 conditions, that the emissions controls were defective, and that the Affected Vehicles
16 emitted unlawfully high levels of pollutants, including NOx, as described above.

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

22 972. GM's actions as set forth above occurred in the conduct of trade or
23 commerce.

24 973. GM's unfair or deceptive acts or practices were likely to and did in fact
25 deceive reasonable consumers.

26 974. GM intentionally and knowingly misrepresented material facts regarding
27 the Affected Vehicles with an intent to mislead Plaintiffs and the Class.
28

1 975. GM knew or should have known that its conduct violated the Ohio
2 CSPA.

3 976. GM owed Plaintiffs and the Class a duty to disclose the truth about its
4 emissions systems manipulation because GM:

5 a. Possessed exclusive knowledge that it
6 manipulated the emissions system in the Affected Vehicles
7 to turn off or limit effectiveness in normal driving
conditions;

8 b. Intentionally concealed the foregoing from
9 Plaintiffs and the Class; and/or

10 c. Made incomplete representations that it
11 manipulated the emissions system in the Affected Vehicles
12 to turn off or limit effectiveness in normal driving
conditions, while purposefully withholding material facts
13 from Plaintiffs and the Class that contradicted these
representations.

14 977. GM had a duty to disclose that the NOx reduction system in the Affected
15 Vehicles turns off or is limited during normal driving conditions, and that these
16 Affected Vehicles were defective, employed a “Defeat Device,” emitted pollutants at a
17 much higher rate than gasoline powered vehicles, that the emissions far exceeded
18 those expected by a reasonable consumer, were non-EPA-compliant and unreliable,
19 because Plaintiffs and the other Class members relied on GM’s material
20 representations that the Affected Vehicles they were purchasing were reduced
21 emission vehicles, efficient, and free from defects.

22 978. GM’s conduct proximately caused injuries to Plaintiffs and the other
23 Class members.

24 979. Plaintiffs and the other Class members were injured and suffered
25 ascertainable loss, injury-in-fact, and/or actual damage as a proximate result of GM’s
26 conduct in that Plaintiffs and the other Class members overpaid for their Affected
27 Vehicles and did not receive the benefit of their bargain, and their Affected Vehicles
28

1 have suffered a diminution in value. These injuries are the direct and natural
2 consequence of GM's misrepresentations and omissions.

3 980. GM's violations present a continuing risk to Plaintiffs as well as to the
4 general public. GM's unlawful acts and practices complained of herein affect the
5 public interest.

6 981. Plaintiffs and the Class sustained damages as a result of GM's unlawful
7 acts and are, therefore, entitled to damages and other relief as provided under the Ohio
8 CSPA.

9 982. Plaintiffs also seek court costs and attorneys' fees as a result of GM's
10 violations of the OCSPA as provided in OHIO REV. CODE § 1345.09.

11 **COUNT II**

12 **BREACH OF CONTRACT** 13 **(BASED ON OHIO LAW)**

14 983. Plaintiffs incorporate by reference all preceding allegations as though
15 fully set forth herein.

16 984. Plaintiffs bring this Count on behalf of Ohio Class members.

17 985. GM's misrepresentations and omissions alleged herein, including, but not
18 limited to, GM's failure to disclose that the NOx reduction system in the Affected
19 Vehicles turns off or is limited during normal driving conditions caused Plaintiffs and
20 the other Class members to make their purchases or leases of their Affected Vehicles.
21 Absent those misrepresentations and omissions, Plaintiffs and the other Class
22 members would not have purchased or leased these Affected Vehicles, would not have
23 purchased or leased these Affected Vehicles at the prices they paid, and/or would have
24 purchased or leased less expensive alternative vehicles that did not contain the
25 defective GM Clean Diesel engine system and which were not marketed as including
26 such a system. Accordingly, Plaintiffs and the other Class members overpaid for their
27 Affected Vehicles and did not receive the benefit of their bargain.
28

1 986. Each and every sale or lease of an Affected Vehicle constitutes a contract
2 between GM and the purchaser or lessee. GM breached these contracts by, among
3 other things, selling or leasing to Plaintiffs and the other Class members defective
4 Affected Vehicles and by misrepresenting or failing to disclose that the NOx reduction
5 system in the Affected Vehicles turns off or is limited during normal driving
6 conditions, thus rendering each Affected Vehicle less valuable, than vehicles not
7 equipped with the defective GM Clean Diesel engine system.

8 987. As a direct and proximate result of GM's breach of contract, Plaintiffs
9 and the Class have been damaged in an amount to be proven at trial, which shall
10 include, but is not limited to, all compensatory damages, incidental and consequential
11 damages, and other damages allowed by law.

12 **COUNT III**

13 **FRAUDULENT CONCEALMENT** 14 **(BASED ON OHIO LAW)**

15 988. Plaintiffs incorporate by reference all preceding allegations as though
16 fully set forth herein.

17 989. This claim is brought on behalf of the Ohio Class.

18 990. GM intentionally concealed that the NOx reduction system in the
19 Affected Vehicles turns off or is limited during normal driving conditions, that the
20 Affected Vehicles had defective emissions controls, emitted pollutants at a higher
21 level than gasoline powered vehicles, emitted pollutants higher than a reasonable
22 consumer would expect in light of GM's advertising campaign, emitted unlawfully
23 high levels of pollutants such as NOx, and were non-compliant with EPA emission
24 requirements, or GM acted with reckless disregard for the truth, and denied Plaintiffs
25 and the other Class members information that is highly relevant to their purchasing
26 decision.

27 991. GM further affirmatively misrepresented to Plaintiffs in advertising and
28 other forms of communication, including standard and uniform material provided with

1 each car, that the Affected Vehicles it was selling had no significant defects, were
2 Earth-friendly and low emission vehicles, complied with EPA regulations, and would
3 perform and operate properly when driven in normal usage.

4 992. GM knew these representations were false when made.

5 993. The Affected Vehicles purchased or leased by Plaintiffs and the other
6 Class members were, in fact, defective, emitting pollutants at a much higher rate than
7 gasoline powered vehicles and at a much higher rate than a reasonable consumer
8 would expect in light of GM's advertising campaign, non-EPA-compliant, and
9 unreliable because the NOx reduction system in the Affected Vehicles turns off or is
10 limited during normal driving conditions.

11 994. GM had a duty to disclose that the NOx reduction system in the Affected
12 Vehicles turns off or is limited during normal driving conditions, and that these
13 Affected Vehicles were defective, employed a "Defeat Device," emitted pollutants at a
14 much higher rate than gasoline powered vehicles, that the emissions far exceeded
15 those expected by a reasonable consumer, were non-EPA-compliant and unreliable,
16 because Plaintiffs and the other Class members relied on GM's material
17 representations that the Affected Vehicles they were purchasing were reduced
18 emission vehicles, efficient, and free from defects.

19 995. As alleged in this Complaint, at all relevant times, GM has held out the
20 Affected Vehicles to be reduced emission, EPA-compliant vehicles. GM disclosed
21 certain details about the GM Clean Diesel engine, but nonetheless, GM intentionally
22 failed to disclose the important facts that the NOx reduction system in the Affected
23 Vehicles turns off or is limited during normal driving conditions, and that the Affected
24 Vehicles had defective emissions controls, deployed a "Defeat Device," emitted
25 higher levels of pollutants than expected by a reasonable consumer, emitted
26 unlawfully high levels of pollutants, and were non-compliant with EPA emissions
27 requirements, making other disclosures about the emission system deceptive.
28

1 996. The truth about the defective emissions controls and GM's manipulations
2 of those controls, unlawfully high emissions, the "Defeat Device," and non-
3 compliance with EPA emissions requirements was known only to GM; Plaintiffs and
4 the Class members did not know of these facts and GM actively concealed these facts
5 from Plaintiffs and Class members.

6 997. Plaintiffs and Class members reasonably relied upon GM's deception.
7 They had no way of knowing that GM's representations were false and/or misleading.
8 As consumers, Plaintiffs and Class members did not, and could not, unravel GM's
9 deception on their own. Rather, GM intended to deceive Plaintiffs and Class members
10 by concealing the true facts about the Affected Vehicle emissions.

11 998. GM also concealed and suppressed material facts concerning what is
12 evidently the true culture of GM—one characterized by an emphasis on profits and
13 sales above compliance with federal and state clean air laws and emissions regulations
14 that are meant to protect the public and consumers. It also emphasized profits and
15 sales above the trust that Plaintiffs and Class members placed in its representations.
16 Consumers buy diesel cars from GM because they feel they are clean diesel cars.
17 They do not want to be spewing noxious gases into the environment. And yet, that is
18 precisely what the Affected Vehicles are doing.

19 999. GM's false representations were material to consumers because they
20 concerned the quality of the Affected Vehicles, because they concerned compliance
21 with applicable federal and state law and regulations regarding clean air and
22 emissions, and also because the representations played a significant role in the value
23 of the vehicles. As GM well knew, its customers, including Plaintiffs and Class
24 members, highly valued that the vehicles they were purchasing or leasing were fuel
25 efficient, clean diesel cars with reduced emissions, and they paid accordingly.

26 1000. GM had a duty to disclose the emissions defect, defective design of the
27 emissions controls, and violations with respect to the Affected Vehicles because
28

1 details of the true facts were known and/or accessible only to GM, because GM had
2 exclusive knowledge as to such facts, and because GM knew these facts were not
3 known to or reasonably discoverable by Plaintiffs or Class members. GM also had a
4 duty to disclose because it made general affirmative representations about the qualities
5 of its vehicles with respect to emissions, starting with references to them as *reduced*
6 *emissions* diesel cars and as compliant with all laws in each state, which were
7 misleading, deceptive, and incomplete without the disclosure of the additional facts set
8 forth above regarding the actual emissions of its vehicles, its actual philosophy with
9 respect to compliance with federal and state clean air laws and emissions regulations,
10 and its actual practices with respect to the vehicles at issue. Having volunteered to
11 provide information to Plaintiffs and Class members, GM had the duty to disclose not
12 just the partial truth, but the entire truth. These omitted and concealed facts were
13 material because they directly impact the value of the Affected Vehicles purchased or
14 leased by Plaintiffs and Class members. Whether a manufacturer's products pollute,
15 comply with federal and state clean air laws and emissions regulations, and whether
16 that manufacturer tells the truth with respect to such compliance or non-compliance,
17 are material concerns to a consumer, including with respect to the emissions
18 certifications testing their vehicles must pass. GM represented to Plaintiffs and Class
19 members that they were purchasing or leasing *reduced emissions* diesel vehicles, when
20 in fact, they were purchasing or leasing defective, high emission, and unlawfully high
21 emission vehicles.

22 1001. GM actively concealed and/or suppressed these material facts, in whole
23 or in part, to pad and protect its profits and to avoid the perception that its vehicles
24 were not clean diesel vehicles and did not or could not comply with federal and state
25 laws governing clean air and emissions, which perception would hurt the brand's
26 image and cost GM money, and it did so at the expense of Plaintiffs and Class
27 members.
28

1 1002. GM has still not made full and adequate disclosures, and continues to
2 defraud Plaintiffs and Class members by concealing material information regarding
3 the emissions qualities of its referenced vehicles.

4 1003. Plaintiffs and Class members were unaware of the omitted material facts
5 referenced herein, and they would not have acted as they did if they had known of the
6 concealed and/or suppressed facts, in that they would not have purchased purportedly
7 reduced emissions diesel cars manufactured by GM, and/or would not have continued
8 to drive their heavily polluting vehicles, or would have taken other affirmative steps in
9 light of the information concealed from them. Plaintiffs' and Class members' actions
10 were justified. GM was in exclusive control of the material facts, and such facts were
11 not generally known to the public, Plaintiffs, or Class members.

12 1004. Because of the concealment and/or suppression of the facts, Plaintiffs and
13 Class members have sustained damage because they own vehicles that are diminished
14 in value as a result of GM's concealment of the true quality and quantity of those
15 vehicles' emissions and GM's failure to timely disclose the defect or defective design
16 of the GM Clean Diesel engine system, the actual emissions qualities and quantities of
17 GM-branded vehicles, and the serious issues engendered by GM's corporate policies.
18 Had Plaintiffs and Class members been aware of the true emissions facts with regard
19 to the Affected Vehicles, and the Company's disregard for the truth and compliance
20 with applicable federal and state law and regulations, Plaintiffs and Class members
21 who purchased or leased new or certified previously owned vehicles would have paid
22 less for their vehicles or would not have purchased or leased them at all.

23 1005. The value of Plaintiffs' and Class members' vehicles has diminished as a
24 result of GM's fraudulent concealment of the defective emissions controls of the
25 Affected Vehicles, the unlawfully high emissions of the Affected Vehicles, and the
26 non-compliance with EPA emissions requirements, all of which has greatly tarnished
27 the GM brand name attached to Plaintiffs' and Class members' vehicles and made any
28

1 reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay
2 what otherwise would have been fair market value for the vehicles.

3 1006. Accordingly, GM is liable to Plaintiffs and Class members for damages in
4 an amount to be proven at trial.

5 1007. GM's acts were done wantonly, maliciously, oppressively, deliberately,
6 with intent to defraud, and in reckless disregard of Plaintiffs' and Class members'
7 rights and the representations that GM made to them, in order to enrich GM. GM's
8 conduct warrants an assessment of punitive damages in an amount sufficient to deter
9 such conduct in the future, which amount is to be determined according to proof.

10 **U. Claims Brought on Behalf of the Pennsylvania Class**

11 **COUNT I**

12 **VIOLATIONS OF THE PENNSYLVANIA UNFAIR TRADE PRACTICES** 13 **AND CONSUMER PROTECTION LAW** **(73 P.S. §§ 201-1, ET SEQ.)**

14 1008. Plaintiffs (for purposes of all Pennsylvania Class Counts) incorporate by
15 reference all paragraphs as though fully set forth herein.

16 1009. Plaintiffs bring this Count on behalf of the Pennsylvania Class members.

17 1010. Plaintiffs purchased or leased their Affected Vehicle primarily for
18 personal, family or household purposes within the meaning of 73 P.S. § 201-9.2.

19 1011. All of the acts complained of herein were perpetrated by GM in the
20 course of trade or commerce within the meaning of 73 P.S. § 201-2(3).

21 1012. The Pennsylvania Unfair Trade Practices and Consumer Protection Law
22 ("Pennsylvania CPL") prohibits unfair or deceptive acts or practices, including: (i)
23 "Representing that goods or services have ... characteristics, ... [b]enefits or qualities
24 that they do not have;" (ii) "Representing that goods or services are of a particular
25 standard, quality or grade ... if they are of another;" (iii) "Advertising goods or
26 services with intent not to sell them as advertised;" and (iv) "Engaging in any other
27 fraudulent or deceptive conduct which creates a likelihood of confusion or
28 misunderstanding." 73 P.S. § 201-2(4). In the course of GM's business, it willfully

1 failed to disclose and actively concealed that the NOx reduction system in the
2 Affected Vehicles turns off or is limited during normal driving conditions, that the
3 Affected Vehicles emitted far more pollutants than gasoline powered vehicles, that the
4 Affected Vehicles emit far more pollution than a reasonable consumer would expect in
5 light of GM's advertising campaign, and that the Affected Vehicles emitted
6 unlawfully high levels of pollutants, including NOx, as described above. Accordingly,
7 GM engaged in deceptive business practices prohibited by the Pennsylvania CPL,
8 including: representing that the Affected Vehicles have characteristics, uses, benefits,
9 and qualities which they do not have; representing that the Affected Vehicles are of a
10 particular standard, quality, and grade when they are not; advertising the Affected
11 Vehicles with the intent not to sell them as advertised; and engaging in fraudulent or
12 deceptive conduct that creates a likelihood of confusion or of misunderstanding.

13 1013. In purchasing or leasing the Affected Vehicles, Plaintiffs and the other
14 Class members were deceived by GM's failure to disclose that the NOx reduction
15 system in the Affected Vehicles turns off or is limited during normal driving
16 conditions, that the emissions controls were defective, and that the Affected Vehicles
17 emitted unlawfully high levels of pollutants, including NOx, as described above.

18 1014. Plaintiffs and Class members reasonably relied upon GM's false
19 misrepresentations. They had no way of knowing that GM's representations were
20 false and gravely misleading. As alleged herein, GM engaged in extremely
21 sophisticated methods of deception. Plaintiffs and Class members did not, and could
22 not, unravel GM's deception on their own.

23 1015. GM's actions as set forth above occurred in the conduct of trade or
24 commerce.

25 1016. GM's unfair or deceptive acts or practices were likely to and did in fact
26 deceive reasonable consumers.

1 1017. GM intentionally and knowingly misrepresented material facts regarding
2 the Affected Vehicles with an intent to mislead Plaintiffs and the Class.

3 1018. GM knew or should have known that its conduct violated the
4 Pennsylvania CPL.

5 1019. GM owed Plaintiffs and the Class a duty to disclose the truth about its
6 emissions systems manipulation because GM:

7 a. Possessed exclusive knowledge that it
8 manipulated the emissions system in the Affected Vehicles
9 to turn off or limit effectiveness in normal driving
conditions;

10 b. Intentionally concealed the foregoing from
11 Plaintiffs and the Class; and/or

12 c. Made incomplete representations that it
13 manipulated the emissions system in the Affected Vehicles
14 to turn off or limit effectiveness in normal driving
conditions, while purposefully withholding material facts
15 from Plaintiffs and the Class that contradicted these
representations.

16 1020. GM had a duty to disclose that the NOx reduction system in the Affected
17 Vehicles turns off or is limited during normal driving conditions, and that these
18 Affected Vehicles were defective, employed a “Defeat Device,” emitted pollutants at a
19 much higher rate than gasoline powered vehicles, that the emissions far exceeded
20 those expected by a reasonable consumer, were non-EPA-compliant and unreliable,
21 because Plaintiffs and the other Class members relied on GM’s material
22 representations that the Affected Vehicles they were purchasing were reduced
23 emission vehicles, efficient, and free from defects.

24 1021. GM’s conduct proximately caused injuries to Plaintiffs and the other
25 Class members.

26 1022. Plaintiffs and the other Class members were injured and suffered
27 ascertainable loss, injury-in-fact, and/or actual damage as a proximate result of GM’s
28 conduct in that Plaintiffs and the other Class members overpaid for their Affected

1 Vehicles and did not receive the benefit of their bargain, and their Affected Vehicles
2 have suffered a diminution in value. These injuries are the direct and natural
3 consequence of GM's misrepresentations and omissions.

4 1023. GM's violations present a continuing risk to Plaintiffs as well as to the
5 general public. GM's unlawful acts and practices complained of herein affect the
6 public interest.

7 1024. GM is liable to Plaintiffs and the Pennsylvania Class for treble their
8 actual damages or \$100, whichever is greater, and attorneys' fees and costs. 73 P.S. §
9 201-9.2(a). Plaintiffs and the Pennsylvania Class are also entitled to an award of
10 punitive damages given that GM's conduct was malicious, wanton, willful,
11 oppressive, or exhibited a reckless indifference to the rights of others.

12 **COUNT II**

13 **BREACH OF CONTRACT** 14 **(BASED ON PENNSYLVANIA LAW)**

15 1025. Plaintiffs incorporate by reference all preceding allegations as though
16 fully set forth herein.

17 1026. Plaintiffs bring this Count on behalf of the Pennsylvania Class.

18 1027. GM's misrepresentations and omissions alleged herein, including, but not
19 limited to, GM's failure to disclose that the NOx reduction system in the Affected
20 Vehicles turns off or is limited during normal driving conditions caused Plaintiffs and
21 the other Class members to make their purchases or leases of their Affected Vehicles.
22 Absent those misrepresentations and omissions, Plaintiffs and the other Class
23 members would not have purchased or leased these Affected Vehicles, would not have
24 purchased or leased these Affected Vehicles at the prices they paid, and/or would have
25 purchased or leased less expensive alternative vehicles that did not contain the
26 defective GM Clean Diesel engine system and which were not marketed as including
27 such a system. Accordingly, Plaintiffs and the other Class members overpaid for their
28 Affected Vehicles and did not receive the benefit of their bargain.

1 1028. Each and every sale or lease of an Affected Vehicle constitutes a contract
2 between GM and the purchaser or lessee. GM breached these contracts by, among
3 other things, selling or leasing to Plaintiffs and the other Class members defective
4 Affected Vehicles and by misrepresenting or failing to disclose that the NOx reduction
5 system in the Affected Vehicles turns off or is limited during normal driving
6 conditions, thus rendering each Affected Vehicle less valuable, than vehicles not
7 equipped with the defective GM Clean Diesel engine system.

8 1029. As a direct and proximate result of GM's breach of contract, Plaintiffs
9 and the Class have been damaged in an amount to be proven at trial, which shall
10 include, but is not limited to, all compensatory damages, incidental and consequential
11 damages, and other damages allowed by law.

12 **COUNT III**

13 **FRAUDULENT CONCEALMENT** 14 **(BASED ON PENNSYLVANIA LAW)**

15 1030. Plaintiffs incorporate by reference all paragraphs as though fully set forth
16 herein.

17 1031. This claim is brought on behalf of the Pennsylvania Class.

18 1032. GM intentionally concealed that the NOx reduction system in the
19 Affected Vehicles turns off or is limited during normal driving conditions, that the
20 Affected Vehicles had defective emissions controls, emitted pollutants at a higher
21 level than gasoline powered vehicles, emitted pollutants higher than a reasonable
22 consumer would expect in light of GM's advertising campaign, emitted unlawfully
23 high levels of pollutants such as NOx, and were non-compliant with EPA emission
24 requirements, or GM acted with reckless disregard for the truth, and denied Plaintiffs
25 and the other Class members information that is highly relevant to their purchasing
26 decision.

27 1033. GM further affirmatively misrepresented to Plaintiffs in advertising and
28 other forms of communication, including standard and uniform material provided with

1 each car, that the Affected Vehicles it was selling had no significant defects, were
2 Earth-friendly and low emission vehicles, complied with EPA regulations, and would
3 perform and operate properly when driven in normal usage.

4 1034. GM knew these representations were false when made.

5 1035. The Affected Vehicles purchased or leased by Plaintiffs and the other
6 Class members were, in fact, defective, emitting pollutants at a much higher rate than
7 gasoline powered vehicles and at a much higher rate than a reasonable consumer
8 would expect in light of GM's advertising campaign, non-EPA-compliant, and
9 unreliable because the NOx reduction system in the Affected Vehicles turns off or is
10 limited during normal driving conditions.

11 1036. GM had a duty to disclose that the NOx reduction system in the Affected
12 Vehicles turns off or is limited during normal driving conditions, and that these
13 Affected Vehicles were defective, employed a "Defeat Device," emitted pollutants at a
14 much higher rate than gasoline powered vehicles, that the emissions far exceeded
15 those expected by a reasonable consumer, were non-EPA-compliant and unreliable,
16 because Plaintiffs and the other Class members relied on GM's material
17 representations that the Affected Vehicles they were purchasing were reduced
18 emission vehicles, efficient, and free from defects.

19 1037. As alleged in this Complaint, at all relevant times, GM has held out the
20 Affected Vehicles to be reduced emission, EPA-compliant vehicles. GM disclosed
21 certain details about the GM Clean Diesel engine, but nonetheless, GM intentionally
22 failed to disclose the important facts that the NOx reduction system in the Affected
23 Vehicles turns off or is limited during normal driving conditions, and that the Affected
24 Vehicles had defective emissions controls, deployed a "Defeat Device," emitted
25 higher levels of pollutants than expected by a reasonable consumer, emitted
26 unlawfully high levels of pollutants, and were non-compliant with EPA emissions
27 requirements, making other disclosures about the emission system deceptive.
28

1 1038. The truth about the defective emissions controls and GM’s manipulations
2 of those controls, unlawfully high emissions, the “Defeat Device,” and non-
3 compliance with EPA emissions requirements was known only to GM; Plaintiffs and
4 the Class members did not know of these facts and GM actively concealed these facts
5 from Plaintiffs and Class members.

6 1039. Plaintiffs and Class members reasonably relied upon GM’s deception.
7 They had no way of knowing that GM’s representations were false and/or misleading.
8 As consumers, Plaintiffs and Class members did not, and could not, unravel GM’s
9 deception on their own. Rather, GM intended to deceive Plaintiffs and Class members
10 by concealing the true facts about the Affected Vehicle emissions.

11 1040. GM also concealed and suppressed material facts concerning what is
12 evidently the true culture of GM—one characterized by an emphasis on profits and
13 sales above compliance with federal and state clean air laws and emissions regulations
14 that are meant to protect the public and consumers. It also emphasized profits and
15 sales above the trust that Plaintiffs and Class members placed in its representations.
16 Consumers buy diesel cars from GM because they feel they are clean diesel cars.
17 They do not want to be spewing noxious gases into the environment. And yet, that is
18 precisely what the Affected Vehicles are doing.

19 1041. GM’s false representations were material to consumers because they
20 concerned the quality of the Affected Vehicles, because they concerned compliance
21 with applicable federal and state law and regulations regarding clean air and
22 emissions, and also because the representations played a significant role in the value
23 of the vehicles. As GM well knew, its customers, including Plaintiffs and Class
24 members, highly valued that the vehicles they were purchasing or leasing were fuel
25 efficient, clean diesel cars with reduced emissions, and they paid accordingly.

26 1042. GM had a duty to disclose the emissions defect, defective design of the
27 emissions controls, and violations with respect to the Affected Vehicles because
28

1 details of the true facts were known and/or accessible only to GM, because GM had
2 exclusive knowledge as to such facts, and because GM knew these facts were not
3 known to or reasonably discoverable by Plaintiffs or Class members. GM also had a
4 duty to disclose because it made general affirmative representations about the qualities
5 of its vehicles with respect to emissions, starting with references to them as *reduced*
6 *emissions* diesel cars and as compliant with all laws in each state, which were
7 misleading, deceptive, and incomplete without the disclosure of the additional facts set
8 forth above regarding the actual emissions of its vehicles, its actual philosophy with
9 respect to compliance with federal and state clean air laws and emissions regulations,
10 and its actual practices with respect to the vehicles at issue. Having volunteered to
11 provide information to Plaintiffs and Class members, GM had the duty to disclose not
12 just the partial truth, but the entire truth. These omitted and concealed facts were
13 material because they directly impact the value of the Affected Vehicles purchased or
14 leased by Plaintiffs and Class members. Whether a manufacturer's products pollute,
15 comply with federal and state clean air laws and emissions regulations, and whether
16 that manufacturer tells the truth with respect to such compliance or non-compliance,
17 are material concerns to a consumer, including with respect to the emissions
18 certifications testing their vehicles must pass. GM represented to Plaintiffs and Class
19 members that they were purchasing or leasing *reduced emissions* diesel vehicles, when
20 in fact, they were purchasing or leasing defective, high emission, and unlawfully high
21 emission vehicles.

22 1043. GM actively concealed and/or suppressed these material facts, in whole
23 or in part, to pad and protect its profits and to avoid the perception that its vehicles
24 were not clean diesel vehicles and did not or could not comply with federal and state
25 laws governing clean air and emissions, which perception would hurt the brand's
26 image and cost GM money, and it did so at the expense of Plaintiffs and Class
27 members.
28

1 1044. GM has still not made full and adequate disclosures, and continues to
2 defraud Plaintiffs and Class members by concealing material information regarding
3 the emissions qualities of its referenced vehicles.

4 1045. Plaintiffs and Class members were unaware of the omitted material facts
5 referenced herein, and they would not have acted as they did if they had known of the
6 concealed and/or suppressed facts, in that they would not have purchased purportedly
7 reduced emissions diesel cars manufactured by GM, and/or would not have continued
8 to drive their heavily polluting vehicles, or would have taken other affirmative steps in
9 light of the information concealed from them. Plaintiffs' and Class members' actions
10 were justified. GM was in exclusive control of the material facts, and such facts were
11 not generally known to the public, Plaintiffs, or Class members.

12 1046. Because of the concealment and/or suppression of the facts, Plaintiffs and
13 Class members have sustained damage because they own vehicles that are diminished
14 in value as a result of GM's concealment of the true quality and quantity of those
15 vehicles' emissions and GM's failure to timely disclose the defect or defective design
16 of the GM Clean Diesel engine system, the actual emissions qualities and quantities of
17 GM-branded vehicles, and the serious issues engendered by GM's corporate policies.
18 Had Plaintiffs and Class members been aware of the true emissions facts with regard
19 to the Affected Vehicles, and the Company's disregard for the truth and compliance
20 with applicable federal and state law and regulations, Plaintiffs and Class members
21 who purchased or leased new or certified previously owned vehicles would have paid
22 less for their vehicles or would not have purchased or leased them at all.

23 1047. The value of Plaintiffs' and Class members' vehicles has diminished as a
24 result of GM's fraudulent concealment of the defective emissions controls of the
25 Affected Vehicles, the unlawfully high emissions of the Affected Vehicles, and the
26 non-compliance with EPA emissions requirements, all of which has greatly tarnished
27 the GM brand name attached to Plaintiffs' and Class members' vehicles and made any
28

1 reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay
2 what otherwise would have been fair market value for the vehicles.

3 1048. Accordingly, GM is liable to Plaintiffs and Class members for damages in
4 an amount to be proven at trial.

5 1049. GM's acts were done wantonly, maliciously, oppressively, deliberately,
6 with intent to defraud, and in reckless disregard of Plaintiffs' and Class members'
7 rights and the representations that GM made to them, in order to enrich GM. GM's
8 conduct warrants an assessment of punitive damages in an amount sufficient to deter
9 such conduct in the future, which amount is to be determined according to proof.

10 **V. Claims Brought on Behalf of the Tennessee Class**

11 **COUNT I**

12 **VIOLATIONS OF THE TENNESSEE CONSUMER PROTECTION ACT** 13 **(TENN. CODE ANN. §§ 47-18-101, *ET SEQ.*)**

14 1050. Plaintiffs (for purposes of all Tennessee Class Counts) incorporate by
15 reference all paragraphs as though fully set forth herein.

16 1051. Plaintiffs bring this Count on behalf of the Tennessee Class members.

17 1052. Plaintiffs and the Tennessee Class are "natural persons" and "consumers"
18 within the meaning of TENN. CODE ANN. § 47-18-103(2).

19 1053. GM is a "person" within the meaning of TENN. CODE ANN. § 47-18-
20 103(2).

21 1054. GM's conduct complained of herein affected "trade," "commerce" or
22 "consumer transactions" within the meaning of TENN. CODE ANN. § 47-18-103(19).

23 1055. The Tennessee Consumer Protection Act ("Tennessee CPA") prohibits
24 "[u]nfair or deceptive acts or practices affecting the conduct of any trade or
25 commerce," including but not limited to: "Representing that goods or services have
26 ... characteristics, [or] ... benefits ... that they do not have...;" "Representing that
27 goods or services are of a particular standard, quality or grade ... if they are of
28 another;" "Advertising goods or services with intent not to sell them as advertised;"

1 and “Engaging in any other act or practice which is deceptive to the consumer or any
2 other person.” TENN. CODE ANN. § 47-18-104. In the course of GM’s business, it
3 willfully failed to disclose and actively concealed that the NOx reduction system in the
4 Affected Vehicles turns off or is limited during normal driving conditions, that the
5 Affected Vehicles emitted far more pollutants than gasoline powered vehicles, that the
6 Affected Vehicles emit far more pollution than a reasonable consumer would expect in
7 light of GM’s advertising campaign, and that the Affected Vehicles emitted
8 unlawfully high levels of pollutants, including NOx, as described above. Accordingly,
9 GM violated the Tennessee CPA by engaging in unfair or deceptive acts, including
10 representing that the Affected Vehicles have characteristics or benefits that they did
11 not have; representing that the Affected Vehicles are of a particular standard, quality,
12 or grade when they are of another; advertising the Affected Vehicles with intent not to
13 sell them as advertised; and engaging in acts or practices that are deceptive to
14 consumers.

15 1056. In purchasing or leasing the Affected Vehicles, Plaintiffs and the other
16 Class members were deceived by GM’s failure to disclose that the NOx reduction
17 system in the Affected Vehicles turns off or is limited during normal driving
18 conditions, that the emissions controls were defective, and that the Affected Vehicles
19 emitted unlawfully high levels of pollutants, including NOx, as described above.

20 1057. Plaintiffs and Class members reasonably relied upon GM’s false
21 misrepresentations. They had no way of knowing that GM’s representations were
22 false and gravely misleading. As alleged herein, GM engaged in extremely
23 sophisticated methods of deception. Plaintiffs and Class members did not, and could
24 not, unravel GM’s deception on their own.

25 1058. GM’s actions as set forth above occurred in the conduct of trade or
26 commerce.

1 1059. GM's unfair or deceptive acts or practices were likely to and did in fact
2 deceive reasonable consumers.

3 1060. GM intentionally and knowingly misrepresented material facts regarding
4 the Affected Vehicles with an intent to mislead Plaintiffs and the Class.

5 1061. GM knew or should have known that its conduct violated the Tennessee
6 CPA.

7 1062. GM owed Plaintiffs and the Class a duty to disclose the truth about its
8 emissions systems manipulation because GM:

9 a. Possessed exclusive knowledge that it
10 manipulated the emissions system in the Affected Vehicles
11 to turn off or limit effectiveness in normal driving
 conditions;

12 b. Intentionally concealed the foregoing from
13 Plaintiffs and the Class; and/or

14 c. Made incomplete representations that it
15 manipulated the emissions system in the Affected Vehicles
16 to turn off or limit effectiveness in normal driving
 conditions, while purposefully withholding material facts
 from Plaintiffs and the Class that contradicted these
 representations.

17 1063. GM had a duty to disclose that the NOx reduction system in the Affected
18 Vehicles turns off or is limited during normal driving conditions, and that these
19 Affected Vehicles were defective, employed a "Defeat Device," emitted pollutants at a
20 much higher rate than gasoline powered vehicles, that the emissions far exceeded
21 those expected by a reasonable consumer, were non-EPA-compliant and unreliable,
22 because Plaintiffs and the other Class members relied on GM's material
23 representations that the Affected Vehicles they were purchasing were reduced
24 emission vehicles, efficient, and free from defects.

25 1064. GM's conduct proximately caused injuries to Plaintiffs and the other
26 Class members.
27
28

1 such a system. Accordingly, Plaintiffs and the other Class members overpaid for their
2 Affected Vehicles and did not receive the benefit of their bargain.

3 1071. Each and every sale or lease of an Affected Vehicle constitutes a contract
4 between GM and the purchaser or lessee. GM breached these contracts by, among
5 other things, selling or leasing to Plaintiffs and the other Class members defective
6 Affected Vehicles and by misrepresenting or failing to disclose that the NOx reduction
7 system in the Affected Vehicles turns off or is limited during normal driving
8 conditions, thus rendering each Affected Vehicle less valuable, than vehicles not
9 equipped with the defective GM Clean Diesel engine system.

10 1072. As a direct and proximate result of GM's breach of contract, Plaintiffs
11 and the Class have been damaged in an amount to be proven at trial, which shall
12 include, but is not limited to, all compensatory damages, incidental and consequential
13 damages, and other damages allowed by law.

14 **COUNT III**

15 **FRAUD BY CONCEALMENT** 16 **(BASED ON TENNESSEE LAW)**

17 1073. Plaintiffs incorporate by reference all paragraphs as though fully set forth
18 herein.

19 1074. This claim is brought on behalf of the Tennessee Class.

20 1075. GM intentionally concealed that the NOx reduction system in the
21 Affected Vehicles turns off or is limited during normal driving conditions, that the
22 Affected Vehicles had defective emissions controls, emitted pollutants at a higher
23 level than gasoline powered vehicles, emitted pollutants higher than a reasonable
24 consumer would expect in light of GM's advertising campaign, emitted unlawfully
25 high levels of pollutants such as NOx, and were non-compliant with EPA emission
26 requirements, or GM acted with reckless disregard for the truth, and denied Plaintiffs
27 and the other Class members information that is highly relevant to their purchasing
28 decision.

1 1076. GM further affirmatively misrepresented to Plaintiffs in advertising and
2 other forms of communication, including standard and uniform material provided with
3 each car, that the Affected Vehicles it was selling had no significant defects, were
4 Earth-friendly and low emission vehicles, complied with EPA regulations, and would
5 perform and operate properly when driven in normal usage.

6 1077. GM knew these representations were false when made.

7 1078. The Affected Vehicles purchased or leased by Plaintiffs and the other
8 Class members were, in fact, defective, emitting pollutants at a much higher rate than
9 gasoline powered vehicles and at a much higher rate than a reasonable consumer
10 would expect in light of GM's advertising campaign, non-EPA-compliant, and
11 unreliable because the NOx reduction system in the Affected Vehicles turns off or is
12 limited during normal driving conditions.

13 1079. GM had a duty to disclose that the NOx reduction system in the Affected
14 Vehicles turns off or is limited during normal driving conditions, and that these
15 Affected Vehicles were defective, employed a "Defeat Device," emitted pollutants at a
16 much higher rate than gasoline powered vehicles, that the emissions far exceeded
17 those expected by a reasonable consumer, were non-EPA-compliant and unreliable,
18 because Plaintiffs and the other Class members relied on GM's material
19 representations that the Affected Vehicles they were purchasing were reduced
20 emission vehicles, efficient, and free from defects.

21 1080. As alleged in this Complaint, at all relevant times, GM has held out the
22 Affected Vehicles to be reduced emission, EPA-compliant vehicles. GM disclosed
23 certain details about the GM Clean Diesel engine, but nonetheless, GM intentionally
24 failed to disclose the important facts that the NOx reduction system in the Affected
25 Vehicles turns off or is limited during normal driving conditions, and that the Affected
26 Vehicles had defective emissions controls, deployed a "Defeat Device," emitted
27 higher levels of pollutants than expected by a reasonable consumer, emitted
28

1 unlawfully high levels of pollutants, and were non-compliant with EPA emissions
2 requirements, making other disclosures about the emission system deceptive.

3 1081. The truth about the defective emissions controls and GM's manipulations
4 of those controls, unlawfully high emissions, the "Defeat Device," and non-
5 compliance with EPA emissions requirements was known only to GM; Plaintiffs and
6 the Class members did not know of these facts and GM actively concealed these facts
7 from Plaintiffs and Class members.

8 1082. Plaintiffs and Class members reasonably relied upon GM's deception.
9 They had no way of knowing that GM's representations were false and/or misleading.
10 As consumers, Plaintiffs and Class members did not, and could not, unravel GM's
11 deception on their own. Rather, GM intended to deceive Plaintiffs and Class members
12 by concealing the true facts about the Affected Vehicle emissions.

13 1083. GM also concealed and suppressed material facts concerning what is
14 evidently the true culture of GM—one characterized by an emphasis on profits and
15 sales above compliance with federal and state clean air laws and emissions regulations
16 that are meant to protect the public and consumers. It also emphasized profits and
17 sales above the trust that Plaintiffs and Class members placed in its representations.
18 Consumers buy diesel cars from GM because they feel they are clean diesel cars.
19 They do not want to be spewing noxious gases into the environment. And yet, that is
20 precisely what the Affected Vehicles are doing.

21 1084. GM's false representations were material to consumers because they
22 concerned the quality of the Affected Vehicles, because they concerned compliance
23 with applicable federal and state law and regulations regarding clean air and
24 emissions, and also because the representations played a significant role in the value
25 of the vehicles. As GM well knew, its customers, including Plaintiffs and Class
26 members, highly valued that the vehicles they were purchasing or leasing were fuel
27 efficient, clean diesel cars with reduced emissions, and they paid accordingly.
28

1 1085. GM had a duty to disclose the emissions defect, defective design of the
2 emissions controls, and violations with respect to the Affected Vehicles because
3 details of the true facts were known and/or accessible only to GM, because GM had
4 exclusive knowledge as to such facts, and because GM knew these facts were not
5 known to or reasonably discoverable by Plaintiffs or Class members. GM also had a
6 duty to disclose because it made general affirmative representations about the qualities
7 of its vehicles with respect to emissions, starting with references to them as *reduced*
8 *emissions* diesel cars and as compliant with all laws in each state, which were
9 misleading, deceptive, and incomplete without the disclosure of the additional facts set
10 forth above regarding the actual emissions of its vehicles, its actual philosophy with
11 respect to compliance with federal and state clean air laws and emissions regulations,
12 and its actual practices with respect to the vehicles at issue. Having volunteered to
13 provide information to Plaintiffs and Class members, GM had the duty to disclose not
14 just the partial truth, but the entire truth. These omitted and concealed facts were
15 material because they directly impact the value of the Affected Vehicles purchased or
16 leased by Plaintiffs and Class members. Whether a manufacturer's products pollute,
17 comply with federal and state clean air laws and emissions regulations, and whether
18 that manufacturer tells the truth with respect to such compliance or non-compliance,
19 are material concerns to a consumer, including with respect to the emissions
20 certifications testing their vehicles must pass. GM represented to Plaintiffs and Class
21 members that they were purchasing or leasing *reduced emissions* diesel vehicles, when
22 in fact, they were purchasing or leasing defective, high emission, and unlawfully high
23 emission vehicles.

24 1086. GM actively concealed and/or suppressed these material facts, in whole
25 or in part, to pad and protect its profits and to avoid the perception that its vehicles
26 were not clean diesel vehicles and did not or could not comply with federal and state
27 laws governing clean air and emissions, which perception would hurt the brand's
28

1 image and cost GM money, and it did so at the expense of Plaintiffs and Class
2 members.

3 1087. GM has still not made full and adequate disclosures, and continues to
4 defraud Plaintiffs and Class members by concealing material information regarding
5 the emissions qualities of its referenced vehicles.

6 1088. Plaintiffs and Class members were unaware of the omitted material facts
7 referenced herein, and they would not have acted as they did if they had known of the
8 concealed and/or suppressed facts, in that they would not have purchased purportedly
9 reduced emissions diesel cars manufactured by GM, and/or would not have continued
10 to drive their heavily polluting vehicles, or would have taken other affirmative steps in
11 light of the information concealed from them. Plaintiffs' and Class members' actions
12 were justified. GM was in exclusive control of the material facts, and such facts were
13 not generally known to the public, Plaintiffs, or Class members.

14 1089. Because of the concealment and/or suppression of the facts, Plaintiffs and
15 Class members have sustained damage because they own vehicles that are diminished
16 in value as a result of GM's concealment of the true quality and quantity of those
17 vehicles' emissions and GM's failure to timely disclose the defect or defective design
18 of the GM Clean Diesel engine system, the actual emissions qualities and quantities of
19 GM-branded vehicles, and the serious issues engendered by GM's corporate policies.
20 Had Plaintiffs and Class members been aware of the true emissions facts with regard
21 to the Affected Vehicles, and the Company's disregard for the truth and compliance
22 with applicable federal and state law and regulations, Plaintiffs and Class members
23 who purchased or leased new or certified previously owned vehicles would have paid
24 less for their vehicles or would not have purchased or leased them at all.

25 1090. The value of Plaintiffs' and Class members' vehicles has diminished as a
26 result of GM's fraudulent concealment of the defective emissions controls of the
27 Affected Vehicles, the unlawfully high emissions of the Affected Vehicles, and the
28

1 non-compliance with EPA emissions requirements, all of which has greatly tarnished
 2 the GM brand name attached to Plaintiffs' and Class members' vehicles and made any
 3 reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay
 4 what otherwise would have been fair market value for the vehicles.

5 1091. Accordingly, GM is liable to Plaintiffs and Class members for damages in
 6 an amount to be proven at trial.

7 1092. GM's acts were done wantonly, maliciously, oppressively, deliberately,
 8 with intent to defraud, and in reckless disregard of Plaintiffs' and Class members'
 9 rights and the representations that GM made to them, in order to enrich GM. GM's
 10 conduct warrants an assessment of punitive damages in an amount sufficient to deter
 11 such conduct in the future, which amount is to be determined according to proof.

12 **W. Claims Brought on Behalf of the Texas Class**

13 **COUNT I**

14 **VIOLATIONS OF THE DECEPTIVE TRADE PRACTICES ACT** 15 **(TEX. BUS. & COM. CODE §§ 17.41, *ET SEQ.*)**

16 1093. Plaintiffs (for purposes of all Texas Class Counts) incorporate by
 17 reference all preceding allegations as though fully set forth herein.

18 1094. Plaintiff intends to assert a claim under the Texas Deceptive Trade
 19 Practices Act ("TDTPA"), which makes it unlawful to commit "[f]alse, misleading, or
 20 deceptive acts or practices in the conduct of any trade or commerce." TEX. BUS. &
 21 COM. CODE § 17.46. Plaintiffs will make a demand in satisfaction of TEX. BUS. &
 22 COM. CODE § 17.45(2), and may amend this Complaint to assert claims under the
 23 TDTPA once the required 60 days have elapsed. This paragraph is included for
 24 purposes of notice only and is not intended to actually assert a claim under the
 25 TDTPA.
 26
 27
 28

COUNT II

**BREACH OF CONTRACT
(BASED ON TEXAS LAW)**

1095. Plaintiffs incorporate by reference all preceding allegations as though fully set forth herein.

1096. Plaintiffs bring this Count on behalf of the Texas Class members.

1097. GM's misrepresentations and omissions alleged herein, including GM's failure to disclose the existence of the GM Clean Diesel engine system's defect and/or defective design of the emissions controls as alleged herein, caused Plaintiffs and the other Class members to make their purchases or leases of their Affected Vehicles. Absent those misrepresentations and omissions, Plaintiffs and the other Class members would not have purchased or leased these Affected Vehicles, would not have purchased or leased these Affected Vehicles at the prices they paid, and/or would have purchased or leased less expensive alternative vehicles that did not contain the defective GM Clean Diesel engine system and which were not marketed as including such a system. Accordingly, Plaintiffs and the other Class members overpaid for their Affected Vehicles and did not receive the benefit of their bargain.

1098. Each and every sale or lease of an Affected Vehicle constitutes a contract between GM and the purchaser or lessee. GM breached these contracts by selling or leasing to Plaintiffs and the other Class members defective Affected Vehicles and by misrepresenting or failing to disclose that the NOx reduction system in the Affected Vehicles turns off or is limited during normal driving conditions and the existence of the GM Clean Diesel engine system's defect and/or defective design of the emissions controls, including information known to GM, rendering each Affected Vehicle non-EPA-compliant, and thus less valuable than vehicles not equipped with the defective GM Clean Diesel engine system.

1099. As a direct and proximate result of GM's breach of contract, Plaintiffs and the Class have been damaged in an amount to be proven at trial, which shall

1 include, but is not limited to, all compensatory damages, incidental and consequential
2 damages, and other damages allowed by law.

3 **COUNT III**

4 **FRAUD BY CONCEALMENT**
5 **(BASED ON TEXAS LAW)**

6 1100. Plaintiffs incorporate by reference all preceding allegations as though
7 fully set forth herein.

8 1101. This claim is brought on behalf of the Texas Class.

9 1102. GM intentionally concealed that the NOx reduction system in the
10 Affected Vehicles turns off or is limited during normal driving conditions, that the
11 Affected Vehicles had defective emissions controls, emitted pollutants at a higher
12 level than gasoline powered vehicles, emitted pollutants higher than a reasonable
13 consumer would expect in light of GM's advertising campaign, emitted unlawfully
14 high levels of pollutants such as NOx, and were non-compliant with EPA emission
15 requirements, or GM acted with reckless disregard for the truth, and denied Plaintiffs
16 and the other Class members information that is highly relevant to their purchasing
17 decision.

18 1103. GM further affirmatively misrepresented to Plaintiffs in advertising and
19 other forms of communication, including standard and uniform material provided with
20 each car, that the Affected Vehicles it was selling had no significant defects, were
21 Earth-friendly and low emission vehicles, complied with EPA regulations, and would
22 perform and operate properly when driven in normal usage.

23 1104. GM knew these representations were false when made.

24 1105. The Affected Vehicles purchased or leased by Plaintiffs and the other
25 Class members were, in fact, defective, emitting pollutants at a much higher rate than
26 gasoline powered vehicles and at a much higher rate than a reasonable consumer
27 would expect in light of GM's advertising campaign, non-EPA-compliant, and
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1 unreliable because the NOx reduction system in the Affected Vehicles turns off or is
2 limited during normal driving conditions.

3 1106. GM had a duty to disclose that the NOx reduction system in the Affected
4 Vehicles turns off or is limited during normal driving conditions, and that these
5 Affected Vehicles were defective, employed a “Defeat Device,” emitted pollutants at a
6 much higher rate than gasoline powered vehicles, that the emissions far exceeded
7 those expected by a reasonable consumer, were non-EPA-compliant and unreliable,
8 because Plaintiffs and the other Class members relied on GM’s material
9 representations that the Affected Vehicles they were purchasing were reduced
10 emission vehicles, efficient, and free from defects.

11 1107. As alleged in this Complaint, at all relevant times, GM has held out the
12 Affected Vehicles to be reduced emission, EPA-compliant vehicles. GM disclosed
13 certain details about the GM Clean Diesel engine, but nonetheless, GM intentionally
14 failed to disclose the important facts that the NOx reduction system in the Affected
15 Vehicles turns off or is limited during normal driving conditions, and that the Affected
16 Vehicles had defective emissions controls, deployed a “Defeat Device,” emitted
17 higher levels of pollutants than expected by a reasonable consumer, emitted
18 unlawfully high levels of pollutants, and were non-compliant with EPA emissions
19 requirements, making other disclosures about the emission system deceptive.

20 1108. The truth about the defective emissions controls and GM’s manipulations
21 of those controls, unlawfully high emissions, the “Defeat Device,” and non-
22 compliance with EPA emissions requirements was known only to GM; Plaintiffs and
23 the Class members did not know of these facts and GM actively concealed these facts
24 from Plaintiffs and Class members.

25 1109. Plaintiffs and Class members reasonably relied upon GM’s deception.
26 They had no way of knowing that GM’s representations were false and/or misleading.
27 As consumers, Plaintiffs and Class members did not, and could not, unravel GM’s
28

1 deception on their own. Rather, GM intended to deceive Plaintiffs and Class members
2 by concealing the true facts about the Affected Vehicle emissions.

3 1110. GM also concealed and suppressed material facts concerning what is
4 evidently the true culture of GM—one characterized by an emphasis on profits and
5 sales above compliance with federal and state clean air laws and emissions regulations
6 that are meant to protect the public and consumers. It also emphasized profits and
7 sales above the trust that Plaintiffs and Class members placed in its representations.
8 Consumers buy diesel cars from GM because they feel they are clean diesel cars.
9 They do not want to be spewing noxious gases into the environment. And yet, that is
10 precisely what the Affected Vehicles are doing.

11 1111. GM's false representations were material to consumers because they
12 concerned the quality of the Affected Vehicles, because they concerned compliance
13 with applicable federal and state law and regulations regarding clean air and
14 emissions, and also because the representations played a significant role in the value
15 of the vehicles. As GM well knew, its customers, including Plaintiffs and Class
16 members, highly valued that the vehicles they were purchasing or leasing were fuel
17 efficient, clean diesel cars with reduced emissions, and they paid accordingly.

18 1112. GM had a duty to disclose the emissions defect, defective design of the
19 emissions controls, and violations with respect to the Affected Vehicles because
20 details of the true facts were known and/or accessible only to GM, because GM had
21 exclusive knowledge as to such facts, and because GM knew these facts were not
22 known to or reasonably discoverable by Plaintiffs or Class members. GM also had a
23 duty to disclose because it made general affirmative representations about the qualities
24 of its vehicles with respect to emissions, starting with references to them as *reduced*
25 *emissions* diesel cars and as compliant with all laws in each state, which were
26 misleading, deceptive, and incomplete without the disclosure of the additional facts set
27 forth above regarding the actual emissions of its vehicles, its actual philosophy with
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1 respect to compliance with federal and state clean air laws and emissions regulations,
2 and its actual practices with respect to the vehicles at issue. Having volunteered to
3 provide information to Plaintiffs and Class members, GM had the duty to disclose not
4 just the partial truth, but the entire truth. These omitted and concealed facts were
5 material because they directly impact the value of the Affected Vehicles purchased or
6 leased by Plaintiffs and Class members. Whether a manufacturer's products pollute,
7 comply with federal and state clean air laws and emissions regulations, and whether
8 that manufacturer tells the truth with respect to such compliance or non-compliance,
9 are material concerns to a consumer, including with respect to the emissions
10 certifications testing their vehicles must pass. GM represented to Plaintiffs and Class
11 members that they were purchasing or leasing *reduced emissions* diesel vehicles, when
12 in fact, they were purchasing or leasing defective, high emission, and unlawfully high
13 emission vehicles.

14 1113. GM actively concealed and/or suppressed these material facts, in whole
15 or in part, to pad and protect its profits and to avoid the perception that its vehicles
16 were not clean diesel vehicles and did not or could not comply with federal and state
17 laws governing clean air and emissions, which perception would hurt the brand's
18 image and cost GM money, and it did so at the expense of Plaintiffs and Class
19 members.

20 1114. GM has still not made full and adequate disclosures, and continues to
21 defraud Plaintiffs and Class members by concealing material information regarding
22 the emissions qualities of its referenced vehicles.

23 1115. Plaintiffs and Class members were unaware of the omitted material facts
24 referenced herein, and they would not have acted as they did if they had known of the
25 concealed and/or suppressed facts, in that they would not have purchased purportedly
26 reduced emissions diesel cars manufactured by GM, and/or would not have continued
27 to drive their heavily polluting vehicles, or would have taken other affirmative steps in
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1 light of the information concealed from them. Plaintiffs' and Class members' actions
2 were justified. GM was in exclusive control of the material facts, and such facts were
3 not generally known to the public, Plaintiffs, or Class members.

4 1116. Because of the concealment and/or suppression of the facts, Plaintiffs and
5 Class members have sustained damage because they own vehicles that are diminished
6 in value as a result of GM's concealment of the true quality and quantity of those
7 vehicles' emissions and GM's failure to timely disclose the defect or defective design
8 of the GM Clean Diesel engine system, the actual emissions qualities and quantities of
9 GM-branded vehicles, and the serious issues engendered by GM's corporate policies.
10 Had Plaintiffs and Class members been aware of the true emissions facts with regard
11 to the Affected Vehicles, and the Company's disregard for the truth and compliance
12 with applicable federal and state law and regulations, Plaintiffs and Class members
13 who purchased or leased new or certified previously owned vehicles would have paid
14 less for their vehicles or would not have purchased or leased them at all.

15 1117. The value of Plaintiffs' and Class members' vehicles has diminished as a
16 result of GM's fraudulent concealment of the defective emissions controls of the
17 Affected Vehicles, the unlawfully high emissions of the Affected Vehicles, and the
18 non-compliance with EPA emissions requirements, all of which has greatly tarnished
19 the GM brand name attached to Plaintiffs' and Class members' vehicles and made any
20 reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay
21 what otherwise would have been fair market value for the vehicles.

22 1118. Accordingly, GM is liable to Plaintiffs and Class members for damages in
23 an amount to be proven at trial.

24 1119. GM's acts were done wantonly, maliciously, oppressively, deliberately,
25 with intent to defraud, and in reckless disregard of Plaintiffs' and Class members'
26 rights and the representations that GM made to them, in order to enrich GM. GM's
27
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1 conduct warrants an assessment of punitive damages in an amount sufficient to deter
2 such conduct in the future, which amount is to be determined according to proof.

3 **X. Claims Brought on Behalf of the Utah Class**

4 **COUNT I**

5 **VIOLATIONS OF THE UTAH CONSUMER SALES PRACTICES ACT**
6 **(UTAH CODE ANN. §§ 13-11-1, *ET SEQ.*)**

7 1120. Plaintiffs (for purposes of all Utah Class Counts) incorporate by reference
8 all paragraphs as though fully set forth herein.

9 1121. Plaintiffs bring this Count on behalf of the Utah Class members.

10 1122. GM is a “supplier” under the Utah Consumer Sales Practices Act (“Utah
11 CSPA”), UTAH CODE ANN. § 13-11-3.

12 1123. Plaintiffs and the Class members are “persons” under UTAH CODE ANN. §
13 13-11-3.

14 1124. Sales of the Affected Vehicles to Plaintiffs and the Class were “consumer
15 transactions” within the meaning of UTAH CODE ANN. § 13-11-3.

16 1125. The Utah CSPA makes unlawful any “deceptive act or practice by a
17 supplier in connection with a consumer transaction” under UTAH CODE ANN. § 13-11-
18 4. Specifically, “a supplier commits a deceptive act or practice if the supplier
19 knowingly or intentionally: (a) indicates that the subject of a consumer transaction has
20 sponsorship, approval, performance characteristics, accessories, uses, or benefits, if it
21 has not” or “(b) indicates that the subject of a consumer transaction is of a particular
22 standard, quality, grade, style, or model, if it is not.” UTAH CODE ANN. § 13-11-4.

23 “An unconscionable act or practice by a supplier in connection with a consumer
24 transaction” also violates the Utah CSPA. UTAH CODE ANN. § 13-11-5. In the course
25 of GM’s business, it willfully failed to disclose and actively concealed that the NO_x
26 reduction system in the Affected Vehicles turns off or is limited during normal driving
27 conditions, that the Affected Vehicles emitted far more pollutants than gasoline
28 powered vehicles, that the Affected Vehicles emit far more pollution than a reasonable

1 consumer would expect in light of GM's advertising campaign, and that the Affected
2 Vehicles emitted unlawfully high levels of pollutants, including NOx, as described
3 above. Accordingly, GM engaged in conduct prohibited by the Utah CSPA,
4 including, among other things, engaging in unconscionable acts, representing that the
5 Affected Vehicles have characteristics, uses, benefits, and qualities which they do not
6 have; and representing that the Affected Vehicles are of a particular standard, quality,
7 and grade when they are not. GM also engaged in unlawful trade practices by
8 employing deception, deceptive acts or practices, fraud, misrepresentations, or
9 concealment, suppression or omission of any material fact with intent that others rely
10 upon such concealment, suppression or omission, in connection with the sale of
11 Affected Vehicles.

12 1126. In purchasing or leasing the Affected Vehicles, Plaintiffs and the other
13 Class members were deceived by GM's failure to disclose that the NOx reduction
14 system in the Affected Vehicles turns off or is limited during normal driving
15 conditions, that the emissions controls were defective, and that the Affected Vehicles
16 emitted unlawfully high levels of pollutants, including NOx, as described above.

17 1127. Plaintiffs and Class members reasonably relied upon GM's false
18 misrepresentations. They had no way of knowing that GM's representations were
19 false and gravely misleading. As alleged herein, GM engaged in extremely
20 sophisticated methods of deception. Plaintiffs and Class members did not, and could
21 not, unravel GM's deception on their own.

22 1128. GM's actions as set forth above occurred in the conduct of trade or
23 commerce.

24 1129. GM's unfair or deceptive acts or practices were likely to and did in fact
25 deceive reasonable consumers.

26 1130. GM intentionally and knowingly misrepresented material facts regarding
27 the Affected Vehicles with an intent to mislead Plaintiffs and the Class.
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1 1131. GM knew or should have known that its conduct violated the Utah CSPA.

2 1132. GM owed Plaintiffs and the Class a duty to disclose the truth about its
3 emissions systems manipulation because GM:

4 a. Possessed exclusive knowledge that it
5 manipulated the emissions system in the Affected Vehicles
6 to turn off or limit effectiveness in normal driving
conditions;

7 b. Intentionally concealed the foregoing from
8 Plaintiffs and the Class; and/or

9 c. Made incomplete representations that it
10 manipulated the emissions system in the Affected Vehicles
11 to turn off or limit effectiveness in normal driving
12 conditions, while purposefully withholding material facts
from Plaintiffs and the Class that contradicted these
representations.

13 1133. GM had a duty to disclose that the NOx reduction system in the Affected
14 Vehicles turns off or is limited during normal driving conditions, and that these
15 Affected Vehicles were defective, employed a “Defeat Device,” emitted pollutants at a
16 much higher rate than gasoline powered vehicles, that the emissions far exceeded
17 those expected by a reasonable consumer, were non-EPA-compliant and unreliable,
18 because Plaintiffs and the other Class members relied on GM’s material
19 representations that the Affected Vehicles they were purchasing were reduced
20 emission vehicles, efficient, and free from defects.

21 1134. GM’s conduct proximately caused injuries to Plaintiffs and the other
22 Class members.

23 1135. Plaintiffs and the other Class members were injured and suffered
24 ascertainable loss, injury-in-fact, and/or actual damage as a proximate result of GM’s
25 conduct in that Plaintiffs and the other Class members overpaid for their Affected
26 Vehicles and did not receive the benefit of their bargain, and their Affected Vehicles
27 have suffered a diminution in value. These injuries are the direct and natural
28 consequence of GM’s misrepresentations and omissions.

1 1141. Each and every sale or lease of an Affected Vehicle constitutes a contract
2 between GM and the purchaser or lessee. GM breached these contracts by selling or
3 leasing to Plaintiffs and the other Class members defective Affected Vehicles and by
4 misrepresenting or failing to disclose that the NOx reduction system in the Affected
5 Vehicles turns off or is limited during normal driving conditions and the existence of
6 the GM Clean Diesel engine system's defect and/or defective design of the emissions
7 controls, including information known to GM, rendering each Affected Vehicle non-
8 EPA-compliant, and thus less valuable than vehicles not equipped with the defective
9 GM Clean Diesel engine system.

10 1142. As a direct and proximate result of GM's breach of contract, Plaintiffs
11 and the Class have been damaged in an amount to be proven at trial, which shall
12 include, but is not limited to, all compensatory damages, incidental and consequential
13 damages, and other damages allowed by law.

14 **COUNT III**

15 **FRAUDULENT CONCEALMENT** 16 **(BASED ON UTAH LAW)**

17 1143. Plaintiffs incorporate by reference all preceding allegations as though
18 fully set forth herein.

19 1144. This claim is brought on behalf of the Utah Class.

20 1145. GM intentionally concealed that the NOx reduction system in the
21 Affected Vehicles turns off or is limited during normal driving conditions, that the
22 Affected Vehicles had defective emissions controls, emitted pollutants at a higher
23 level than gasoline powered vehicles, emitted pollutants higher than a reasonable
24 consumer would expect in light of GM's advertising campaign, emitted unlawfully
25 high levels of pollutants such as NOx, and were non-compliant with EPA emission
26 requirements, or GM acted with reckless disregard for the truth, and denied Plaintiffs
27 and the other Class members information that is highly relevant to their purchasing
28 decision.

1 1146. GM further affirmatively misrepresented to Plaintiffs in advertising and
2 other forms of communication, including standard and uniform material provided with
3 each car, that the Affected Vehicles it was selling had no significant defects, were
4 Earth-friendly and low emission vehicles, complied with EPA regulations, and would
5 perform and operate properly when driven in normal usage.

6 1147. GM knew these representations were false when made.

7 1148. The Affected Vehicles purchased or leased by Plaintiffs and the other
8 Class members were, in fact, defective, emitting pollutants at a much higher rate than
9 gasoline powered vehicles and at a much higher rate than a reasonable consumer
10 would expect in light of GM's advertising campaign, non-EPA-compliant, and
11 unreliable because the NOx reduction system in the Affected Vehicles turns off or is
12 limited during normal driving conditions.

13 1149. GM had a duty to disclose that the NOx reduction system in the Affected
14 Vehicles turns off or is limited during normal driving conditions, and that these
15 Affected Vehicles were defective, employed a "Defeat Device," emitted pollutants at a
16 much higher rate than gasoline powered vehicles, that the emissions far exceeded
17 those expected by a reasonable consumer, were non-EPA-compliant and unreliable,
18 because Plaintiffs and the other Class members relied on GM's material
19 representations that the Affected Vehicles they were purchasing were reduced
20 emission vehicles, efficient, and free from defects.

21 1150. As alleged in this Complaint, at all relevant times, GM has held out the
22 Affected Vehicles to be reduced emission, EPA-compliant vehicles. GM disclosed
23 certain details about the GM Clean Diesel engine, but nonetheless, GM intentionally
24 failed to disclose the important facts that the NOx reduction system in the Affected
25 Vehicles turns off or is limited during normal driving conditions, and that the Affected
26 Vehicles had defective emissions controls, deployed a "Defeat Device," emitted
27 higher levels of pollutants than expected by a reasonable consumer, emitted
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1 unlawfully high levels of pollutants, and were non-compliant with EPA emissions
2 requirements, making other disclosures about the emission system deceptive.

3 1151. The truth about the defective emissions controls and GM's manipulations
4 of those controls, unlawfully high emissions, the "Defeat Device," and non-
5 compliance with EPA emissions requirements was known only to GM; Plaintiffs and
6 the Class members did not know of these facts and GM actively concealed these facts
7 from Plaintiffs and Class members.

8 1152. Plaintiffs and Class members reasonably relied upon GM's deception.
9 They had no way of knowing that GM's representations were false and/or misleading.
10 As consumers, Plaintiffs and Class members did not, and could not, unravel GM's
11 deception on their own. Rather, GM intended to deceive Plaintiffs and Class members
12 by concealing the true facts about the Affected Vehicle emissions.

13 1153. GM also concealed and suppressed material facts concerning what is
14 evidently the true culture of GM—one characterized by an emphasis on profits and
15 sales above compliance with federal and state clean air laws and emissions regulations
16 that are meant to protect the public and consumers. It also emphasized profits and
17 sales above the trust that Plaintiffs and Class members placed in its representations.
18 Consumers buy diesel cars from GM because they feel they are clean diesel cars.
19 They do not want to be spewing noxious gases into the environment. And yet, that is
20 precisely what the Affected Vehicles are doing.

21 1154. GM's false representations were material to consumers because they
22 concerned the quality of the Affected Vehicles, because they concerned compliance
23 with applicable federal and state law and regulations regarding clean air and
24 emissions, and also because the representations played a significant role in the value
25 of the vehicles. As GM well knew, its customers, including Plaintiffs and Class
26 members, highly valued that the vehicles they were purchasing or leasing were fuel
27 efficient, clean diesel cars with reduced emissions, and they paid accordingly.
28

1 1155. GM had a duty to disclose the emissions defect, defective design of the
2 emissions controls, and violations with respect to the Affected Vehicles because
3 details of the true facts were known and/or accessible only to GM, because GM had
4 exclusive knowledge as to such facts, and because GM knew these facts were not
5 known to or reasonably discoverable by Plaintiffs or Class members. GM also had a
6 duty to disclose because it made general affirmative representations about the qualities
7 of its vehicles with respect to emissions, starting with references to them as *reduced*
8 *emissions* diesel cars and as compliant with all laws in each state, which were
9 misleading, deceptive, and incomplete without the disclosure of the additional facts set
10 forth above regarding the actual emissions of its vehicles, its actual philosophy with
11 respect to compliance with federal and state clean air laws and emissions regulations,
12 and its actual practices with respect to the vehicles at issue. Having volunteered to
13 provide information to Plaintiffs and Class members, GM had the duty to disclose not
14 just the partial truth, but the entire truth. These omitted and concealed facts were
15 material because they directly impact the value of the Affected Vehicles purchased or
16 leased by Plaintiffs and Class members. Whether a manufacturer's products pollute,
17 comply with federal and state clean air laws and emissions regulations, and whether
18 that manufacturer tells the truth with respect to such compliance or non-compliance,
19 are material concerns to a consumer, including with respect to the emissions
20 certifications testing their vehicles must pass. GM represented to Plaintiffs and Class
21 members that they were purchasing or leasing *reduced emissions* diesel vehicles, when
22 in fact, they were purchasing or leasing defective, high emission, and unlawfully high
23 emission vehicles.

24 1156. GM actively concealed and/or suppressed these material facts, in whole
25 or in part, to pad and protect its profits and to avoid the perception that its vehicles
26 were not clean diesel vehicles and did not or could not comply with federal and state
27 laws governing clean air and emissions, which perception would hurt the brand's
28

1 image and cost GM money, and it did so at the expense of Plaintiffs and Class
2 members.

3 1157. GM has still not made full and adequate disclosures, and continues to
4 defraud Plaintiffs and Class members by concealing material information regarding
5 the emissions qualities of its referenced vehicles.

6 1158. Plaintiffs and Class members were unaware of the omitted material facts
7 referenced herein, and they would not have acted as they did if they had known of the
8 concealed and/or suppressed facts, in that they would not have purchased purportedly
9 reduced emissions diesel cars manufactured by GM, and/or would not have continued
10 to drive their heavily polluting vehicles, or would have taken other affirmative steps in
11 light of the information concealed from them. Plaintiffs' and Class members' actions
12 were justified. GM was in exclusive control of the material facts, and such facts were
13 not generally known to the public, Plaintiffs, or Class members.

14 1159. Because of the concealment and/or suppression of the facts, Plaintiffs and
15 Class members have sustained damage because they own vehicles that are diminished
16 in value as a result of GM's concealment of the true quality and quantity of those
17 vehicles' emissions and GM's failure to timely disclose the defect or defective design
18 of the GM Clean Diesel engine system, the actual emissions qualities and quantities of
19 GM-branded vehicles, and the serious issues engendered by GM's corporate policies.
20 Had Plaintiffs and Class members been aware of the true emissions facts with regard
21 to the Affected Vehicles, and the Company's disregard for the truth and compliance
22 with applicable federal and state law and regulations, Plaintiffs and Class members
23 who purchased or leased new or certified previously owned vehicles would have paid
24 less for their vehicles or would not have purchased or leased them at all.

25 1160. The value of Plaintiffs' and Class members' vehicles has diminished as a
26 result of GM's fraudulent concealment of the defective emissions controls of the
27 Affected Vehicles, the unlawfully high emissions of the Affected Vehicles, and the
28

1 non-compliance with EPA emissions requirements, all of which has greatly tarnished
 2 the GM brand name attached to Plaintiffs' and Class members' vehicles and made any
 3 reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay
 4 what otherwise would have been fair market value for the vehicles.

5 1161. Accordingly, GM is liable to Plaintiffs and Class members for damages in
 6 an amount to be proven at trial.

7 1162. GM's acts were done wantonly, maliciously, oppressively, deliberately,
 8 with intent to defraud, and in reckless disregard of Plaintiffs' and Class members'
 9 rights and the representations that GM made to them, in order to enrich GM. GM's
 10 conduct warrants an assessment of punitive damages in an amount sufficient to deter
 11 such conduct in the future, which amount is to be determined according to proof.

12 **Y. Claims Brought on Behalf of the Virginia Class**

13 **COUNT I**

14 **VIOLATIONS OF THE VIRGINIA CONSUMER PROTECTION ACT** 15 **(VA. CODE ANN. §§ 59.1-196, *ET SEQ.*)**

16 1163. Plaintiffs (for purposes of all Virginia Class Counts) incorporate by
 17 reference all paragraphs as though fully set forth herein.

18 1164. This claim is brought on behalf of the Virginia Class members.

19 1165. GM is a "person" as defined by VA. CODE ANN. § 59.1-198. The
 20 transactions between Plaintiffs and the other Class members on the one hand and GM
 21 on the other, leading to the purchase or lease of the Affected Vehicles by Plaintiffs and
 22 the other Class members, are "consumer transactions" as defined by VA. CODE ANN.
 23 § 59.1-198, because the Affected Vehicles were purchased or leased primarily for
 24 personal, family or household purposes.

25 1166. The Virginia Consumer Protection Act (Virginia CPA) prohibits "... (5)
 26 misrepresenting that goods or services have certain quantities, characteristics,
 27 ingredients, uses, or benefits; (6) misrepresenting that goods or services are of a
 28 particular standard, quality, grade, style, or model; ... (8) advertising goods or services

1 with intent not to sell them as advertised ...; [and] (14) using any other deception,
2 fraud, false pretense, false promise, or misrepresentation in connection with a
3 consumer transaction[.]” VA. CODE ANN. § 59.1-200(A). In the course of GM’s
4 business, it willfully failed to disclose and actively concealed that the NOx reduction
5 system in the Affected Vehicles turns off or is limited during normal driving
6 conditions, that the Affected Vehicles emitted far more pollutants than gasoline
7 powered vehicles, that the Affected Vehicles emit far more pollution than a reasonable
8 consumer would expect in light of GM’s advertising campaign, and that the Affected
9 Vehicles emitted unlawfully high levels of pollutants, including NOx, as described
10 above. Accordingly, GM engaged in acts and practices violating VA. CODE ANN.
11 § 59.1-200(A), including representing that the Affected Vehicles have characteristics,
12 uses, benefits, and qualities which they do not have; representing that the Affected
13 Vehicles are of a particular standard and quality when they are not; advertising the
14 Affected Vehicles with the intent not to sell them as advertised; and otherwise
15 engaging in deception, fraud, false pretense, false promise or misrepresentations and
16 conduct likely to deceive.

17 1167. In purchasing or leasing the Affected Vehicles, Plaintiffs and the other
18 Class members were deceived by GM’s failure to disclose that the NOx reduction
19 system in the Affected Vehicles turns off or is limited during normal driving
20 conditions, that the emissions controls were defective, and that the Affected Vehicles
21 emitted unlawfully high levels of pollutants, including NOx, as described above.

22 1168. Plaintiffs and Class members reasonably relied upon GM’s false
23 misrepresentations. They had no way of knowing that GM’s representations were
24 false and gravely misleading. As alleged herein, GM engaged in extremely
25 sophisticated methods of deception. Plaintiffs and Class members did not, and could
26 not, unravel GM’s deception on their own.

1 1169. GM's actions as set forth above occurred in the conduct of trade or
2 commerce.

3 1170. GM's unfair or deceptive acts or practices were likely to and did in fact
4 deceive reasonable consumers.

5 1171. GM intentionally and knowingly misrepresented material facts regarding
6 the Affected Vehicles with an intent to mislead Plaintiffs and the Class.

7 1172. GM knew or should have known that its conduct violated the Virginia
8 CPA.

9 1173. GM owed Plaintiffs and the Class a duty to disclose the truth about its
10 emissions systems manipulation because GM:

11 a. Possessed exclusive knowledge that it
12 manipulated the emissions system in the Affected Vehicles
13 to turn off or limit effectiveness in normal driving
conditions;

14 b. Intentionally concealed the foregoing from
15 Plaintiffs and the Class; and/or

16 c. Made incomplete representations that it
17 manipulated the emissions system in the Affected Vehicles
18 to turn off or limit effectiveness in normal driving
19 conditions, while purposefully withholding material facts
from Plaintiffs and the Class that contradicted these
20 representations.

21 1174. GM had a duty to disclose that the NOx reduction system in the Affected
22 Vehicles turns off or is limited during normal driving conditions, and that these
23 Affected Vehicles were defective, employed a "Defeat Device," emitted pollutants at a
24 much higher rate than gasoline powered vehicles, that the emissions far exceeded
25 those expected by a reasonable consumer, were non-EPA-compliant and unreliable,
26 because Plaintiffs and the other Class members relied on GM's material
27 representations that the Affected Vehicles they were purchasing were reduced
28 emission vehicles, efficient, and free from defects.

1 1175. GM's conduct proximately caused injuries to Plaintiffs and the other
2 Class members.

3 1176. Plaintiffs and the other Class members were injured and suffered
4 ascertainable loss, injury-in-fact, and/or actual damage as a proximate result of GM's
5 conduct in that Plaintiffs and the other Class members overpaid for their Affected
6 Vehicles and did not receive the benefit of their bargain, and their Affected Vehicles
7 have suffered a diminution in value. These injuries are the direct and natural
8 consequence of GM's misrepresentations and omissions.

9 1177. GM's violations present a continuing risk to Plaintiffs as well as to the
10 general public. GM's unlawful acts and practices complained of herein affect the
11 public interest.

12 1178. Pursuant to VA. CODE ANN. § 59.1-204, Plaintiffs and the Class seek
13 monetary relief against GM measured as the greater of (a) actual damages in an
14 amount to be determined at trial and (b) statutory damages in the amount of \$500 for
15 each Plaintiffs and each Class member. Because GM's conduct was committed
16 willfully and knowingly, Plaintiffs are entitled to recover, for each Plaintiffs and each
17 Class member, the greater of (a) three times actual damages or (b) \$1,000.

18 1179. Plaintiffs also seek punitive damages, and attorneys' fees, and any other
19 just and proper relief available under General Business Law § 59.1-204, *et seq.*

20 **COUNT II**

21 **BREACH OF CONTRACT** 22 **(BASED ON VIRGINIA LAW)**

23 1180. Plaintiffs incorporate by reference all preceding allegations as though
24 fully set forth herein.

25 1181. Plaintiffs bring this Count on behalf of Virginia Class members.

26 1182. GM's misrepresentations and omissions alleged herein, including GM's
27 failure to disclose the existence of the GM Clean Diesel engine system's defect and/or
28 defective design of the emissions controls as alleged herein, caused Plaintiffs and the

1 other Class members to make their purchases or leases of their Affected Vehicles.
2 Absent those misrepresentations and omissions, Plaintiffs and the other Class
3 members would not have purchased or leased these Affected Vehicles, would not have
4 purchased or leased these Affected Vehicles at the prices they paid, and/or would have
5 purchased or leased less expensive alternative vehicles that did not contain the
6 defective GM Clean Diesel engine system and which were not marketed as including
7 such a system. Accordingly, Plaintiffs and the other Class members overpaid for their
8 Affected Vehicles and did not receive the benefit of their bargain.

9 1183. Each and every sale or lease of an Affected Vehicle constitutes a contract
10 between GM and the purchaser or lessee. GM breached these contracts by selling or
11 leasing to Plaintiffs and the other Class members defective Affected Vehicles and by
12 misrepresenting or failing to disclose that the NOx reduction system in the Affected
13 Vehicles turns off or is limited during normal driving conditions and the existence of
14 the GM Clean Diesel engine system's defect and/or defective design of the emissions
15 controls, including information known to GM, rendering each Affected Vehicle non-
16 EPA-compliant, and thus less valuable than vehicles not equipped with the defective
17 GM Clean Diesel engine system.

18 1184. As a direct and proximate result of GM's breach of contract, Plaintiffs
19 and the Class have been damaged in an amount to be proven at trial, which shall
20 include, but is not limited to, all compensatory damages, incidental and consequential
21 damages, and other damages allowed by law.

22 **COUNT III**

23 **FRAUD BY CONCEALMENT** 24 **(UNDER VIRGINIA LAW)**

25 1185. Plaintiffs incorporate by reference all paragraphs as though fully set forth
26 herein.

27 1186. This claim is brought on behalf of the Virginia Class.
28

1 1187. GM intentionally concealed that the NOx reduction system in the
2 Affected Vehicles turns off or is limited during normal driving conditions, that the
3 Affected Vehicles had defective emissions controls, emitted pollutants at a higher
4 level than gasoline powered vehicles, emitted pollutants higher than a reasonable
5 consumer would expect in light of GM's advertising campaign, emitted unlawfully
6 high levels of pollutants such as NOx, and were non-compliant with EPA emission
7 requirements, or GM acted with reckless disregard for the truth, and denied Plaintiffs
8 and the other Class members information that is highly relevant to their purchasing
9 decision.

10 1188. GM further affirmatively misrepresented to Plaintiffs in advertising and
11 other forms of communication, including standard and uniform material provided with
12 each car, that the Affected Vehicles it was selling had no significant defects, were
13 Earth-friendly and low emission vehicles, complied with EPA regulations, and would
14 perform and operate properly when driven in normal usage.

15 1189. GM knew these representations were false when made.

16 1190. The Affected Vehicles purchased or leased by Plaintiffs and the other
17 Class members were, in fact, defective, emitting pollutants at a much higher rate than
18 gasoline powered vehicles and at a much higher rate than a reasonable consumer
19 would expect in light of GM's advertising campaign, non-EPA-compliant, and
20 unreliable because the NOx reduction system in the Affected Vehicles turns off or is
21 limited during normal driving conditions.

22 1191. GM had a duty to disclose that the NOx reduction system in the Affected
23 Vehicles turns off or is limited during normal driving conditions, and that these
24 Affected Vehicles were defective, employed a "Defeat Device," emitted pollutants at a
25 much higher rate than gasoline powered vehicles, that the emissions far exceeded
26 those expected by a reasonable consumer, were non-EPA-compliant and unreliable,
27 because Plaintiffs and the other Class members relied on GM's material
28

1 representations that the Affected Vehicles they were purchasing were reduced
2 emission vehicles, efficient, and free from defects.

3 1192. As alleged in this Complaint, at all relevant times, GM has held out the
4 Affected Vehicles to be reduced emission, EPA-compliant vehicles. GM disclosed
5 certain details about the GM Clean Diesel engine, but nonetheless, GM intentionally
6 failed to disclose the important facts that the NOx reduction system in the Affected
7 Vehicles turns off or is limited during normal driving conditions, and that the Affected
8 Vehicles had defective emissions controls, deployed a “Defeat Device,” emitted
9 higher levels of pollutants than expected by a reasonable consumer, emitted
10 unlawfully high levels of pollutants, and were non-compliant with EPA emissions
11 requirements, making other disclosures about the emission system deceptive.

12 1193. The truth about the defective emissions controls and GM’s manipulations
13 of those controls, unlawfully high emissions, the “Defeat Device,” and non-
14 compliance with EPA emissions requirements was known only to GM; Plaintiffs and
15 the Class members did not know of these facts and GM actively concealed these facts
16 from Plaintiffs and Class members.

17 1194. Plaintiffs and Class members reasonably relied upon GM’s deception.
18 They had no way of knowing that GM’s representations were false and/or misleading.
19 As consumers, Plaintiffs and Class members did not, and could not, unravel GM’s
20 deception on their own. Rather, GM intended to deceive Plaintiffs and Class members
21 by concealing the true facts about the Affected Vehicle emissions.

22 1195. GM also concealed and suppressed material facts concerning what is
23 evidently the true culture of GM—one characterized by an emphasis on profits and
24 sales above compliance with federal and state clean air laws and emissions regulations
25 that are meant to protect the public and consumers. It also emphasized profits and
26 sales above the trust that Plaintiffs and Class members placed in its representations.
27 Consumers buy diesel cars from GM because they feel they are clean diesel cars.
28

1 They do not want to be spewing noxious gases into the environment. And yet, that is
2 precisely what the Affected Vehicles are doing.

3 1196. GM's false representations were material to consumers because they
4 concerned the quality of the Affected Vehicles, because they concerned compliance
5 with applicable federal and state law and regulations regarding clean air and
6 emissions, and also because the representations played a significant role in the value
7 of the vehicles. As GM well knew, its customers, including Plaintiffs and Class
8 members, highly valued that the vehicles they were purchasing or leasing were fuel
9 efficient, clean diesel cars with reduced emissions, and they paid accordingly.

10 1197. GM had a duty to disclose the emissions defect, defective design of the
11 emissions controls, and violations with respect to the Affected Vehicles because
12 details of the true facts were known and/or accessible only to GM, because GM had
13 exclusive knowledge as to such facts, and because GM knew these facts were not
14 known to or reasonably discoverable by Plaintiffs or Class members. GM also had a
15 duty to disclose because it made general affirmative representations about the qualities
16 of its vehicles with respect to emissions, starting with references to them as *reduced*
17 *emissions* diesel cars and as compliant with all laws in each state, which were
18 misleading, deceptive, and incomplete without the disclosure of the additional facts set
19 forth above regarding the actual emissions of its vehicles, its actual philosophy with
20 respect to compliance with federal and state clean air laws and emissions regulations,
21 and its actual practices with respect to the vehicles at issue. Having volunteered to
22 provide information to Plaintiffs and Class members, GM had the duty to disclose not
23 just the partial truth, but the entire truth. These omitted and concealed facts were
24 material because they directly impact the value of the Affected Vehicles purchased or
25 leased by Plaintiffs and Class members. Whether a manufacturer's products pollute,
26 comply with federal and state clean air laws and emissions regulations, and whether
27 that manufacturer tells the truth with respect to such compliance or non-compliance,
28

1 are material concerns to a consumer, including with respect to the emissions
2 certifications testing their vehicles must pass. GM represented to Plaintiffs and Class
3 members that they were purchasing or leasing *reduced emissions* diesel vehicles, when
4 in fact, they were purchasing or leasing defective, high emission, and unlawfully high
5 emission vehicles.

6 1198. GM actively concealed and/or suppressed these material facts, in whole
7 or in part, to pad and protect its profits and to avoid the perception that its vehicles
8 were not clean diesel vehicles and did not or could not comply with federal and state
9 laws governing clean air and emissions, which perception would hurt the brand's
10 image and cost GM money, and it did so at the expense of Plaintiffs and Class
11 members.

12 1199. GM has still not made full and adequate disclosures, and continues to
13 defraud Plaintiffs and Class members by concealing material information regarding
14 the emissions qualities of its referenced vehicles.

15 1200. Plaintiffs and Class members were unaware of the omitted material facts
16 referenced herein, and they would not have acted as they did if they had known of the
17 concealed and/or suppressed facts, in that they would not have purchased purportedly
18 reduced emissions diesel cars manufactured by GM, and/or would not have continued
19 to drive their heavily polluting vehicles, or would have taken other affirmative steps in
20 light of the information concealed from them. Plaintiffs' and Class members' actions
21 were justified. GM was in exclusive control of the material facts, and such facts were
22 not generally known to the public, Plaintiffs, or Class members.

23 1201. Because of the concealment and/or suppression of the facts, Plaintiffs and
24 Class members have sustained damage because they own vehicles that are diminished
25 in value as a result of GM's concealment of the true quality and quantity of those
26 vehicles' emissions and GM's failure to timely disclose the defect or defective design
27 of the GM Clean Diesel engine system, the actual emissions qualities and quantities of
28

1 GM-branded vehicles, and the serious issues engendered by GM's corporate policies.
 2 Had Plaintiffs and Class members been aware of the true emissions facts with regard
 3 to the Affected Vehicles, and the Company's disregard for the truth and compliance
 4 with applicable federal and state law and regulations, Plaintiffs and Class members
 5 who purchased or leased new or certified previously owned vehicles would have paid
 6 less for their vehicles or would not have purchased or leased them at all.

7 1202. The value of Plaintiffs' and Class members' vehicles has diminished as a
 8 result of GM's fraudulent concealment of the defective emissions controls of the
 9 Affected Vehicles, the unlawfully high emissions of the Affected Vehicles, and the
 10 non-compliance with EPA emissions requirements, all of which has greatly tarnished
 11 the GM brand name attached to Plaintiffs' and Class members' vehicles and made any
 12 reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay
 13 what otherwise would have been fair market value for the vehicles.

14 1203. Accordingly, GM is liable to Plaintiffs and Class members for damages in
 15 an amount to be proven at trial.

16 1204. GM's acts were done wantonly, maliciously, oppressively, deliberately,
 17 with intent to defraud, and in reckless disregard of Plaintiffs' and Class members'
 18 rights and the representations that GM made to them, in order to enrich GM. GM's
 19 conduct warrants an assessment of punitive damages in an amount sufficient to deter
 20 such conduct in the future, which amount is to be determined according to proof.

21 **Z. Claims Brought on Behalf of the Washington Class**

22 **COUNT I**

23 **VIOLATION OF THE WASHINGTON CONSUMER PROTECTION ACT** 24 **(WASH. REV. CODE ANN. §§ 19.86.010, ET SEQ.)**

25 1205. Plaintiffs (for purposes of all Washington Class Counts) incorporate by
 26 reference all preceding allegations as though fully set forth herein.

27 1206. Plaintiffs bring this Count on behalf of the Washington Class members.
 28

1 1207. GM, Plaintiffs, and the Washington Class are a “person” under WASH.
2 REV. CODE ANN. § 19.86.010(1) (“Washington CPA”).

3 1208. GM engaged in “trade” or “commerce” under WASH. REV. CODE ANN. §
4 19.86.010(2).

5 1209. The Washington Consumer Protection Act (“Washington CPA”) broadly
6 prohibits “[u]nfair methods of competition and unfair or deceptive acts or practices in
7 the conduct of any trade or commerce.” WASH. REV. CODE. WASH. ANN. § 19.96.010.
8 In the course of GM’s business, it willfully failed to disclose and actively concealed
9 that the NOx reduction system in the Affected Vehicles turns off or is limited during
10 normal driving conditions, that the Affected Vehicles emitted far more pollutants than
11 gasoline powered vehicles, that the Affected Vehicles emit far more pollution than a
12 reasonable consumer would expect in light of GM’s advertising campaign, and that the
13 Affected Vehicles emitted unlawfully high levels of pollutants, including NOx, as
14 described above. Accordingly, GM engaged in unfair and deceptive business practices
15 prohibited by the Washington CPA. GM’s conduct was unfair because it (1) offends
16 public policy as it has been established by statutes, the common law, or otherwise; (2)
17 is immoral, unethical, oppressive, or unscrupulous; or (3) causes substantial injury to
18 consumers. GM’s conduct is deceptive because it has the capacity or tendency to
19 deceive.

20 1210. In purchasing or leasing the Affected Vehicles, Plaintiffs and the other
21 Class members were deceived by GM’s failure to disclose that the NOx reduction
22 system in the Affected Vehicles turns off or is limited during normal driving
23 conditions, that the emissions controls were defective, and that the Affected Vehicles
24 emitted unlawfully high levels of pollutants, including NOx, as described above.

25 1211. Plaintiffs and Class members reasonably relied upon GM’s false
26 misrepresentations. They had no way of knowing that GM’s representations were
27 false and gravely misleading. As alleged herein, GM engaged in extremely
28

1 sophisticated methods of deception. Plaintiffs and Class members did not, and could
2 not, unravel GM's deception on their own.

3 1212. GM's actions as set forth above occurred in the conduct of trade or
4 commerce.

5 1213. GM's unfair or deceptive acts or practices were likely to and did in fact
6 deceive reasonable consumers.

7 1214. GM intentionally and knowingly misrepresented material facts regarding
8 the Affected Vehicles with an intent to mislead Plaintiffs and the Class.

9 1215. GM knew or should have known that its conduct violated the Washington
10 CPA.

11 1216. GM owed Plaintiffs and the Class a duty to disclose the truth about its
12 emissions systems manipulation because GM:

13 a. Possessed exclusive knowledge that it
14 manipulated the emissions system in the Affected Vehicles
15 to turn off or limit effectiveness in normal driving
conditions;

16 b. Intentionally concealed the foregoing from
17 Plaintiffs and the Class; and/or

18 c. Made incomplete representations that it
19 manipulated the emissions system in the Affected Vehicles
20 to turn off or limit effectiveness in normal driving
21 conditions, while purposefully withholding material facts
22 from Plaintiffs and the Class that contradicted these
23 representations.

24 1217. GM had a duty to disclose that the NOx reduction system in the Affected
25 Vehicles turns off or is limited during normal driving conditions, and that these
26 Affected Vehicles were defective, employed a "Defeat Device," emitted pollutants at a
27 much higher rate than gasoline powered vehicles, that the emissions far exceeded
28 those expected by a reasonable consumer, were non-EPA-compliant and unreliable,
because Plaintiffs and the other Class members relied on GM's material

1 representations that the Affected Vehicles they were purchasing were reduced
2 emission vehicles, efficient, and free from defects.

3 1218. GM's conduct proximately caused injuries to Plaintiffs and the other
4 Class members.

5 1219. Plaintiffs and the other Class members were injured and suffered
6 ascertainable loss, injury-in-fact, and/or actual damage as a proximate result of GM's
7 conduct in that Plaintiffs and the other Class members overpaid for their Affected
8 Vehicles and did not receive the benefit of their bargain, and their Affected Vehicles
9 have suffered a diminution in value. These injuries are the direct and natural
10 consequence of GM's misrepresentations and omissions.

11 1220. GM's violations present a continuing risk to Plaintiffs as well as to the
12 general public. GM's unlawful acts and practices complained of herein affect the
13 public interest.

14 1221. Pursuant to WASH. REV. CODE § 19.86.095, Plaintiffs will serve the
15 Washington Attorney General with a copy of this complaint as Plaintiffs and the
16 Washington Class members seek injunctive relief.

17 1222. GM is liable to Plaintiffs and the Class for damages in amounts to be
18 proven at trial, including attorneys' fees, costs, and treble damages, as well as any
19 other remedies the Court may deem appropriate under WASH. REV. CODE. ANN.
20 § 19.86.090.

21 **COUNT II**

22 **BREACH OF CONTRACT** 23 **(BASED ON WASHINGTON LAW)**

24 1223. Plaintiffs incorporate by reference all preceding allegations as though
25 fully set forth herein.

26 1224. Plaintiffs bring this Count on behalf of the Washington Class members.

27 1225. GM's misrepresentations and omissions alleged herein, including GM's
28 failure to disclose the existence of the GM Clean Diesel engine system's defect and/or

1 defective design of the emissions controls as alleged herein, caused Plaintiffs and the
2 other Class members to make their purchases or leases of their Affected Vehicles.
3 Absent those misrepresentations and omissions, Plaintiffs and the other Class
4 members would not have purchased or leased these Affected Vehicles, would not have
5 purchased or leased these Affected Vehicles at the prices they paid, and/or would have
6 purchased or leased less expensive alternative vehicles that did not contain the
7 defective GM Clean Diesel engine system and which were not marketed as including
8 such a system. Accordingly, Plaintiffs and the other Class members overpaid for their
9 Affected Vehicles and did not receive the benefit of their bargain.

10 1226. Each and every sale or lease of an Affected Vehicle constitutes a contract
11 between GM and the purchaser or lessee. GM breached these contracts by selling or
12 leasing to Plaintiffs and the other Class members defective Affected Vehicles and by
13 misrepresenting or failing to disclose that the NOx reduction system in the Affected
14 Vehicles turns off or is limited during normal driving conditions and the existence of
15 the GM Clean Diesel engine system's defect and/or defective design of the emissions
16 controls, including information known to GM, rendering each Affected Vehicle non-
17 EPA-compliant, and thus less valuable than vehicles not equipped with the defective
18 GM Clean Diesel engine system.

19 1227. As a direct and proximate result of GM's breach of contract, Plaintiffs
20 and the Class have been damaged in an amount to be proven at trial, which shall
21 include, but is not limited to, all compensatory damages, incidental and consequential
22 damages, and other damages allowed by law.

23 **COUNT III**

24 **FRAUDULENT CONCEALMENT** 25 **(BASED ON WASHINGTON LAW)**

26 1228. Plaintiffs incorporate by reference all preceding allegations as though
27 fully set forth herein.

28 1229. This claim is brought on behalf of the Washington Class.

1 1230. GM intentionally concealed that the NOx reduction system in the
2 Affected Vehicles turns off or is limited during normal driving conditions, that the
3 Affected Vehicles had defective emissions controls, emitted pollutants at a higher
4 level than gasoline powered vehicles, emitted pollutants higher than a reasonable
5 consumer would expect in light of GM's advertising campaign, emitted unlawfully
6 high levels of pollutants such as NOx, and were non-compliant with EPA emission
7 requirements, or GM acted with reckless disregard for the truth, and denied Plaintiffs
8 and the other Class members information that is highly relevant to their purchasing
9 decision.

10 1231. GM further affirmatively misrepresented to Plaintiffs in advertising and
11 other forms of communication, including standard and uniform material provided with
12 each car, that the Affected Vehicles it was selling had no significant defects, were
13 Earth-friendly and low emission vehicles, complied with EPA regulations, and would
14 perform and operate properly when driven in normal usage.

15 1232. GM knew these representations were false when made.

16 1233. The Affected Vehicles purchased or leased by Plaintiffs and the other
17 Class members were, in fact, defective, emitting pollutants at a much higher rate than
18 gasoline powered vehicles and at a much higher rate than a reasonable consumer
19 would expect in light of GM's advertising campaign, non-EPA-compliant, and
20 unreliable because the NOx reduction system in the Affected Vehicles turns off or is
21 limited during normal driving conditions.

22 1234. GM had a duty to disclose that the NOx reduction system in the Affected
23 Vehicles turns off or is limited during normal driving conditions, and that these
24 Affected Vehicles were defective, employed a "Defeat Device," emitted pollutants at a
25 much higher rate than gasoline powered vehicles, that the emissions far exceeded
26 those expected by a reasonable consumer, were non-EPA-compliant and unreliable,
27 because Plaintiffs and the other Class members relied on GM's material
28

1 representations that the Affected Vehicles they were purchasing were reduced
2 emission vehicles, efficient, and free from defects.

3 1235. As alleged in this Complaint, at all relevant times, GM has held out the
4 Affected Vehicles to be reduced emission, EPA-compliant vehicles. GM disclosed
5 certain details about the GM Clean Diesel engine, but nonetheless, GM intentionally
6 failed to disclose the important facts that the NOx reduction system in the Affected
7 Vehicles turns off or is limited during normal driving conditions, and that the Affected
8 Vehicles had defective emissions controls, deployed a “Defeat Device,” emitted
9 higher levels of pollutants than expected by a reasonable consumer, emitted
10 unlawfully high levels of pollutants, and were non-compliant with EPA emissions
11 requirements, making other disclosures about the emission system deceptive.

12 1236. The truth about the defective emissions controls and GM’s manipulations
13 of those controls, unlawfully high emissions, the “Defeat Device,” and non-
14 compliance with EPA emissions requirements was known only to GM; Plaintiffs and
15 the Class members did not know of these facts and GM actively concealed these facts
16 from Plaintiffs and Class members.

17 1237. Plaintiffs and Class members reasonably relied upon GM’s deception.
18 They had no way of knowing that GM’s representations were false and/or misleading.
19 As consumers, Plaintiffs and Class members did not, and could not, unravel GM’s
20 deception on their own. Rather, GM intended to deceive Plaintiffs and Class members
21 by concealing the true facts about the Affected Vehicle emissions.

22 1238. GM also concealed and suppressed material facts concerning what is
23 evidently the true culture of GM—one characterized by an emphasis on profits and
24 sales above compliance with federal and state clean air laws and emissions regulations
25 that are meant to protect the public and consumers. It also emphasized profits and
26 sales above the trust that Plaintiffs and Class members placed in its representations.
27 Consumers buy diesel cars from GM because they feel they are clean diesel cars.
28

1 They do not want to be spewing noxious gases into the environment. And yet, that is
2 precisely what the Affected Vehicles are doing.

3 1239. GM's false representations were material to consumers because they
4 concerned the quality of the Affected Vehicles, because they concerned compliance
5 with applicable federal and state law and regulations regarding clean air and
6 emissions, and also because the representations played a significant role in the value
7 of the vehicles. As GM well knew, its customers, including Plaintiffs and Class
8 members, highly valued that the vehicles they were purchasing or leasing were fuel
9 efficient, clean diesel cars with reduced emissions, and they paid accordingly.

10 1240. GM had a duty to disclose the emissions defect, defective design of the
11 emissions controls, and violations with respect to the Affected Vehicles because
12 details of the true facts were known and/or accessible only to GM, because GM had
13 exclusive knowledge as to such facts, and because GM knew these facts were not
14 known to or reasonably discoverable by Plaintiffs or Class members. GM also had a
15 duty to disclose because it made general affirmative representations about the qualities
16 of its vehicles with respect to emissions, starting with references to them as *reduced*
17 *emissions* diesel cars and as compliant with all laws in each state, which were
18 misleading, deceptive, and incomplete without the disclosure of the additional facts set
19 forth above regarding the actual emissions of its vehicles, its actual philosophy with
20 respect to compliance with federal and state clean air laws and emissions regulations,
21 and its actual practices with respect to the vehicles at issue. Having volunteered to
22 provide information to Plaintiffs and Class members, GM had the duty to disclose not
23 just the partial truth, but the entire truth. These omitted and concealed facts were
24 material because they directly impact the value of the Affected Vehicles purchased or
25 leased by Plaintiffs and Class members. Whether a manufacturer's products pollute,
26 comply with federal and state clean air laws and emissions regulations, and whether
27 that manufacturer tells the truth with respect to such compliance or non-compliance,
28

1 are material concerns to a consumer, including with respect to the emissions
2 certifications testing their vehicles must pass. GM represented to Plaintiffs and Class
3 members that they were purchasing or leasing *reduced emissions* diesel vehicles, when
4 in fact, they were purchasing or leasing defective, high emission, and unlawfully high
5 emission vehicles.

6 1241. GM actively concealed and/or suppressed these material facts, in whole
7 or in part, to pad and protect its profits and to avoid the perception that its vehicles
8 were not clean diesel vehicles and did not or could not comply with federal and state
9 laws governing clean air and emissions, which perception would hurt the brand's
10 image and cost GM money, and it did so at the expense of Plaintiffs and Class
11 members.

12 1242. GM has still not made full and adequate disclosures, and continues to
13 defraud Plaintiffs and Class members by concealing material information regarding
14 the emissions qualities of its referenced vehicles.

15 1243. Plaintiffs and Class members were unaware of the omitted material facts
16 referenced herein, and they would not have acted as they did if they had known of the
17 concealed and/or suppressed facts, in that they would not have purchased purportedly
18 reduced emissions diesel cars manufactured by GM, and/or would not have continued
19 to drive their heavily polluting vehicles, or would have taken other affirmative steps in
20 light of the information concealed from them. Plaintiffs' and Class members' actions
21 were justified. GM was in exclusive control of the material facts, and such facts were
22 not generally known to the public, Plaintiffs, or Class members.

23 1244. Because of the concealment and/or suppression of the facts, Plaintiffs and
24 Class members have sustained damage because they own vehicles that are diminished
25 in value as a result of GM's concealment of the true quality and quantity of those
26 vehicles' emissions and GM's failure to timely disclose the defect or defective design
27 of the GM Clean Diesel engine system, the actual emissions qualities and quantities of
28

1 GM-branded vehicles, and the serious issues engendered by GM's corporate policies.
 2 Had Plaintiffs and Class members been aware of the true emissions facts with regard
 3 to the Affected Vehicles, and the Company's disregard for the truth and compliance
 4 with applicable federal and state law and regulations, Plaintiffs and Class members
 5 who purchased or leased new or certified previously owned vehicles would have paid
 6 less for their vehicles or would not have purchased or leased them at all.

7 1245. The value of Plaintiffs' and Class members' vehicles has diminished as a
 8 result of GM's fraudulent concealment of the defective emissions controls of the
 9 Affected Vehicles, the unlawfully high emissions of the Affected Vehicles, and the
 10 non-compliance with EPA emissions requirements, all of which has greatly tarnished
 11 the GM brand name attached to Plaintiffs' and Class members' vehicles and made any
 12 reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay
 13 what otherwise would have been fair market value for the vehicles.

14 1246. Accordingly, GM is liable to Plaintiffs and Class members for damages in
 15 an amount to be proven at trial.

16 **AA. Claims Brought on Behalf of the West Virginia Class**

17 **COUNT I**

18 **VIOLATIONS OF THE WEST VIRGINIA CONSUMER CREDIT** 19 **AND PROTECTION ACT** **(W. VA. CODE §§ 46A-1-101, ET SEQ.)**

20 1247. Plaintiffs (for purposes of all West Virginia Class Counts) incorporate by
 21 reference all paragraphs as though fully set forth herein.

22 1248. Plaintiff intends to assert a claim under the West Virginia Consumer
 23 Credit and Protection Act ("West Virginia CCPA") which prohibits "unfair or
 24 deceptive acts or practices in the conduct of any trade or commerce" W. VA.
 25 CODE § 46A-6-104. Plaintiff will make a demand in satisfaction of W. VA. CODE §
 26 46A-6-106(b), and may amend this Complaint to assert claims under the CCPA once
 27 the required 20 days have elapsed. This paragraph is included for purposes of notice
 28 only and is not intended to actually assert a claim under the CCPA.

COUNT II

**BREACH OF CONTRACT
(BASED ON WEST VIRGINIA LAW)**

1249. Plaintiffs incorporate by reference all preceding allegations as though fully set forth herein.

1250. Plaintiffs bring this Count on behalf of the West Virginia Class.

1251. GM's misrepresentations and omissions alleged herein, including, but not limited to, GM's failure to disclose that the NOx reduction system in the Affected Vehicles turns off or is limited during normal driving conditions caused Plaintiffs and the other Class members to make their purchases or leases of their Affected Vehicles. Absent those misrepresentations and omissions, Plaintiffs and the other Class members would not have purchased or leased these Affected Vehicles, would not have purchased or leased these Affected Vehicles at the prices they paid, and/or would have purchased or leased less expensive alternative vehicles that did not contain the defective GM Clean Diesel engine system and which were not marketed as including such a system. Accordingly, Plaintiffs and the other Class members overpaid for their Affected Vehicles and did not receive the benefit of their bargain.

1252. Each and every sale or lease of an Affected Vehicle constitutes a contract between GM and the purchaser or lessee. GM breached these contracts by, among other things, selling or leasing to Plaintiffs and the other Class members defective Affected Vehicles and by misrepresenting or failing to disclose that the NOx reduction system in the Affected Vehicles turns off or is limited during normal driving conditions, thus rendering each Affected Vehicle less valuable, than vehicles not equipped with the defective GM Clean Diesel engine system.

1253. As a direct and proximate result of GM's breach of contract, Plaintiffs and the Class have been damaged in an amount to be proven at trial, which shall include, but is not limited to, all compensatory damages, incidental and consequential damages, and other damages allowed by law.

COUNT III

**FRAUDULENT CONCEALMENT
(BASED ON WEST VIRGINIA LAW)**

1254. Plaintiffs incorporate by reference all paragraphs as though fully set forth herein.

1255. This claim is brought on behalf of the West Virginia Class.

1256. GM intentionally concealed that the NOx reduction system in the Affected Vehicles turns off or is limited during normal driving conditions, that the Affected Vehicles had defective emissions controls, emitted pollutants at a higher level than gasoline powered vehicles, emitted pollutants higher than a reasonable consumer would expect in light of GM's advertising campaign, emitted unlawfully high levels of pollutants such as NOx, and were non-compliant with EPA emission requirements, or GM acted with reckless disregard for the truth, and denied Plaintiffs and the other Class members information that is highly relevant to their purchasing decision.

1257. GM further affirmatively misrepresented to Plaintiffs in advertising and other forms of communication, including standard and uniform material provided with each car, that the Affected Vehicles it was selling had no significant defects, were Earth-friendly and low emission vehicles, complied with EPA regulations, and would perform and operate properly when driven in normal usage.

1258. GM knew these representations were false when made.

1259. The Affected Vehicles purchased or leased by Plaintiffs and the other Class members were, in fact, defective, emitting pollutants at a much higher rate than gasoline powered vehicles and at a much higher rate than a reasonable consumer would expect in light of GM's advertising campaign, non-EPA-compliant, and unreliable because the NOx reduction system in the Affected Vehicles turns off or is limited during normal driving conditions.

1 1260. GM had a duty to disclose that the NOx reduction system in the Affected
2 Vehicles turns off or is limited during normal driving conditions, and that these
3 Affected Vehicles were defective, employed a “Defeat Device,” emitted pollutants at a
4 much higher rate than gasoline powered vehicles, that the emissions far exceeded
5 those expected by a reasonable consumer, were non-EPA-compliant and unreliable,
6 because Plaintiffs and the other Class members relied on GM’s material
7 representations that the Affected Vehicles they were purchasing were reduced
8 emission vehicles, efficient, and free from defects.

9 1261. As alleged in this Complaint, at all relevant times, GM has held out the
10 Affected Vehicles to be reduced emission, EPA-compliant vehicles. GM disclosed
11 certain details about the GM Clean Diesel engine, but nonetheless, GM intentionally
12 failed to disclose the important facts that the NOx reduction system in the Affected
13 Vehicles turns off or is limited during normal driving conditions, and that the Affected
14 Vehicles had defective emissions controls, deployed a “Defeat Device,” emitted
15 higher levels of pollutants than expected by a reasonable consumer, emitted
16 unlawfully high levels of pollutants, and were non-compliant with EPA emissions
17 requirements, making other disclosures about the emission system deceptive.

18 1262. The truth about the defective emissions controls and GM’s manipulations
19 of those controls, unlawfully high emissions, the “Defeat Device,” and non-
20 compliance with EPA emissions requirements was known only to GM; Plaintiffs and
21 the Class members did not know of these facts and GM actively concealed these facts
22 from Plaintiffs and Class members.

23 1263. Plaintiffs and Class members reasonably relied upon GM’s deception.
24 They had no way of knowing that GM’s representations were false and/or misleading.
25 As consumers, Plaintiffs and Class members did not, and could not, unravel GM’s
26 deception on their own. Rather, GM intended to deceive Plaintiffs and Class members
27 by concealing the true facts about the Affected Vehicle emissions.
28

1 1264. GM also concealed and suppressed material facts concerning what is
2 evidently the true culture of GM—one characterized by an emphasis on profits and
3 sales above compliance with federal and state clean air laws and emissions regulations
4 that are meant to protect the public and consumers. It also emphasized profits and
5 sales above the trust that Plaintiffs and Class members placed in its representations.
6 Consumers buy diesel cars from GM because they feel they are clean diesel cars.
7 They do not want to be spewing noxious gases into the environment. And yet, that is
8 precisely what the Affected Vehicles are doing.

9 1265. GM's false representations were material to consumers because they
10 concerned the quality of the Affected Vehicles, because they concerned compliance
11 with applicable federal and state law and regulations regarding clean air and
12 emissions, and also because the representations played a significant role in the value
13 of the vehicles. As GM well knew, its customers, including Plaintiffs and Class
14 members, highly valued that the vehicles they were purchasing or leasing were fuel
15 efficient, clean diesel cars with reduced emissions, and they paid accordingly.

16 1266. GM had a duty to disclose the emissions defect, defective design of the
17 emissions controls, and violations with respect to the Affected Vehicles because
18 details of the true facts were known and/or accessible only to GM, because GM had
19 exclusive knowledge as to such facts, and because GM knew these facts were not
20 known to or reasonably discoverable by Plaintiffs or Class members. GM also had a
21 duty to disclose because it made general affirmative representations about the qualities
22 of its vehicles with respect to emissions, starting with references to them as *reduced*
23 *emissions* diesel cars and as compliant with all laws in each state, which were
24 misleading, deceptive, and incomplete without the disclosure of the additional facts set
25 forth above regarding the actual emissions of its vehicles, its actual philosophy with
26 respect to compliance with federal and state clean air laws and emissions regulations,
27 and its actual practices with respect to the vehicles at issue. Having volunteered to
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1 provide information to Plaintiffs and Class members, GM had the duty to disclose not
2 just the partial truth, but the entire truth. These omitted and concealed facts were
3 material because they directly impact the value of the Affected Vehicles purchased or
4 leased by Plaintiffs and Class members. Whether a manufacturer's products pollute,
5 comply with federal and state clean air laws and emissions regulations, and whether
6 that manufacturer tells the truth with respect to such compliance or non-compliance,
7 are material concerns to a consumer, including with respect to the emissions
8 certifications testing their vehicles must pass. GM represented to Plaintiffs and Class
9 members that they were purchasing or leasing *reduced emissions* diesel vehicles, when
10 in fact, they were purchasing or leasing defective, high emission, and unlawfully high
11 emission vehicles.

12 1267. GM actively concealed and/or suppressed these material facts, in whole
13 or in part, to pad and protect its profits and to avoid the perception that its vehicles
14 were not clean diesel vehicles and did not or could not comply with federal and state
15 laws governing clean air and emissions, which perception would hurt the brand's
16 image and cost GM money, and it did so at the expense of Plaintiffs and Class
17 members.

18 1268. GM has still not made full and adequate disclosures, and continues to
19 defraud Plaintiffs and Class members by concealing material information regarding
20 the emissions qualities of its referenced vehicles.

21 1269. Plaintiffs and Class members were unaware of the omitted material facts
22 referenced herein, and they would not have acted as they did if they had known of the
23 concealed and/or suppressed facts, in that they would not have purchased purportedly
24 reduced emissions diesel cars manufactured by GM, and/or would not have continued
25 to drive their heavily polluting vehicles, or would have taken other affirmative steps in
26 light of the information concealed from them. Plaintiffs' and Class members' actions
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1 were justified. GM was in exclusive control of the material facts, and such facts were
2 not generally known to the public, Plaintiffs, or Class members.

3 1270. Because of the concealment and/or suppression of the facts, Plaintiffs and
4 Class members have sustained damage because they own vehicles that are diminished
5 in value as a result of GM's concealment of the true quality and quantity of those
6 vehicles' emissions and GM's failure to timely disclose the defect or defective design
7 of the GM Clean Diesel engine system, the actual emissions qualities and quantities of
8 GM-branded vehicles, and the serious issues engendered by GM's corporate policies.
9 Had Plaintiffs and Class members been aware of the true emissions facts with regard
10 to the Affected Vehicles, and the Company's disregard for the truth and compliance
11 with applicable federal and state law and regulations, Plaintiffs and Class members
12 who purchased or leased new or certified previously owned vehicles would have paid
13 less for their vehicles or would not have purchased or leased them at all.

14 1271. The value of Plaintiffs' and Class members' vehicles has diminished as a
15 result of GM's fraudulent concealment of the defective emissions controls of the
16 Affected Vehicles, the unlawfully high emissions of the Affected Vehicles, and the
17 non-compliance with EPA emissions requirements, all of which has greatly tarnished
18 the GM brand name attached to Plaintiffs' and Class members' vehicles and made any
19 reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay
20 what otherwise would have been fair market value for the vehicles.

21 1272. Accordingly, GM is liable to Plaintiffs and Class members for damages in
22 an amount to be proven at trial.

23 1273. GM's acts were done wantonly, maliciously, oppressively, deliberately,
24 with intent to defraud, and in reckless disregard of Plaintiffs' and Class members'
25 rights and the representations that GM made to them, in order to enrich GM. GM's
26 conduct warrants an assessment of punitive damages in an amount sufficient to deter
27 such conduct in the future, which amount is to be determined according to proof.
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BB. Claims Brought on Behalf of the Wisconsin Class

COUNT I

**VIOLATIONS OF THE WISCONSIN
DECEPTIVE TRADE PRACTICES ACT
(WIS. STAT. § 110.18)**

1274. Plaintiffs (for purposes of all Wisconsin Class Counts) incorporate by reference all preceding allegations as though fully set forth herein.

1275. Plaintiffs bring this claim on behalf of the Wisconsin Class members.

1276. GM is a “person, firm, corporation or association” within the meaning of WIS. STAT. § 100.18(1).

1277. Plaintiffs and Wisconsin Class members are members of “the public” within the meaning of WIS. STAT. § 100.18(1). Plaintiffs and Wisconsin Class members purchased or leased one or more Affected Vehicles.

1278. The Wisconsin Deceptive Trade Practices Act (“Wisconsin DTPA”) prohibits a “representation or statement of fact which is untrue, deceptive or misleading.” WIS. STAT. § 100.18(1). In the course of GM’s business, it willfully failed to disclose and actively concealed that the NOx reduction system in the Affected Vehicles turns off or is limited during normal driving conditions, that the Affected Vehicles emitted far more pollutants than gasoline powered vehicles, that the Affected Vehicles emit far more pollution than a reasonable consumer would expect in light of GM’s advertising campaign, and that the Affected Vehicles emitted unlawfully high levels of pollutants, including NOx, as described above. Accordingly, GM engaged in deceptive business practices prohibited by the Wisconsin DTPA.

1279. In purchasing or leasing the Affected Vehicles, Plaintiffs and the other Class members were deceived by GM’s failure to disclose that the NOx reduction system in the Affected Vehicles turns off or is limited during normal driving conditions, that the emissions controls were defective, and that the Affected Vehicles emitted unlawfully high levels of pollutants, including NOx, as described above.

1 1280. Plaintiffs and Class members reasonably relied upon GM's false
2 misrepresentations. They had no way of knowing that GM's representations were
3 false and gravely misleading. As alleged herein, GM engaged in extremely
4 sophisticated methods of deception. Plaintiffs and Class members did not, and could
5 not, unravel GM's deception on their own.

6 1281. GM's actions as set forth above occurred in the conduct of trade or
7 commerce.

8 1282. GM's unfair or deceptive acts or practices were likely to and did in fact
9 deceive reasonable consumers.

10 1283. GM intentionally and knowingly misrepresented material facts regarding
11 the Affected Vehicles with an intent to mislead Plaintiffs and the Class.

12 1284. GM knew or should have known that its conduct violated the Wisconsin
13 DTPA.

14 1285. GM owed Plaintiffs and the Class a duty to disclose the truth about its
15 emissions systems manipulation because GM:

16 a. Possessed exclusive knowledge that it
17 manipulated the emissions system in the Affected Vehicles
18 to turn off or limit effectiveness in normal driving
conditions;

19 b. Intentionally concealed the foregoing from
20 Plaintiffs and the Class; and/or

21 c. Made incomplete representations that it
22 manipulated the emissions system in the Affected Vehicles
23 to turn off or limit effectiveness in normal driving
24 conditions, while purposefully withholding material facts
from Plaintiffs and the Class that contradicted these
representations.

25 1286. GM had a duty to disclose that the NOx reduction system in the Affected
26 Vehicles turns off or is limited during normal driving conditions, and that these
27 Affected Vehicles were defective, employed a "Defeat Device," emitted pollutants at a
28 much higher rate than gasoline powered vehicles, that the emissions far exceeded

1 those expected by a reasonable consumer, were non-EPA-compliant and unreliable,
2 because Plaintiffs and the other Class members relied on GM's material
3 representations that the Affected Vehicles they were purchasing were reduced
4 emission vehicles, efficient, and free from defects.

5 1287. GM's conduct proximately caused injuries to Plaintiffs and the other
6 Class members.

7 1288. Plaintiffs and the other Class members were injured and suffered
8 ascertainable loss, injury-in-fact, and/or actual damage as a proximate result of GM's
9 conduct in that Plaintiffs and the other Class members overpaid for their Affected
10 Vehicles and did not receive the benefit of their bargain, and their Affected Vehicles
11 have suffered a diminution in value. These injuries are the direct and natural
12 consequence of GM's misrepresentations and omissions.

13 1289. GM's violations present a continuing risk to Plaintiffs as well as to the
14 general public. GM's unlawful acts and practices complained of herein affect the
15 public interest.

16 1290. Plaintiffs and the Wisconsin Class are entitled to damages and other relief
17 provided for under WIS. STAT. § 100.18(11)(b)(2). Because GM's conduct was
18 committed knowingly and/or intentionally, Plaintiff and the Wisconsin Class are
19 entitled to treble damages.

20 1291. Plaintiffs and the Wisconsin Class also seek court costs and attorneys'
21 fees under WIS. STAT. § 110.18(11)(b)(2).

22 **COUNT II**

23 **BREACH OF CONTRACT** 24 **(BASED ON WISCONSIN LAW)**

25 1292. Plaintiffs incorporate by reference all preceding allegations as though
26 fully set forth herein.

27 1293. Plaintiffs bring this Count on behalf of the Wisconsin Class members.
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1 1294. GM's misrepresentations and omissions alleged herein, including, but not
2 limited to, GM's failure to disclose that the NOx reduction system in the Affected
3 Vehicles turns off or is limited during normal driving conditions caused Plaintiffs and
4 the other Class members to make their purchases or leases of their Affected Vehicles.
5 Absent those misrepresentations and omissions, Plaintiffs and the other Class
6 members would not have purchased or leased these Affected Vehicles, would not have
7 purchased or leased these Affected Vehicles at the prices they paid, and/or would have
8 purchased or leased less expensive alternative vehicles that did not contain the
9 defective GM Clean Diesel engine system and which were not marketed as including
10 such a system. Accordingly, Plaintiffs and the other Class members overpaid for their
11 Affected Vehicles and did not receive the benefit of their bargain.

12 1295. Each and every sale or lease of an Affected Vehicle constitutes a contract
13 between GM and the purchaser or lessee. GM breached these contracts by, among
14 other things, selling or leasing to Plaintiffs and the other Class members defective
15 Affected Vehicles and by misrepresenting or failing to disclose that the NOx reduction
16 system in the Affected Vehicles turns off or is limited during normal driving
17 conditions, thus rendering each Affected Vehicle less valuable, than vehicles not
18 equipped with the defective GM Clean Diesel engine system.

19 1296. As a direct and proximate result of GM's breach of contract, Plaintiffs
20 and the Class have been damaged in an amount to be proven at trial, which shall
21 include, but is not limited to, all compensatory damages, incidental and consequential
22 damages, and other damages allowed by law.

23 **COUNT III**

24 **FRAUDULENT CONCEALMENT** 25 **(BASED ON WISCONSIN LAW)**

26 1297. Plaintiffs incorporate by reference all preceding allegations as though
27 fully set forth herein.

28 1298. This claim is brought on behalf of the Wisconsin Class members.

1 1299. GM intentionally concealed that the NOx reduction system in the
2 Affected Vehicles turns off or is limited during normal driving conditions, that the
3 Affected Vehicles had defective emissions controls, emitted pollutants at a higher
4 level than gasoline powered vehicles, emitted pollutants higher than a reasonable
5 consumer would expect in light of GM's advertising campaign, emitted unlawfully
6 high levels of pollutants such as NOx, and were non-compliant with EPA emission
7 requirements, or GM acted with reckless disregard for the truth, and denied Plaintiffs
8 and the other Class members information that is highly relevant to their purchasing
9 decision.

10 1300. GM further affirmatively misrepresented to Plaintiffs in advertising and
11 other forms of communication, including standard and uniform material provided with
12 each car, that the Affected Vehicles it was selling had no significant defects, were
13 Earth-friendly and low emission vehicles, complied with EPA regulations, and would
14 perform and operate properly when driven in normal usage.

15 1301. GM knew these representations were false when made.

16 1302. The Affected Vehicles purchased or leased by Plaintiffs and the other
17 Class members were, in fact, defective, emitting pollutants at a much higher rate than
18 gasoline powered vehicles and at a much higher rate than a reasonable consumer
19 would expect in light of GM's advertising campaign, non-EPA-compliant, and
20 unreliable because the NOx reduction system in the Affected Vehicles turns off or is
21 limited during normal driving conditions.

22 1303. GM had a duty to disclose that the NOx reduction system in the Affected
23 Vehicles turns off or is limited during normal driving conditions, and that these
24 Affected Vehicles were defective, employed a "Defeat Device," emitted pollutants at a
25 much higher rate than gasoline powered vehicles, that the emissions far exceeded
26 those expected by a reasonable consumer, were non-EPA-compliant and unreliable,
27 because Plaintiffs and the other Class members relied on GM's material
28

1 representations that the Affected Vehicles they were purchasing were reduced
2 emission vehicles, efficient, and free from defects.

3 1304. As alleged in this Complaint, at all relevant times, GM has held out the
4 Affected Vehicles to be reduced emission, EPA-compliant vehicles. GM disclosed
5 certain details about the GM Clean Diesel engine, but nonetheless, GM intentionally
6 failed to disclose the important facts that the NOx reduction system in the Affected
7 Vehicles turns off or is limited during normal driving conditions, and that the Affected
8 Vehicles had defective emissions controls, deployed a “Defeat Device,” emitted
9 higher levels of pollutants than expected by a reasonable consumer, emitted
10 unlawfully high levels of pollutants, and were non-compliant with EPA emissions
11 requirements, making other disclosures about the emission system deceptive.

12 1305. The truth about the defective emissions controls and GM’s manipulations
13 of those controls, unlawfully high emissions, the “Defeat Device,” and non-
14 compliance with EPA emissions requirements was known only to GM; Plaintiffs and
15 the Class members did not know of these facts and GM actively concealed these facts
16 from Plaintiffs and Class members.

17 1306. Plaintiffs and Class members reasonably relied upon GM’s deception.
18 They had no way of knowing that GM’s representations were false and/or misleading.
19 As consumers, Plaintiffs and Class members did not, and could not, unravel GM’s
20 deception on their own. Rather, GM intended to deceive Plaintiffs and Class members
21 by concealing the true facts about the Affected Vehicle emissions.

22 1307. GM also concealed and suppressed material facts concerning what is
23 evidently the true culture of GM—one characterized by an emphasis on profits and
24 sales above compliance with federal and state clean air laws and emissions regulations
25 that are meant to protect the public and consumers. It also emphasized profits and
26 sales above the trust that Plaintiffs and Class members placed in its representations.
27 Consumers buy diesel cars from GM because they feel they are clean diesel cars.
28

1 They do not want to be spewing noxious gases into the environment. And yet, that is
2 precisely what the Affected Vehicles are doing.

3 1308. GM's false representations were material to consumers because they
4 concerned the quality of the Affected Vehicles, because they concerned compliance
5 with applicable federal and state law and regulations regarding clean air and
6 emissions, and also because the representations played a significant role in the value
7 of the vehicles. As GM well knew, its customers, including Plaintiffs and Class
8 members, highly valued that the vehicles they were purchasing or leasing were fuel
9 efficient, clean diesel cars with reduced emissions, and they paid accordingly.

10 1309. GM had a duty to disclose the emissions defect, defective design of the
11 emissions controls, and violations with respect to the Affected Vehicles because
12 details of the true facts were known and/or accessible only to GM, because GM had
13 exclusive knowledge as to such facts, and because GM knew these facts were not
14 known to or reasonably discoverable by Plaintiffs or Class members. GM also had a
15 duty to disclose because it made general affirmative representations about the qualities
16 of its vehicles with respect to emissions, starting with references to them as *reduced*
17 *emissions* diesel cars and as compliant with all laws in each state, which were
18 misleading, deceptive, and incomplete without the disclosure of the additional facts set
19 forth above regarding the actual emissions of its vehicles, its actual philosophy with
20 respect to compliance with federal and state clean air laws and emissions regulations,
21 and its actual practices with respect to the vehicles at issue. Having volunteered to
22 provide information to Plaintiffs and Class members, GM had the duty to disclose not
23 just the partial truth, but the entire truth. These omitted and concealed facts were
24 material because they directly impact the value of the Affected Vehicles purchased or
25 leased by Plaintiffs and Class members. Whether a manufacturer's products pollute,
26 comply with federal and state clean air laws and emissions regulations, and whether
27 that manufacturer tells the truth with respect to such compliance or non-compliance,
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1 are material concerns to a consumer, including with respect to the emissions
2 certifications testing their vehicles must pass. GM represented to Plaintiffs and Class
3 members that they were purchasing or leasing *reduced emissions* diesel vehicles, when
4 in fact, they were purchasing or leasing defective, high emission, and unlawfully high
5 emission vehicles.

6 1310. GM actively concealed and/or suppressed these material facts, in whole
7 or in part, to pad and protect its profits and to avoid the perception that its vehicles
8 were not clean diesel vehicles and did not or could not comply with federal and state
9 laws governing clean air and emissions, which perception would hurt the brand's
10 image and cost GM money, and it did so at the expense of Plaintiffs and Class
11 members.

12 1311. GM has still not made full and adequate disclosures, and continues to
13 defraud Plaintiffs and Class members by concealing material information regarding
14 the emissions qualities of its referenced vehicles.

15 1312. Plaintiffs and Class members were unaware of the omitted material facts
16 referenced herein, and they would not have acted as they did if they had known of the
17 concealed and/or suppressed facts, in that they would not have purchased purportedly
18 reduced emissions diesel cars manufactured by GM, and/or would not have continued
19 to drive their heavily polluting vehicles, or would have taken other affirmative steps in
20 light of the information concealed from them. Plaintiffs' and Class members' actions
21 were justified. GM was in exclusive control of the material facts, and such facts were
22 not generally known to the public, Plaintiffs, or Class members.

23 1313. Because of the concealment and/or suppression of the facts, Plaintiffs and
24 Class members have sustained damage because they own vehicles that are diminished
25 in value as a result of GM's concealment of the true quality and quantity of those
26 vehicles' emissions and GM's failure to timely disclose the defect or defective design
27 of the GM Clean Diesel engine system, the actual emissions qualities and quantities of
28

1 GM-branded vehicles, and the serious issues engendered by GM's corporate policies.
2 Had Plaintiffs and Class members been aware of the true emissions facts with regard
3 to the Affected Vehicles, and the Company's disregard for the truth and compliance
4 with applicable federal and state law and regulations, Plaintiffs and Class members
5 who purchased or leased new or certified previously owned vehicles would have paid
6 less for their vehicles or would not have purchased or leased them at all.

7 1314. The value of Plaintiffs' and Class members' vehicles has diminished as a
8 result of GM's fraudulent concealment of the defective emissions controls of the
9 Affected Vehicles, the unlawfully high emissions of the Affected Vehicles, and the
10 non-compliance with EPA emissions requirements, all of which has greatly tarnished
11 the GM brand name attached to Plaintiffs' and Class members' vehicles and made any
12 reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay
13 what otherwise would have been fair market value for the vehicles.

14 1315. Accordingly, GM is liable to Plaintiffs and Class members for damages in
15 an amount to be proven at trial.

16 1316. GM's acts were done wantonly, maliciously, oppressively, deliberately,
17 with intent to defraud, and in reckless disregard of Plaintiffs' and Class members'
18 rights and the representations that GM made to them, in order to enrich GM. GM's
19 conduct warrants an assessment of punitive damages in an amount sufficient to deter
20 such conduct in the future, which amount is to be determined according to proof.

21 **REQUEST FOR RELIEF**

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

25 A. Certification of the proposed State Classes, including appointment of
26 Plaintiffs' counsel as Class Counsel;

1 B. Restitution, including at the election of Class members, recovery of the
2 purchase price of their Affected Vehicles, or the overpayment or diminution in value
3 of their Affected Vehicles;

4 C. Damages, including punitive damages, costs, and disgorgement in an
5 amount to be determined at trial, except that monetary relief under certain consumer
6 protection statutes, as stated above, shall be limited prior to completion of the
7 applicable notice requirements;

8 D. An order requiring GM to pay both pre- and post-judgment interest on
9 any amounts awarded;

10 E. An award of costs and attorneys' fees; and

11 F. Such other or further relief as may be appropriate.

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13 **DEMAND FOR JURY TRIAL**

14 Plaintiffs hereby demand a jury trial for all claims so triable.
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1 DATED: June 22, 2016

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