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SUPERIOR COURT OF N.J.
FILE OFFICE
COUNTY OF HUDSON

JOHN J. HOFFMAN, ACTING ATTORNEY
GENERAL OF THE STATE OF NEW JERSEY;
FRANK STEITZ, DIRECTOR OF THE NEW
JERSEY DIVISION OF AIR QUALITY; and
STEVE C. LEE, ACTING DIRECTOR OF THE
NEW JERSEY DIVISION OF CONSUMER
AFFAIRS,

Plaintiffs,

vs.

VOLKSWAGEN GROUP OF AMERICA, INC.,
a New Jersey Corporation; VOLKSWAGEN
AKTIENGESELLSCHAFT, a corporation
organized under the laws of Germany; AUDI OF
AMERICA, LLC, a Delaware limited liability
company; AUDI AKTIENGESELLSCHAFT, a
corporation organized under the laws of Germany;
PORSCHE CARS NORTH AMERICA, INC., a
Delaware Corporation; DR. ING. H.C. F.
PORSCHE AG, a corporation organized under the
laws of Germany; MARK BARNES; and JOHN
and JANE DOES, 1-200,

Defendants.

SUPERIOR COURT OF NEW
JERSEY
LAW DIVISION
HUDSON COUNTY
DOCKET NO: _____

CIVIL ACTION

COMPLAINT

1. Plaintiffs John J. Hoffman, Acting Attorney General of the State of New Jersey; Frank Steitz, Director of the New Jersey Division of Air Quality; and Steve C. Lee, Acting Director of the New Jersey Division of Consumer Affairs (collectively "Plaintiffs"), bring this action against Volkswagen Group of America, Inc.; Volkswagen Aktiengesellschaft; Audi of America, LLC; Audi Aktiengesellschaft; Porsche Cars North America, Inc.; and Dr. Ing. h.c. F. Porsche AG (collectively "Volkswagen"), as well as against Mark Barnes and John and Jane Does 1-200 (collectively "VW Agents"), for violations of the New Jersey Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq. ("APCA"), and for violations of the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 et seq. ("CFA"). Volkswagen and the VW Agents are collectively referred to as "Defendants."

2. For the past decade Volkswagen engaged in one of the largest frauds in the history of the automobile industry. It developed and distributed into the marketplace sophisticated software to evade emissions requirements, it misled regulators about the true environmental impact of its vehicles, and it misled consumers about the products that it was marketing as supposedly good for the environment.

3. Volkswagen profited greatly by its misconduct, steadily increasing its sales, market share, and profits.

4. Volkswagen's decade-long fraud was in direct violation of the APCA and the CFA. In addition to the economic harms suffered by New Jersey consumers, Volkswagen's conduct has caused and will continue to cause physical harm to the citizens of the State of New Jersey who are experiencing the adverse health effects of Volkswagen's illegal actions.

JURISDICTION AND VENUE

5. This action is brought by Plaintiffs pursuant to the APCA, N.J.S.A. 26:2C-1 *et seq.*, and the CFA, N.J.S.A. 56:8-1 *et seq.*

6. The court has jurisdiction over Volkswagen and the VW Agents pursuant to the APCA and the CFA because Volkswagen has transacted business within the State of New Jersey at all times relevant to this Complaint.

7. Venue for this action properly lies in Hudson County, pursuant to Rule 4:3-2, because Volkswagen transacts business in, or some of the transactions upon which this action is based occurred in, Hudson County. Moreover, many of the busiest highways in the State of New Jersey, including the New Jersey Turnpike and Interstate Route 78, pass through Hudson County, thereby making that County particularly susceptible to the pollution caused by Volkswagen's illegal activity. Volkswagen also sells affected vehicles in Hudson County.

PARTIES

8. The New Jersey Division of Air Quality is a division within the New Jersey Department of Environmental Protection with offices located at 401 East State Street, Trenton, New Jersey 08608. The New Jersey Division of Air Quality is empowered to enforce the APCA.

9. The Attorney General is charged with the responsibility of enforcing the CFA. The Director of the Division of Consumer Affairs is charged with the responsibility of administering the CFA on behalf of the Attorney General. The Attorney General and the Division of Consumer Affairs maintain offices located at 124 Halsey Street, Newark, New Jersey 07102.

10. By this action Plaintiffs seek injunctive relief and other relief for violations of the APCA and the CFA. Plaintiffs bring this action pursuant to their authority under the APCA and

the CFA, specifically N.J.S.A. 26:2C-19, N.J.S.A. 56:8-8, N.J.S.A. 56:8-11, N.J.S.A. 56:8-13, and N.J.S.A. 56:8-19.

11. Volkswagen Group of America, Inc. is a corporation organized under the laws of the State of New Jersey, with its principal place of business at 2200 Ferdinand Porsche Drive, Herndon, Virginia 20171 and offices at 600 Sylvan Avenue, Englewood Cliffs, New Jersey 04631.

12. Volkswagen Aktiengesellschaft (“Volkswagen AG”) is a corporation organized and existing under the laws of Germany, with its principal place of business in Wolfsburg, Germany. Volkswagen AG is the parent corporation of Volkswagen Group of America, Inc.

13. Audi of America, LLC is a limited liability company organized under the laws of the State of Delaware, with its principal place of business at 2200 Ferdinand Porsche Drive, Herndon, Virginia 20171.

14. Audi Aktiengesellschaft (“Audi AG”) is a corporation organized under the laws of Germany, with its principal place of business in Ingolstadt, Germany. Audi AG is the parent corporation of Audi of America, LLC.

15. Porsche Cars North America, Inc. is a corporation organized under the laws of the State of Delaware, with its principal place of business at One Porsche Drive, Atlanta, Georgia 30354.

16. Dr. Ing. h.c. F. Porsche AG (“Porsche AG”) is a corporation organized under the laws of Germany, with its principal place of business in Stuttgart, Germany. Porsche AG is the parent corporation of Porsche Cars North America, Inc.

17. Volkswagen Group of America, Inc.; Volkswagen AG; Audi of America, LLC; Audi AG; Porsche Cars North America, Inc.; and Porsche AG are in the business of

manufacturing, marketing and offering for sale, introducing into commerce, delivering for introduction into commerce, and selling automobiles throughout the world, including in the State of New Jersey.

18. Mark Barnes is currently the Vice President, Sales for the American operations of Volkswagen.

19. John and Jane Does 1-200 were directors, officers, employees, and/or agents of Volkswagen at all times relevant to the allegations in this Complaint and were acting in their capacity as such when they engaged in the conduct that is the subject of the allegations in this Complaint.

FACTUAL ALLEGATIONS

State Law Prohibits the Emission of Harmful Pollutants into the Atmosphere

20. To protect the health, safety, and welfare of the citizens of the State of New Jersey, the State has enacted a comprehensive system of laws and regulations to govern the emission of harmful pollutants by automobiles.

21. The New Jersey Legislature has declared that the emissions of fine particles into the air pose an extraordinary health risk to the people of the State, and that 1,000 deaths and 68,000 cases of asthma in the State each year are attributed to the exceedance of the fine particle standard in the State. N.J.S.A. 26:2C-8.26.

22. The New Jersey Legislature has further declared that studies have found that exhaust emissions from diesel-powered vehicles and equipment are linked to the fine particle problem, and pose both cardiovascular and cancer risks, as well as premature death and increased incidents of asthma, allergies, and other breathing disorders. N.J.S.A. 26:2C-8.26.

23. The New Jersey Legislature has also declared that a significant percentage of particulate emissions, smog-forming emissions, and airborne cancer risk comes from vehicle emissions. N.J.S.A. 26:2C-8.15.

24. The International Agency for Research on Cancer within the World Health Organization has classified diesel engine exhaust as a carcinogen based upon evidence that exposure is associated with an increased risk of lung cancer.

25. Among the air pollutants that the APCA and accompanying regulations govern are Oxides of Nitrogen (“NOx”).

26. NOx is a family of gases that includes nitrogen dioxide, nitric acid, nitric oxide, and nitrous acid. NOx is emitted from diesel-powered engines.

27. NOx emissions react with volatile organic compounds in the presence of heat and sunlight to form ground-level ozone, i.e., smog. NOx emissions also react with ammonia, moisture, and other compounds to form fine particulate matter, i.e., soot.

28. Exposure of humans to NOx and its byproducts can cause or worsen respiratory diseases such as asthma, emphysema, and bronchitis, aggravate existing heart disease, and lead to increased hospital admissions and premature death.

29. The APCA regulations forbid a person to cause, suffer, allow, or permit to be emitted into the outdoor atmosphere substances in quantities which shall result in air pollution. N.J.A.C. 7:27-5.2(a).

30. The law also forbids a person to cause, suffer, allow, or permit any emission control apparatus or element of design installed on any diesel-powered motor vehicle or diesel engine to be disconnected, detached, deactivated, or in any other way rendered inoperable or less

effective, in respect to limiting or controlling emissions than it was designed to be by the original equipment or vehicle manufacturer. N.J.A.C. 7:27-14.3(e).

31. The law further forbids a person to cause, suffer, allow, or permit the operation of any diesel-powered motor vehicle upon the public roads, streets, or highways of the State or upon any public property or upon any quasi-public roadway in the State, if the vehicle does not have a properly functioning and properly maintained emission control apparatus. N.J.A.C. 7:2-14.4(a)(3).

32. Additionally, the law forbids any person within this State from delivering for sale, offering for sale, selling, importing, delivering, purchasing, renting, acquiring, receiving, or registering on or after January 1, 2009 a new 2009 or subsequent model-year passenger car unless the vehicle has been certified by the California Air Resources Board ("CARB") and has received a CARB Executive Order. N.J.S.A. 26:2C-8.17; N.J.A.C. 7:27-29.3(a), -29.4.

33. For the protection of the public health, safety, and welfare, car manufacturers are required to comply with the APCA and accompanying regulations.

Volkswagen Used Sophisticated Technology to Circumvent These Requirements

34. Beginning in 2005 Volkswagen began developing specialized technology for the specific purpose of evading emission requirements.

35. Seeking to increase its share of the passenger-automobile market, Volkswagen decided to make diesel cars the focus of its United States market and to expand its sales in this country.

36. Diesel-powered engines generally have better fuel economy and, consequently, emit fewer global-warming gasses than gasoline-powered vehicles. But they emit higher levels of NOx, which is harmful to the environment and people's health.

37. To address these NOx emissions and thereby come in compliance with emissions standards such as the APCA's, some car manufacturers developed and utilized a technology called selective catalytic reduction ("SCR"). This technology utilizes urea, an organic compound, to neutralize NOx emissions without reducing fuel economy or performance.

38. SCR technology, however, is comparatively expensive and heavy, and it requires a designated amount of space in the vehicle to house the system. Fitting the SCR system into compact vehicles, such as the Volkswagen Golf or Jetta, presented logistical engineering difficulties for Volkswagen.

39. In addition, SCR technology requires that a vehicle be periodically refilled with urea, thereby adding an expense and perceived inconvenience to consumers.

40. The burdens of using the SCR technology, which were necessary to control the emissions of harmful NOx, were deemed unacceptable by Volkswagen.

41. Instead, Volkswagen opted for an alternate technology referred to as lean NOx traps, which the company installed into its Turbocharged Direct Injection ("TDI") diesel-powered automobiles. This technology is less expensive, takes up less room, and does not require urea. It is, however, less effective at controlling emissions, and it reduces fuel economy by up to four (4) percent.

42. To gain a competitive edge in the marketplace by using the lean NOx traps rather than the SCR technology without compromising fuel economy, Volkswagen developed a sophisticated software algorithm, i.e., a "defeat device," to detect when a car is undergoing official vehicle emission inspection and maintenance ("I/M") testing. During those tests the full emissions controls are activated, thereby reducing the amount of emissions produced by the vehicle and bringing them within legal limits.

43. When a vehicle is not undergoing official emissions testing, however, the defeat device algorithm deactivates its emissions controls. This increases fuel economy and vehicle power, but causes the vehicle to operate in violation of the emission standards.

44. The end result is that when the vehicle is operating normally and not under testing conditions, the vehicle emits as much as forty (40) times more NOx than is permissible by law, including CARB emission standards.

45. On September 18, 2015, the EPA and CARB issued Notices of Violation to Volkswagen AG, Audi AG, and Volkswagen Group of America, Inc. The Notices of Violation stated that Volkswagen had violated the federal Clean Air Act and CARB emission standards by installing undisclosed and unjustified “defeat devices” on diesel cars equipped with 2.0 liter engines. CARB expressly noted that each vehicle equipped with such a defeat device would not be covered by a valid CARB Executive Order. Accordingly, these vehicles could not be sold legally in New Jersey.

46. On November 2, 2015, the EPA and CARB issued a second round of Notices of Violation to Volkswagen AG, Audi AG, Volkswagen Group of America, Inc., Porsche AG, and Porsche Cars North America. These Notices of Violation stated that Volkswagen had violated the federal Clean Air Act and CARB emission standards by installing undisclosed and unjustified “defeat devices” on diesel cars equipped with 3.0 liter engines. Again, CARB expressly noted that each vehicle equipped with such a defeat device would not be covered by a valid CARB Executive Order. Therefore, these vehicles also could not be sold legally in New Jersey.

47. To date it is known that 2.0 liter diesel vehicle models with the defeat devices include the Jetta (2009-2015), the Jetta Sportswagen (2009-2014), the Beetle (2012-2015), the

Beetle Convertible (2012-2015), the Audi A3 (2010-2015), the Golf (2010-2015), the Golf Sportswagen (2015), and the Passat (2012-2015).

48. To date it is also known that 3.0 liter diesel vehicles models with the defeat devices include the Volkswagen Touareg (2009-2016), the Porsche Cayenne (2013-2016), the Audi A6 Quattro (2014-2016), the Audi A7 Quattro (2014-2016), the Audi A8 (2014-2016), the Audi A8L (2014-2016), the Audi Q5 (2014-2016), and the Audi Q7 (2009-2016).

49. It is currently estimated that Volkswagen sold approximately 580,000 vehicles in the United States that contained undisclosed and unjustified “defeat devices” (collectively referred to as “Unlawful Vehicles”).

50. Based on records maintained by the State of New Jersey, approximately 17,420 of the Unlawful Vehicles have been registered in this State.

Volkswagen Perpetrated a Massive Fraud Upon Consumers

51. To capitalize on the competitive edge afforded by these “defeat devices,” Volkswagen engaged in a concerted fraud upon consumers.

52. In numerous internet, print, and television advertisements as far back as 2008, Volkswagen continuously represented that their diesel-powered vehicles delivered superior fuel economy and vehicle power while remaining in full compliance with all applicable emissions standards, being “clean” enough to be certified in all 50 States.

53. For example, one printed advertisement published by Volkswagen displayed a picture of an engine from an Unlawful Vehicle and stated, “This ain’t your daddy’s diesel. Stinky, smoky, and sluggish. Those old diesel realities no longer apply. Enter TDI Clean Diesel. Ultra-low-sulfur fuel, direct injection technology, and extreme efficiency. We’ve ushered in a new era of diesel.”

54. Another printed advertisement published by Volkswagen displayed a picture of an Unlawful Vehicle and stated, "Efficiency. Now available without compromise. Hybrids aren't the only game in town. TDI Clean Diesel engines offer up impressive efficiency numbers too. Take the Passat TDI for starters. It can go up to 814 miles uninterrupted. Now that's a game changer."

55. In a series of internet video advertisements widely disseminated by Volkswagen, the company tried to dispel the "old wives' tales" about diesel-powered engines.

56. In one such video the caption begins "Three Old Wives Talk Dirty." The commercial shows three women sitting in a Volkswagen vehicle, with one asking "Isn't diesel dirty?" The video then shows the caption "Old Wives' Tale #6 Diesel is Dirty." One of the women corrects the other by saying, "No. They used to be dirty. This is 2015." To prove her point the woman holds her white scarf up to the tail pipe of the car while it is running. She later reveals that the white scarf is not blemished, saying, "See how clean it is?" The video then runs a caption, "Volkswagen TDI Clean Diesel / Like really clean diesel."

57. In another such video the same three women are being driven by a younger man in a Volkswagen diesel-powered car. One of the women comments, "The pickup stinks with diesel." The caption reads "Old Wives' Tale #1 Diesel Cars are Sluggish." To disprove this "old wives' tale," the driver proceeds to accelerate the car quickly. The video ends with the caption, "Volkswagen TDI Clean Diesel / That's the power of diesel."

58. In another such video one of the women says, "These cars are fuel hogs." The caption reads, "Old Wives' Tale #5 Diesel isn't Fuel Efficient." Another woman says, "Not this one" and represents how she drove "over 800 miles on one tank." The video ends with the caption, "Volkswagen TDI Clean Diesel: #FuelEfficient."

59. The window stickers placed on Unlawful Vehicles continued these misrepresentations. For example, one such sticker on the 2013 Jetta SportWagen TDI claimed that the vehicle operated with a combined 34 miles per gallon fuel efficiency, resulting in an annual operating cost of only \$1,7000 and an averaged saved cost of \$3,100 in fuel costs over five (5) years as compared to an average new gasoline-powered vehicle.

60. As another example of these misstatements to the public, Mark Barnes gave an interview with Business Insider in October 2009. He represented that a Volkswagen diesel-powered vehicle has “fantastic power train” with “very good fuel economy” while still being “good for the environment because it puts out 25% less greenhouse gas emissions than what a gasoline engine would.” He added that Volkswagen’s technology “cuts out the particulate emissions by 90% and the emissions of nitrous oxide are cut by 95%,” making the vehicle “a very clean running engine” that is “[c]lean enough to be certified in all 50 states.”

61. Volkswagen misled consumers into believing that, by purchasing one of Volkswagen’s new “clean diesel” vehicles, they were helping the environment without sacrificing performance.

62. Volkswagen also claimed to consumers that their diesel vehicles had a higher resale value. One such ad stated, “TDI clean diesel models typically have a higher resale value versus comparable gasoline vehicles.”

63. These representations by Volkswagen to its potential consumers were false and misleading. In reality, the vehicles were not in compliance with applicable emissions standards, and making them compliant would significantly reduce their fuel economy, power, and resale value. The stigma of owning these vehicles post-scandal also contributes to depreciated resale

value, exacerbating harm to consumers who already paid a premium for so-called “clean diesel” cars.

64. The VW Agents, among other things, developed the “defeat devices,” authorized the installation of prohibited software, authorized the affirmative misrepresentations, and made the affirmative misrepresentations. As admitted by the Chief Executive Officer of Volkswagen Group of America, Inc., “So let’s be clear about this: our company was dishonest with the EPA and the California Air Resources Board, and with all of you. And in my German words, we have totally screwed up.”

Volkswagen Profited Greatly from its Misconduct

65. The massive fraud committed by Volkswagen was extremely successful, and the company reaped substantial profits because of it.

66. Sales of Volkswagen’s vehicles steadily grew in recent years, in large part due to its fraudulent diesel vehicles.

67. For example, in 2013 Volkswagen and its affiliates sold a total of 9.731 million vehicles worldwide, with sales revenue of €197 billion (approximately \$251.6 billion) and profit after tax of €9.1 billion (approximately \$11.6 billion).

68. In 2014 Volkswagen and its affiliates sold a total of 10.137 million vehicles worldwide, with sales revenue of €202 billion (approximately \$257.7 billion) and a profit after tax of €11.1 billion (approximately \$14.2 billion).

69. In the United States, Volkswagen diesel vehicles accounted for approximately 70% of new diesel passenger car sales in 2014.

70. These increased sales enabled Volkswagen at the beginning of calendar year 2015 temporarily to seize the title of the world’s largest car manufacturer.

71. Volkswagen's improper conduct not only allowed it to sell more cars and make more profit in the aggregate, but also allowed it to exact a higher price for each car that it sold.

72. The Manufacturer's Suggested Retail Price ("MSRP") for Volkswagen's diesel-powered vehicles was often thousands of dollars higher than that for a comparable gasoline-powered vehicle. These elevated price points were possible because consumers are willing to pay a premium for high-performing, fuel-efficient, and environmentally friendly vehicles.

73. These increased sales and profits came at the expense of the unsuspecting public, whose economic damages include inflated purchase prices paid for allegedly superior and environmentally friendly vehicles, diminished resale values of their purchased vehicles, and anticipated reduced vehicle performance after a technological solution is developed to make the Unlawful Vehicles compliant with the law.

74. Volkswagen was able to reap these increasing profits in large part by intentionally misleading regulators and consumers, and dumping millions of pounds of pollutants into the atmosphere.

Volkswagen's Actions Negatively Affect Public Health and the Environment

75. As set forth in greater detail above, NOx pollution contributes to harmful ground-level ozone and fine particulate matter, commonly called smog and soot, respectively.

76. Exposure to NOx and its byproducts has been linked to serious health problems, including cardiopulmonary disease, lung cancer, chronic obstructive pulmonary disease, and exacerbation of asthma.

77. Short-term exposure to ozone can irritate the respiratory system, causing coughing, throat irritation, and chest pain. Breathing may become more rapid and shallow than normal, thereby limiting a person's normal activity. Ozone also can lead to more asthma attacks

that require a doctor's attention and the use of additional medication. Increased hospital admissions and emergency room visits for respiratory problems have been associated with ambient ozone exposures. Longer-term ozone exposure can inflame and damage the lining of the lungs, which may lead to permanent changes in lung tissue and irreversible reductions in lung function. A lower quality of life may result if the inflammation occurs repeatedly over a long time period, such as months, years, or a lifetime. 41 N.J.R. 1606(a) (Apr. 20, 2009).

78. Children, the elderly, and people with pre-existing respiratory disease are at an increased risk of suffering health effects from Volkswagen's pollution.

79. Diesel engine exhaust has been classified as a carcinogen by the International Agency for Research on Cancer within the World Health Organization.

80. An October 2015 publication by scholars at Harvard University and the Massachusetts Institute of Technology estimated that for the 2.0 Liter vehicles alone, the excess NOx emissions caused by Volkswagen in the United States amounted to approximately 36.7 million kilograms, or more than 80 million pounds.

81. That estimate of 80 million pounds of NOx does not include the emissions caused by Volkswagen's 3.0 liter vehicles, nor does it include emissions that will continue for calendar years 2016 onward. When those factors are taken into account, Volkswagen's illegal NOx emissions are much higher.

82. That same publication estimated that Volkswagen's illegal emissions have caused, and will continue to cause, scores of premature deaths as well as other serious adverse health effects (some requiring hospital admissions), including chronic bronchitis and reduced respiratory functioning.

83. Because New Jersey is a densely populated State with large metropolitan areas and high concentrations of automobiles, New Jersey's citizens have experienced, and will continue to experience, a disproportionately high percentage of these health consequences.

84. In addition to causing adverse health effects, ozone adversely affects vegetation and ecosystems, leading to reductions in agricultural crop and commercial forest yields, reduced growth and survivability of tree seedlings, and increased plant susceptibility to disease, pests, and other environmental stresses. In long-lived species, these effects may become evident only after several years or even decades and thus have the potential for long-term adverse impacts on forest ecosystems. Damage from ozone to the foliage of trees and other plants can also decrease the aesthetic value of ornamental species used in residential landscaping, as well as the natural beauty of parks and recreation areas. 41 N.J.R. 1606(a) (Apr. 20, 2009).

VIOLATIONS OF LAW

COUNT I

VIOLATIONS OF THE APCA

85. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 84 as if more fully set forth herein.

86. The APCA regulations forbid a person to cause, suffer, allow, or permit to be emitted into the outdoor atmosphere substances in quantities which shall result in air pollution. N.J.A.C. 7:27-5.2(a).

87. Defendants have caused, suffered, allowed, or permitted to be emitted in the outdoor atmosphere substances in quantities which resulted in air pollution. Volkswagen's emissions increased New Jersey's ambient concentrations of fine particles, ground level ozone,

and nitrogen oxides, each of which has been linked to adverse human health and environmental impacts.

88. The law also forbids a person to cause, suffer, allow, or permit any emission control apparatus or element of design installed on any diesel-powered motor vehicle or diesel engine to be disconnected, detached, deactivated, or in any other way rendered inoperable or less effective, in respect to limiting or controlling emissions, than it was designed to be by the original equipment or vehicle manufacturer. N.J.A.C. 7:27-14.3(e).

89. Defendants have caused, suffered, allowed, or permitted defeat devices to render inoperable or less effective the emission control apparatus or elements of design on its diesel-powered motor vehicles or engines.

90. The law further forbids a person to cause, suffer, allow, or permit the operation of any diesel-powered motor vehicle upon the public road, streets, or highways of the State, or upon any public property or upon any quasi-public roadway in the State, if the vehicle does not have a properly functioning and properly maintained emission-control apparatus. N.J.A.C. 7:2-14.4(a)(3).

91. Defendants have caused, suffered, allowed, or permitted the operation of diesel-powered motor vehicles upon the public road, streets, or highways of the State, or upon public property or upon quasi-public roadways in the State, when the vehicles did not have properly functioning and properly maintained emission-control apparatuses.

92. Additionally, the law forbids any person within this State from delivering for sale, offering for sale, selling, importing, delivering, purchasing, renting, acquiring, receiving, or registering on or after January 1, 2009 a new 2009 or subsequent model-year passenger car

unless the vehicle has been certified by CARB and has received a CARB Executive Order. N.J.S.A. 26:2C-8.17; N.J.A.C. 7:27-29.3(a), -29.4.

93. The installation of defeat devices on Volkswagen's light-duty 2009 and subsequent model-year passenger vehicles rendered those vehicles noncompliant with CARB emissions standards and, accordingly, Defendants have delivered for sale, offered for sale, sold, imported, delivered, or registered vehicles that are not certifiable by CARB.

94. Defendants are liable under the APCA without regard to whether they had the intent to commit the aforementioned violations, although it is clear that Volkswagen and certain VW Agents at times acted with such intent.

COUNT II

VIOLATIONS OF THE CFA

95. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 94 as if more fully set forth herein.

96. The CFA, N.J.S.A. 56:8-2, prohibits

the act, use, or employment by any person of any unconscionable commercial practice, deception, fraud, false pretense, false promise, misrepresentation, or the knowing[] concealment, suppression, or omission of any material fact with intent that others rely upon such concealment, suppression, or omission, in connection with the sale or advertisement of any merchandise

97. The CFA defines "merchandise" as including any objects, wares, goods, commodities, services or anything offered, directly or indirectly to the public for sale. N.J.S.A. 56:8-1(c).

98. The Unlawful Vehicles advertised, offered for sale, and/or sold by Defendants comprise merchandise within the meaning of the CFA.

99. Defendants, in the course of advertising, promoting, offering for sale, selling, and distributing Unlawful Vehicles, have engaged in unconscionable commercial practices, deception, misrepresentations, and knowing omissions of material fact in violation of the CFA.

100. Defendants have engaged in unconscionable commercial practices and deception, including but not limited to the following:

- a. Developing a sophisticated software algorithm (i.e., defeat device) for the specific purpose of evading emission requirements for the Unlawful Vehicles;
- b. Installing the defeat device in the Unlawful Vehicles, thereby deactivating their emission controls when not undergoing official emissions testing and causing those vehicles to operate in violation of applicable emission standards;
- c. Causing to be placed into commerce approximately 17,420 Unlawful Vehicles which are registered in the State, which when operating normally and not under testing conditions, could emit as much as forty (40) times more NOx than is permissible by law;
- d. Causing to be placed into commerce Unlawful Vehicles that lacked valid CARB Executive Orders, and which Volkswagen thus had no legal right to offer for sale, import, or deliver in the State of New Jersey;
- e. Offering for sale and/or selling the Unlawful Vehicles at falsely inflated prices based upon representations of high-performing, fuel-efficient, and environmentally friendly vehicles;
- f. Causing economic damage to consumers who purchased Unlawful Vehicles, including falsely inflated purchase prices, diminished resale values, and anticipated reduced vehicle performance; and

- g. Endangering the public health by placing into commerce the Unlawful Vehicles which emit unlawful levels of NO_x causing, among other things, adverse health effects (e.g., chronic bronchitis and reduced respiratory functioning).

101. In their advertisement, promotion, offer for sale, sale and/or distribution of diesel-powered vehicles, Defendants have engaged in misrepresentations and knowing omissions of material fact, including but not limited to the following:

- a. In internet, print, and television advertisements from 2008 onward, representing that their diesel-powered vehicles delivered superior fuel economy and vehicle power while remaining in full compliance with all applicable emissions standards and being “clean” enough to be certified in all 50 States, when such is not the case;
- b. Through their advertisements and public statements, leading consumers to believe that by purchasing an Unlawful Vehicle they would be helping the environment without sacrificing performance, when such is not the case;
- c. Through their advertisements, representing that the Unlawful Vehicles had a higher resale value, when such is not the case;
- d. Through their advertisements and MSRP stickers, misrepresenting the fuel efficiency of the Unlawful Vehicles;
- e. Failing to inform consumers that the Unlawful Vehicles were equipped with the defeat device, which deactivated emissions controls;
- f. Failing to inform consumers that the Unlawful Vehicles were not in compliance with applicable emissions standards when operating normally and could emit as much as forty (40) times more NO_x than is legally permitted;

- g. Failing to inform consumers that the Unlawful Vehicles would only meet emissions standards during I/M testing;
- h. Failing to inform consumers that making the Unlawful Vehicles compliant would significantly reduce their fuel economy, power, and resale value; and
- i. Failing to inform consumers that their use of the Unlawful Vehicles would endanger the public health by emitting unlawful levels of NOx causing, among other things, adverse health effects (e.g., chronic bronchitis and reduced respiratory functioning).

102. Defendants are liable under the CFA for their unconscionable commercial practices, acts of deception, and misrepresentations without regard to whether they had the intent to deceive, though it is clear that Volkswagen and certain VW Agents at times acted with such intent.

103. Each unconscionable commercial practice, act of deception, misrepresentation, and/or knowing omission of material fact by Defendants constitutes a separate violation of the CFA, N.J.S.A. 56:8-2.

APCA REMEDIES

104. When a person has engaged in any conduct that violates the APCA, or any code, rule, regulation, or order adopted or issued pursuant thereto, the State may institute a civil action in a court of competent jurisdiction for injunctive or any other appropriate relief to prohibit and prevent such violation or violations and the court may proceed in the action in a summary manner. N.J.S.A. 26:2C-19.

105. A person who violates the APCA, or any code, rule, regulation, or order adopted or issued pursuant thereto, shall be liable for a civil penalty of not more than \$10,000 for the first offense, not more than \$25,000 for the second offense, and not more than \$50,000 for the third

and each subsequent offense. When the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate, and distinct offense. N.J.S.A. 26:2C-19(d).

CFA REMEDIES

106. When a person has engaged in conduct prohibited by the CFA, the State may seek and obtain in the Superior Court an injunction prohibiting such person from continuing such practices or engaging therein or doing any acts in furtherance thereof or an order appointing a receiver, or both. The court is authorized to make such orders or judgments as may be necessary to prevent the use or employment by a person of any prohibited practices, or which may be necessary to restore to any person in interest any moneys or property, real or personal, which may have been acquired by means of any practice that violates the CFA. N.J.S.A. 56:8-8.

107. The CFA imposes civil penalties of not more than \$10,000 for the first offense and not more than \$20,000 for the second and each subsequent offense, which penalties are exclusive of and in addition to any moneys or property ordered to be paid or restored. N.J.S.A. 56:8-13.

108. The State is entitled to recover reasonable attorneys' fees, filing fees, and reasonable costs of suit. N.J.S.A. 56:8-11, -19.

PRAYER FOR RELIEF

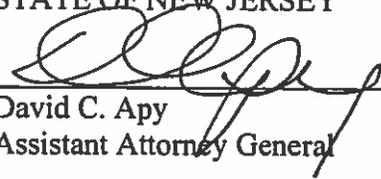
WHEREFORE, based upon the preceding allegations, Plaintiffs respectfully request that the Court enter judgment against Defendants and award the following relief:

- a. Finding that the acts and omissions of Defendants constitute unlawful practices in violation of the APCA, N.J.S.A. 26:2C-1 et seq.;

- b. Permanently enjoining and restraining Defendants and their owners, officers, directors, shareholders, founders, managers, agents, servants, employees, representatives, independent contractors, corporations, subsidiaries, affiliates, successors, assigns, and all other persons or entities directly under their control, from engaging in acts or omissions in violation of the APCA, N.J.S.A. 26:2C-1 et seq., including, but not limited to, the acts and practices alleged in this Complaint;
- c. Assessing the maximum civil penalties against Defendants for each and every violation of the APCA, in accordance with the APCA, N.J.S.A. 26:2C-19;
- d. Finding that the acts and omissions of Defendants constitute unlawful practices in violation of the CFA, N.J.S.A. 56:8-1 et seq.;
- e. Permanently enjoining and restraining Defendants and their owners, officers, directors, shareholders, founders, managers, agents, servants, employees, representatives, independent contractors, corporations, subsidiaries, affiliates, successors, assigns, and all other persons or entities directly under their control, from engaging in deceptive practices in the promotion and marketing of their automobiles in violation of the CFA, N.J.S.A. 56:8-1 et seq., including, but not limited to, the acts and practices alleged in this Complaint;
- f. Directing the assessment of restitution amounts against Defendants to restore to any affected person, whether or not named in this Complaint, any money or real or personal property acquired by means of any practice alleged herein to be unlawful and found to be unlawful, as authorized by the CFA, N.J.S.A. 56:8-8;
- g. Assessing the maximum civil penalties against Defendants for each and every violation of the CFA, in accordance with the CFA, N.J.S.A. 56:8-13;

- h. Directing the assessment of costs and fees, including attorneys' fees, against Defendants for the use of the State of New Jersey, as authorized by the CFA, N.J.S.A. 56:8-11, -19; and
- i. Granting such other relief as the interests of justice may require.

JOHN J. HOFFMAN
ACTING ATTORNEY GENERAL OF THE
STATE OF NEW JERSEY

By: 

David C. Apy
Assistant Attorney General
Attorney for Plaintiffs

LOWENSTEIN SANDLER LLP

By: 

Christopher S. Romano
Special Counsel

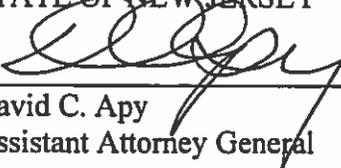
Dated: February 5, 2016

RULE 4:5-1 CERTIFICATION

I certify, to the best of my information and belief, that the matter in this action involving the aforementioned violations is not the subject of any other action by a state agency in any other court of this State. I am aware that private actions have been brought against Volkswagen across the country and have been consolidated in the United States District Court for the Northern District of California in the case *In re: Volkswagen "Clean Diesel" MDL*, Docket No. 15-MD-2672-CRB (JSC), and that there are government-enforcement actions in other jurisdictions. I further certify that the matter in controversy in this action is not the subject of a pending arbitration proceeding in this State, nor is any other action or arbitration proceeding contemplated. I certify that there is no other party who should be joined in this action at this time.

JOHN J. HOFFMAN
ACTING ATTORNEY GENERAL OF THE
STATE OF NEW JERSEY

By:

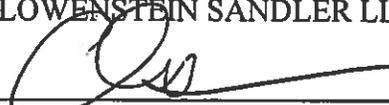


David C. Apy
Assistant Attorney General

Attorney for Plaintiffs

LOWENSTEIN SANDLER LLP

By:



Christopher S. Porrino

Special Counsel

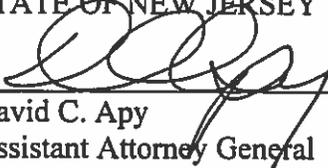
Dated: February 5, 2016

DESIGNATION OF TRIAL COUNSEL

Pursuant to Rule 4:25-4, Christopher S. Porrino, Esq. of Lowenstein Sandler LLP, is hereby designated as trial counsel for the Plaintiffs in this action.

JOHN J. HOFFMAN
ACTING ATTORNEY GENERAL OF THE
STATE OF NEW JERSEY

By:

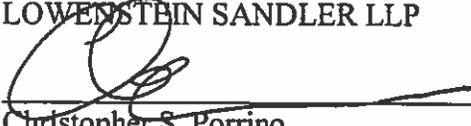


David C. Apy
Assistant Attorney General

Attorney for Plaintiffs

LOWENSTEIN SANDLER LLP

By:

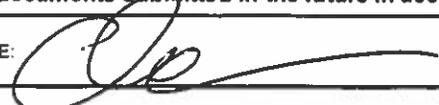


Christopher S. Porrino

Special Counsel

Dated: February 5, 2016

Appendix XII-B1

	CIVIL CASE INFORMATION STATEMENT (CIS)		FOR USE BY CLERK'S OFFICE ONLY
			PAYMENT TYPE: <input type="checkbox"/> CK <input type="checkbox"/> CG <input type="checkbox"/> CA
			CHG/CK NO.
			AMOUNT:
			OVERPAYMENT:
		BATCH NUMBER:	
ATTORNEY / PRO SE NAME Christopher S. Porrino		TELEPHONE NUMBER (973) 597-6314	COUNTY OF VENUE Somerset
FIRM NAME (if applicable) Lowenstein Sandler LLP		DOCKET NUMBER (when available)	
OFFICE ADDRESS 65 Livingston Avenue Roseland, New Jersey 07068		DOCUMENT TYPE Complaint	JURY DEMAND <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
NAME OF PARTY (e.g., John Doe, Plaintiff) Division of Air Quality, Plaintiff Division of Consumer Affairs, Plaintiff		CAPTION John J. Hoffman, et al. v. Volkswagen Group of America, Inc., et al.	
CASE TYPE NUMBER (See reverse side for listing) 156	HURRICANE SANDY RELATED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	IS THIS A PROFESSIONAL MALPRACTICE CASE? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO IF YOU HAVE CHECKED "YES," SEE N.J.S.A. 2A:53 A -27 AND APPLICABLE CASE LAW REGARDING YOUR OBLIGATION TO FILE AN AFFIDAVIT OF MERIT.	
RELATED CASES PENDING? <input checked="" type="checkbox"/> YES <input type="checkbox"/> No		IF YES, LIST DOCKET NUMBERS 15-MD-2672-CRB (JSC) (multi-district litigation)	
DO YOU ANTICIPATE ADDING ANY PARTIES (arising out of same transaction or occurrence)? <input checked="" type="checkbox"/> YES <input type="checkbox"/> No		NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY (if known) <input type="checkbox"/> NONE <input checked="" type="checkbox"/> UNKNOWN	
THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE.			
CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION			
DO PARTIES HAVE A CURRENT, PAST OR RECURRENT RELATIONSHIP? <input type="checkbox"/> YES <input checked="" type="checkbox"/> No		IF YES, IS THAT RELATIONSHIP: <input type="checkbox"/> EMPLOYER/EMPLOYEE <input type="checkbox"/> FRIEND/NEIGHBOR <input type="checkbox"/> OTHER (explain) <input type="checkbox"/> FAMILIAL <input type="checkbox"/> BUSINESS	
DOES THE STATUTE GOVERNING THIS CASE PROVIDE FOR PAYMENT OF FEES BY THE LOSING PARTY? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL MANAGEMENT OR ACCELERATED DISPOSITION The New Jersey Division of Air Quality is pursuing an environmental action against Volkswagen Group of America, Inc., et al., in connection with certain diesel-powered vehicles illegally sold in the State. Those vehicles have caused and are continuing to cause environmental damage in violation of the Air Pollution Control Act. In the process of marketing and selling these unlawful vehicles, Defendants have committed violations under the Consumer Fraud Act. Defendants' illegal conduct is also the subject of various consumer complaints in a federal Multi-District Litigation as well as other government-enforcement actions across the country.			
 DO YOU OR YOUR CLIENT NEED ANY DISABILITY ACCOMMODATIONS? <input type="checkbox"/> YES <input checked="" type="checkbox"/> No		IF YES, PLEASE IDENTIFY THE REQUESTED ACCOMMODATION	
WILL AN INTERPRETER BE NEEDED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> No		IF YES, FOR WHAT LANGUAGE?	
I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).			
ATTORNEY SIGNATURE: 			



CIVIL CASE INFORMATION STATEMENT (CIS)

Use for initial pleadings (not motions) under *Rule 4:5-1*

CASE TYPES (Choose one and enter number of case type in appropriate space on the reverse side.)

Track I - 150 days' discovery

- 151 NAME CHANGE
- 175 FORFEITURE
- 302 TENANCY
- 399 REAL PROPERTY (other than Tenancy, Contract, Condemnation, Complex Commercial or Construction)
- 502 BOOK ACCOUNT (debt collection matters only)
- 505 OTHER INSURANCE CLAIM (including declaratory judgment actions)
- 506 PIP COVERAGE
- 510 UM or UIM CLAIM (coverage issues only)
- 511 ACTION ON NEGOTIABLE INSTRUMENT
- 512 LEMON LAW
- 801 SUMMARY ACTION
- 802 OPEN PUBLIC RECORDS ACT (summary action)
- 999 OTHER (briefly describe nature of action)

Track II - 300 days' discovery

- 305 CONSTRUCTION
- 509 EMPLOYMENT (other than CEPA or LAD)
- 599 CONTRACT/COMMERCIAL TRANSACTION
- 603N AUTO NEGLIGENCE – PERSONAL INJURY (non-verbal threshold)
- 603Y AUTO NEGLIGENCE – PERSONAL INJURY (verbal threshold)
- 605 PERSONAL INJURY
- 610 AUTO NEGLIGENCE – PROPERTY DAMAGE
- 621 UM or UIM CLAIM (includes bodily injury)
- 699 TORT – OTHER

Track III - 450 days' discovery

- 005 CIVIL RIGHTS
- 301 CONDEMNATION
- 602 ASSAULT AND BATTERY
- 604 MEDICAL MALPRACTICE
- 606 PRODUCT LIABILITY
- 607 PROFESSIONAL MALPRACTICE
- 608 TOXIC TORT
- 609 DEFAMATION
- 616 WHISTLEBLOWER / CONSCIENTIOUS EMPLOYEE PROTECTION ACT (CEPA) CASES
- 617 INVERSE CONDEMNATION
- 618 LAW AGAINST DISCRIMINATION (LAD) CASES

Track IV - Active Case Management by Individual Judge / 450 days' discovery

- 156 ENVIRONMENTAL/ENVIRONMENTAL COVERAGE LITIGATION
- 303 MT. LAUREL
- 508 COMPLEX COMMERCIAL
- 513 COMPLEX CONSTRUCTION
- 514 INSURANCE FRAUD
- 620 FALSE CLAIMS ACT
- 701 ACTIONS IN LIEU OF PREROGATIVE WRITS

Multicounty Litigation (Track IV)

- | | |
|---|--|
| <ul style="list-style-type: none"> 271 ACCUTANE/ISOTRETINOIN 274 RISPERDAL/SEROQUEL/ZYPREXA 278 ZOMETHA/AREXIA 279 GADOLINIUM 281 BRISTOL-MYERS SQUIBB ENVIRONMENTAL 282 FOSAMAX 285 STRYKER TRIDENT HIP IMPLANTS 286 LEVAQUIN 287 YAZ/YASMIN/OCELLA 288 PRUDENTIAL TORT LITIGATION 289 REGLAN | <ul style="list-style-type: none"> 290 POMPTON LAKES ENVIRONMENTAL LITIGATION 291 PELVIC MESH/GYNECARE 292 PELVIC MESH/BARD 293 DEPUY ASR HIP IMPLANT LITIGATION 295 ALLODERM REGENERATIVE TISSUE MATRIX 296 STRYKER REJUVENATE/ABG II MODULAR HIP STEM COMPONENTS 297 MIRENA CONTRACEPTIVE DEVICE 299 OLMESARTAN MEDOXOMIL MEDICATIONS/BENICAR 300 TALC-BASED BODY POWDERS 601 ASBESTOS 623 PROPECIA |
|---|--|

If you believe this case requires a track other than that provided above, please indicate the reason on Side 1, in the space under "Case Characteristics."

Please check off each applicable category Putative Class Action Title 59