

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

Victoria Kealy, individually and on behalf of
all other similarly situated,

Plaintiff,

v.

Volkswagen Group of America, Inc.,

Defendant.

Civil Action No. _____

Jury Trial Demanded

CLASS ACTION COMPLAINT

Plaintiff Victoria Kealy, on behalf of herself and on behalf of all others similarly situated, submits the following Complaint and Jury Demand against Defendant Volkswagen Group of America, Inc. (“VW”) related to Defendant’s deceptive, unjust, and unfair practices in connection with the marketing and sale of certain diesel-engine vehicles in Georgia:

BACKGROUND

1. Plaintiff, individually and on behalf of all others similarly situated, (the “Class Members” as defined below) brings this action against Defendant for its unfair, unlawful, and fraudulent business practices in violation of Georgia and federal law.

2. Since 2009, Defendant VW and/or its affiliated entities has manufactured and marketed vehicles containing 2.0 liter diesel engines which, according to the United States Environmental Protection Agency (“EPA”), contained a defeat device (the “Class Vehicles”).

3. Defendant VW falsely represented to the purchasers of the Class Vehicles that the vehicles would achieve excellent fuel economy associated with diesel engines while also being

environmentally friendly and compliant with all Georgia and federal environmental laws and regulations.

4. Defendant's representations were false. On September 18, 2015, the EPA sent Defendant a Notice of Violation ("NOV").¹ The NOV states that Defendant "manufactured and installed defeat devices in certain model year 2009 through 2015 diesel light-duty vehicles equipped with 2.0 liter engines." Further, the NOV said the "defeat devices bypass, defeat, or render inoperative elements of the vehicles' emission control system that exist to comply with [Clean Air Act] emission standards." Therefore, although the vehicles would meet the relevant emissions standards in *testing* situations, during "normal vehicle operation" they will emit nitrogen oxides ("NOx") up to *40 times* above EPA compliant levels.

5. In several recent press releases, Defendant admitted to this fraudulent and deceptive scheme and Defendant has caused all unsold vehicles equipped with the defeat devices to be taken off the market and are in the process of removing those vehicles from dealerships.

6. Defendant sold approximately 500,000 Class Vehicles in the United States. Worldwide, the number of Class Vehicles sold is close to 11 million. Because of Defendant's fraudulent and deceptive practices regarding the Class Vehicles, the value of the Class Vehicles is greatly diminished.

THE PARTIES

7. Plaintiff is a natural person and a citizen and resident of Atlanta, Georgia. Plaintiff currently owns a 2010 Jetta TDI which she purchased new from a Volkswagen dealership in Atlanta, Georgia.

¹ A copy of the NOV is available on the EPA website at <http://www3.epa.gov/otaq/cert/documents/vw-nov-caa-09-18-15.pdf>

8. Defendant VW is a corporation created and existing pursuant to the laws of New Jersey with its principal place of business in the state of Virginia. VW is registered to do business in the state of Georgia and regularly and systematically conducts business in Georgia. VW is wholly-owned subsidiary of VW AG. VW also does business as Audi of America, Inc. VW may be served with process by delivering a copy of this Complaint along with a Summons to its registered agent at Corporation Service Company, 40 Technology Parkway South, #300 Norcross, GA 30092. VW and/or its agents designed, manufactured, and installed the 2.0 liter diesel engines in the Class Vehicles. VW and/or its agents also developed and disseminated the owner's manuals and warranty booklets, advertising, and other promotional materials relating to the Class Vehicles.

JURISDICTION AND VENUE

9. This Court has jurisdiction over this dispute under 28 U.S.C. § 1332(a) because the parties are completely diverse and the amount in controversy exceeds \$75,000.00.

10. This Court also has subject matter jurisdiction of this action under 28 U.S.C. § 1332(d)(2)(A), which provides for federal jurisdiction in class actions with minimal diversity when damages exceed five million dollars, exclusive of interest and costs. Upon information and belief, the aggregate amount at issue in this dispute exceeds five million dollars. In addition, "minimal diversity" is satisfied because at least one member of the proposed class is a citizen of a State different from any defendant. The Court has supplemental subject matter jurisdiction over the pendent state law claims pursuant to 28 U.S.C. § 1367.

11. Venue in this Court is proper pursuant to 28 U.S.C §§ 1391(b)(2) & (d).

FACTUAL ALLEGATIONS

12. Since 2009, Defendant VW has marketed the Class Vehicles to Georgia consumers.

13. The Class Vehicles include the following models:

- 2009 to 2015 Volkswagen Jetta TDI Clean Diesel;
- 2009 to 2015 Volkswagen Beetle TDI Clean Diesel;
- 2009 to 2015 Volkswagen Golf TDI Clean Diesel;
- 2014 to 2015 Volkswagen Passat TDI Clean Diesel; and
- 2009 to 2015 Audi A3 TDI Clean Diesel.

Discovery may reveal additional models.

14. Defendant VW represented that the diesel engines in the Class Vehicles were environmentally friendly and fuel efficient, while still maintaining a high level of performance. This marketing image is at the core of its image in the United States. The marketing campaign was successful; VW became the largest seller of diesel cars in the United States.



15. For instance, Defendant's advertisements stated that its TDI engines offered "Ultra-low-sulfur fuel, direct injection technology, and extreme efficiency."²

16. Advertisements about the fuel efficiency and low emissions of the TDI diesel engines were transmitted over a variety of media, including television, print, and the internet.

17. Defendant VW used these advertisements to generate revenue through the sale of the Class Vehicles based on the false statements contained therein.

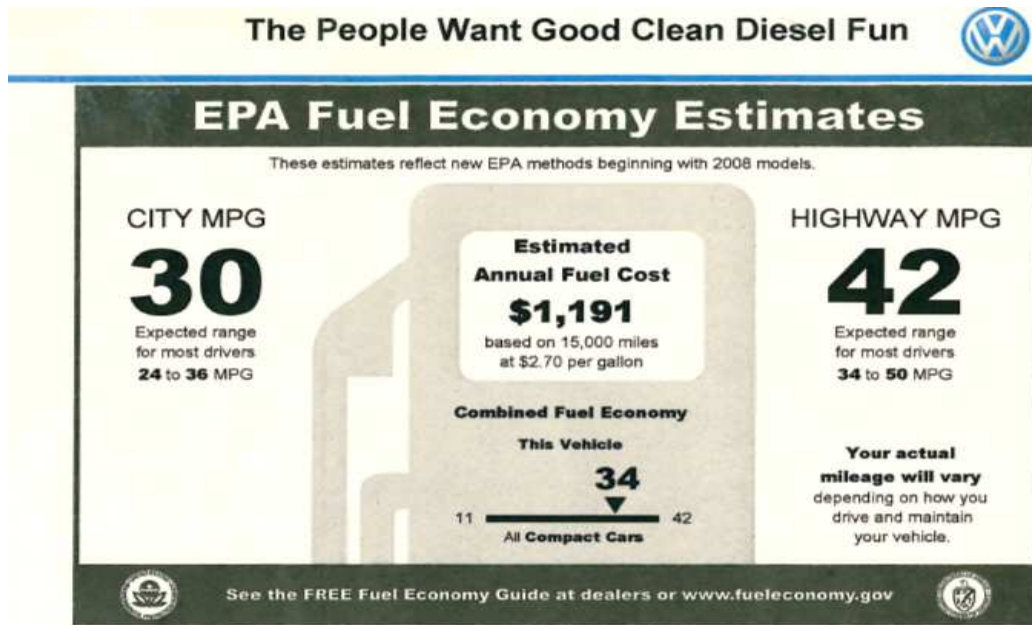
18. In 2009 the Volkswagen Jetta TDI was named Green Car of the Year, and in 2010, the Audi A3 TDI was named Green Car of the Year.

19. Defendant was able to sell so many of the Class Vehicles based on their reputation as fuel efficient and environmentally friendly vehicles.

20. Defendant charged, and the Class Members paid, substantial premiums for these "Clean Diesel" cars based upon the representation that the vehicles were fuel efficient and environmentally friendly while still maintaining a high degree of performance.

² Among other places, this advertisement appeared on VW's website. Although VW has removed this page from its website, it can be accessed at the following web archive link:
<https://web.archive.org/web/20150816221300/http://www.vw.com/features/clean-diesel/>.

21. Plaintiff purchased her 2010 Jetta TDI based in part on these representations, including representations regarding the vehicle's superior gas mileage. Below is an excerpt from the sticker on the vehicle that Plaintiff purchased. It indicated that her car was at or near the top quartile of compact vehicles in terms of expected gas mileage and emphasized that her car included a "Good Clean Diesel" engine:



22. The Clean Air Act ("CAA") and the regulations promulgated thereunder are designed to reduce emissions of NOx and other pollutants from automobiles such as the Class Vehicles.

23. Under the CAA, 42 U.S.C. §§ 7401-7671q, in order to sell passenger vehicles in the United States, a car manufacturer, such as Defendant, must apply for and receive a certificate of conformity ("COC") for the vehicle model it wishes to sell. Without first obtaining a COC, car manufacturers are barred from selling, offering for sale, introducing into commerce, delivering for introduction into commerce, or importing passenger vehicles in the United States. Car manufacturers are also barred from causing any of the foregoing acts to take place.

24. Accordingly, the CAA required Defendant to receive a COC for each model of the Class Vehicles prior to their sale to the Class Members.

25. A defeat device is an auxiliary emission control device (“AECD”) that “reduces the effectiveness of the emission control system under conditions which may reasonably be expected to be encountered in normal vehicle operation and use.” 40 C.F.R. § 86.1803-01.

26. Motor vehicles with defeat devices cannot be granted a COC. EPA, *Advisory Circular Number 24: Prohibition on use of Emission Control Defeat Device* (Dec. 11, 1972).

27. Moreover, in a COC application, car manufacturers must list all AECD on the vehicle models in question and provide a justification for any AECD. The COC then applies only to those cars that are as described in the application. For example, the COC issued to the Defendant “covers only those new motor vehicles or vehicle engines which conform in all material respects, to the design specifications” as described in the Defendant’s application. *See* NOV at p. 3.

28. Upon information and belief, starting in 2009, Defendant VW knew that the Class Vehicles could not achieve the fuel economy and performance levels which Defendant desired while also remaining compliant with applicable laws and regulations, such as the CAA and corresponding regulations.

29. To circumvent this failure, Defendant installed defeat devices in the Class Vehicles. That is, Defendant “manufactured and installed software in the electronic control module (ECM) of [the Class Vehicles] that sensed when the vehicle was being tested for compliance with EPA emission standards.” NOV at p. 3. When the vehicle was being tested, “the vehicle’s ECM ran software which produced compliant emission results.” *Id.* at p. 4.

30. However, during “normal vehicle operation,” the Class Vehicles “ran a separate ‘road calibration’ which reduced the effectiveness of the emission control system . . . As a result, emissions of NO_x increased by a factor of *10 to 40 times above EPA compliant levels*, depending on the type of drive cycle.” NOV at p. 4 (emphasis added).

31. According to the NOV, because of the defeat devices, the Class Vehicles “do not conform in all material respects to the vehicle specifications described in the applications for the [COCs] that purportedly cover them.” NOV at p. 2. Thus, Defendant violated federal law by “selling, offering for sale, introducing into commerce, delivering for introduction into commerce, or importing these vehicles.”

32. In May 2014, after publication of a study commissioned by the International Counsel on Clean Transportation which found significantly higher in-use emissions, the EPA and the California Air Resources Board (“CARB”) began an investigation into the increased emissions.

33. Throughout the investigation, Defendant denied installing defeat devices in the Class Vehicles. Instead of admitting wrongdoing, Defendant told officials that the higher emissions “could be attributed to various technical issues and unexpected in-use conditions.” NOV at p. 4.

34. However, when the EPA and CARB said they would not approve COCs for the Defendant’s 2016 model year vehicles without receiving an adequate explanation for the problems with the Class Vehicles, Defendant admitted that it had designed and installed the defeat devices.

35. Until this 2015 admission of wrongdoing, Defendant never disclosed the existence of the defeat devices in the Class Vehicles.

36. According to the NOV, Defendant “knew or should have known that its [defeat devices] bypass, defeat, or render inoperative elements of the vehicle design related to compliance with CAA emissions standards.”

37. Defendant has recently admitted to the deception described herein. For example, Martin Winterkorn, the CEO of Volkswagen AG, Defendant VW’s parent company, released a statement in which he stated he was “deeply sorry” to have “broken the trust of our customers and the public” and that Volkswagen was investigating the issue.³

38. Defendant has since ceased all United States sales of vehicles with the 2.0 liter “Clean Diesel” engines and is in the process of removing those vehicles from dealerships.

39. Plaintiff and the other Class Members purchased the Class Vehicles in reliance on Defendant’s promises, described in part above, that the Class Vehicles would be fuel efficient, maintain high performance levels, be environmentally friendly, and be compliant with all applicable federal and state laws and regulations.

40. Plaintiff and the other Class Members not only relied on these representations in purchasing the Class Vehicles, they relied on those representations in paying a significant premium for the Class Vehicles over their gas-powered counterparts.

41. Because Defendant’s promises, including the promises about compliance with applicable laws and environmental friendliness, were false, deceptive, and untrue, the value of the Class Vehicles has been greatly reduced, if not totally destroyed.

42. Additionally, even if Defendant undertook to alter the Class Vehicles’ engines to meet the required standards, it is likely the vehicles’ fuel economy, performance, and longevity would be dramatically reduced.

³ Statement available at <http://www.vwdieselinform.com/statement-of-prof-dr-martin-winterkorn-ceo-of-volkswagen-ag/>

43. As a result, Class Members now have Class Vehicles that are currently unmarketable. Even if Class Members were to undertake the time and expense of seeking and obtaining repair from Defendant, the Class Vehicles still will be worth significantly less money than they would otherwise have been worth had they been delivered as promised.

TOLLING AND ESTOPPEL

44. As described above, Defendant's fraud and deception went undetected by anyone, including federal and state regulators, for approximately five years after Defendant began to market the Class Vehicles.

45. As a result of Defendant's behavior, Plaintiff and the other Class Members had no ability to discover the facts supporting the allegations contained herein until Defendant ultimately admitted wrongdoing. The inability to discover the problems with the Class Vehicles was due exclusively to the fraudulent concealment of the facts by Defendant.

46. As a result, any applicable statute of limitations has been tolled and/or Defendant is estopped from relying on any statutes of limitations in defense of this action.

CLASS ACTION ALLEGATIONS

47. Plaintiff brings this action individually and on behalf of all others similarly situated as a class action pursuant to the provisions of Rules 23(a), (b)(1), (b)(2), and (b)(3) of the Federal Rules of Civil Procedure.

48. The Class is defined as follows:

All persons or entities who are current owners or lessees of Class Vehicles who purchased or leased those vehicles in the State of Georgia.

49. Excluded from the Class are Defendant and its subsidiaries, parents, and affiliates; all persons who make a timely election to be excluded from the Class; all claims for wrongful

death, survivorship, and/or personal injury by Class Members; governmental entities; and the Judge to whom this case is assigned and his or her immediate family. Plaintiff reserves the right to revise the Class definition.

50. Certification of Plaintiff's claims for class-wide treatment is appropriate because Class Members 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.

51. Plaintiff satisfies Rule 23(a)(1) because the class is so numerous that joinder is not proper. Many thousands of Class Vehicles were sold in Georgia, and the identities of these individuals can be obtained from Defendant's records.

52. Plaintiff satisfies Rule 23(a)(2) because there are questions of law or fact common to the Class. For instance, common questions include, *inter alia*: 1) Whether Defendant engaged in the conduct described in this Complaint; 2) Whether Defendant acted knowingly, intentionally, or recklessly in engaging in the conduct discussed in this Complaint; 3) Whether Defendant's misrepresentations and omissions were material; 4) Whether Defendant's conduct violated Georgia law; 5) Whether Plaintiff and the Class Members are entitled to damages and other monetary relief; 6) Whether Plaintiff and the Class Members are entitled to equitable relief, including injunctive relief, restitution, and/or rescission.

53. Plaintiff satisfies Rule 23(a)(3) because her claims and defenses are typical of the Class. Plaintiff purchased a Class Vehicle and relied upon the common representations Defendant made the rest of the public and Class Members.

54. Plaintiff satisfies Rule 23(a)(4) because she will fairly and adequately protect the interests of the Class. Plaintiff's interests are in line with and do not conflict with the rest of the

Class, and Plaintiff has retained counsel with significant and extensive experience in the prosecution of class actions.

55. Plaintiff's claims satisfy Rule 23(b)(1)(A) because prosecuting separate actions would create a risk of inconsistent or varying adjudications. The primary issue in this case is whether Defendant violated the law in falsely marketing the Class Vehicles and installing defeat devices in those vehicles. If each Class Member brought separate actions it is likely that different Courts and/or juries would reach different results as to the Defendant's liability despite that the facts for each Class Member are essentially identical.

56. Plaintiff's claims satisfy Rule 23(b)(2) because Defendant has acted or refused to act on grounds generally applicable to Plaintiff and the other Class Members, thereby making final injunctive relief and declaratory relief appropriate with respect to the Class as a whole.

57. Plaintiff's claims satisfy Rule 23(b)(3) because questions common to the class predominate over individual issues and the class action device is superior to other means of adjudicating this dispute. As noted above, this case involves the uniform conduct of the Defendant in installing defeat devices in the Class Vehicles and falsely marketing the vehicles as compliant and environmentally friendly. Defendant acted in a substantially similar way toward each Class Member. The issues central to this case will be proved by common evidence and predominate over any individual issues. A class action is a far more efficient method of settling this dispute as compared to thousands of individual claims given the nature of the common questions at issue.

58. In the alternative, or in addition to certification under Rule 23(b), certification is appropriate under Rule 23(c)(4), which provides that an action may be brought or maintained as a class action with respect to particular issues. Under Rule 23(c)(4), certification is appropriate

when a Plaintiff establishes a class under Rule 23(a), and when a common issue threads through the case. Because Defendant's conduct was uniform with respect to all Class Members, various issues in this case are suitable for class-wide resolution under Rule 23(c)(4).

CLAIMS FOR RELIEF

Count I: Georgia RICO Act Violation

59. Plaintiff incorporates by reference the foregoing allegations.

60. The activities of Defendant constitute a violation of the Georgia RICO Act, O.C.G.A. § 16-14-1, *et seq.*

61. Defendant is a legal entity which constitutes an enterprise and/or enterprises pursuant to the provisions of the Georgia RICO Act.

62. Defendant committed multiple predicate acts of "racketeering activity," as defined by the Georgia RICO Act, including, but not limited to:

- a. Wire fraud;
- b. Mail fraud;
- c. Theft by deception;
- d. Lying to government officials; and
- e. Violation of the CAA as well as other state and federal laws and regulations.

63. Defendant's racketeering activities are ongoing and constitute a pattern of racketeering activity.

64. Defendant has, through a pattern of racketeering activity, acquired or maintained, directly or indirectly, an interest in or control of an enterprise, real property, or personal property through the activities alleged herein.

65. Upon information and belief, Defendant has conspired with Volkswagen AG and Audi AG to commit the wrongful acts alleged herein and has committed overt acts in furtherance of this conspiracy and have received a benefit from them.

66. Defendant's predicate acts were aimed at Plaintiff and other Class Members.

67. Defendant's violations of the Georgia RICO Act have directly or indirectly damaged and continue to damage Plaintiff and other Class Members. Plaintiff and the other Class Members are therefore entitled to recover from Defendant treble damages and other relief authorized by the Georgia RICO Act.

Count II: Fraud

68. Plaintiff incorporates the foregoing allegations.

69. Defendant, through the use of online, television, and print media, as well as the oral representations of its agents, made multiple false representations to Plaintiff and the other Class Members from as early as 2008 to 2015. Specifically, Defendant stated that:

- a. The Class Vehicles were environmentally friendly;
- b. The Class Vehicles were compliant with all applicable laws and regulations;
- c. The Class Vehicles were capable of maintaining excellent fuel economy and high performance levels while remaining environmentally friendly;
- d. That Defendant and its affiliated entities were environmentally-conscious companies that complied with applicable laws and regulations.

70. Throughout the period during which Defendant made the above representations, each of which was material and made uniformly to all Class Members, Defendant knew that they were false and concealed the material fact that the Class Vehicles emitted up to 40 times the amount of NOx allowed by applicable laws and regulations.

71. The knowledge of the falsity of these statements was exclusive to Defendant throughout the period in which they were made.

72. Even as late as 2014, Defendant lied to government regulators about the performance of the Class Vehicles and the presence of a defeat device while continuing to market the Class Vehicles.

73. Defendant ensured that the false representations that it made would not be uncovered as false by installing defeat devices in the more than 500,000 vehicles sold in the United States, including the many thousands sold in Georgia.

74. Finally, in September 2015, Defendant admitted it was dishonest about the performance of the Class Vehicles and the installation of a defeat device.

75. Plaintiff and the Class Members reasonably believed and relied on Defendant's representations in purchasing the Class Vehicles and in paying a premium for the Vehicles over their gas counterparts.

76. Because Defendant's misrepresentations and omissions were material and uniform to all Class Members, each Class Member's reliance can be presumed or inferred.

77. As a result of the fraud and reliance, Plaintiff and the other Class Members have been damaged through the lost value of the Class Vehicles.

Count III: Unjust Enrichment

78. Plaintiff incorporates the foregoing allegations.

79. As a result of the fraudulent and deceptive scheme described in this Complaint, Defendant sold many thousands of Class Vehicles in the state of Georgia.

80. Defendant received substantial revenues and made substantial profit from the sale of the Class Vehicles. This profit included a premium which Plaintiff and the other Class

Members paid to have “Clean Diesel” engines in their cars, as opposed to the similar gas-powered models.

81. Defendant was aware of the substantial benefit being bestowed on it as a result of their illegal and fraudulent conduct but did nothing to stop the conduct or to return the money received.

82. Defendant has made no payment or return of the profit it wrongfully received by virtue of its fraudulent conduct.

Count IV: Breach of Implied Warranty of Merchantability

83. Plaintiff incorporates the foregoing allegations.

84. Under Georgia law, “A warranty that the goods shall be merchantable is implied in a contract for their sale if the seller is a merchant with respect to the goods of that kind.”

O.C.G.A. § 11-2-314.

85. Defendant is a merchants with respect to the goods that it sold to Plaintiff and the Class Members.

86. The Class Vehicles were not merchantable. Specifically, the Class Vehicles were not compliant with applicable laws and regulations and therefore could not be sold in the United States and the State of Georgia.

87. The failure to provide vehicles which complied with the laws of the United States and Georgia was a breach of the implied warranty of merchantability, and Plaintiff and the other Class Members were damaged by the breach in an amount to be proven at trial.

Count V: Breach of Express Warranty

88. Plaintiff incorporates the foregoing allegations.

89. Under Georgia law, “[a]ny affirmation of fact or promise made by the seller to the buyer which relates to the goods and becomes part of the basis of the bargain creates an express warranty that the goods shall conform to the affirmation or promise.” O.C.G.A. § 11-2-313(a). Further, “[a]ny description of the goods which is made part of the basis of the bargain creates an express warranty that the goods shall conform to the description.” O.C.G.A. § 11-2-313(b).

90. Defendant made numerous affirmations of fact, promises, and/or descriptions to Plaintiff and the other Class Members regarding the performance and emission controls of Class Vehicles, as described above.

91. Defendant’s affirmations, promises, and/or descriptions were material and, therefore, became a part of the basis of the bargain in sales and leases of Class Vehicles.

92. However, the Class Vehicles did not conform to Defendant’s affirmations, promises, and descriptions.

93. The failure to provide vehicles that conformed to Defendant’s affirmations, promises, and/or descriptions constitutes a breach of Defendant’s express warranties.

94. As a result of Defendant’s breach of warranties, Plaintiff and the other Class Members suffered damage in an amount to be proven at trial.

Count VI: Breach of Contract

95. Plaintiff incorporates the foregoing allegations.

96. Defendant, either directly or through its agents, entered into agreements with Class Members for the sale or lease of Class Vehicles.

97. Each and every sale or lease of a Class Vehicle constitutes a valid and enforceable contract between Defendant and the purchaser or lessee.

98. Upon information and belief, Defendant's agreements with all Class Members contained terms that were substantively identical in all respects material to this Complaint.

99. Plaintiff and all other Class Members performed all contractual conditions required of them, including the payment of substantial monies.

100. Defendant breached these contracts, and/or the implied covenant of good faith and fair dealing incorporated therein, by selling or leasing defective Class Vehicles and by misrepresenting or failing to disclose the existence of the defeat device and/or defective design.

101. Defendant's breaches were material in that they deprived Class Members of the fundamental benefits for which they contracted.

102. Defendant's misrepresentations and omissions alleged herein, including Defendant's failure to disclose the existence of the defeat device and/or defective design as alleged herein, caused Plaintiff and the Class Members to make their purchases or leases of the Class Vehicles. Absent those misrepresentation and omissions, Plaintiff and Class Members would not have purchased or leased the Class Vehicles, would not have purchased or leased the Class Vehicles at the price they paid, and/or would have purchased or leased less expensive alternative vehicles that did not contain the Clean Diesel engine and the defeat device. Accordingly, Plaintiff and the Class Members overpaid for the Class Vehicles and did not receive the benefit of their bargain.

103. As a direct and proximate result of Defendant's breaches of contract, Plaintiff and the Class Members have suffered damage.

104. Plaintiff and the Class Members are entitled to damages, restitution, and/or rescission of the contracts.

Count VII: Violation of the Georgia Fair Business Practice Act

105. Plaintiff incorporates the foregoing allegations.

106. Defendant is liable to the Plaintiff and the Class Members pursuant to the Georgia Fair Business Practice Act, O.C.G.A. § 10-1-390 *et seq.*

107. Defendant was in the business of manufacturing, marketing, selling, and/or leasing the Class Vehicles mentioned in this Complaint.

108. Defendant designed, formulated, manufactured, assembled, prepared for sale, distributed, and/or sold the Class Vehicles to Plaintiff and the Class Members which were in a defective condition and not suitable for the uses for which they were intended.

109. Defendant knowingly represented that the Class Vehicles had characteristics and benefits that they in fact did not have, and knowingly advertised the Class Vehicles with the intent not to sell them as advertised, all in intentional violation of the Georgia Fair Practice Act.

110. Plaintiff and the Class Members, while using, purchasing, and leasing the Class Vehicles in the usual and customary manner, suffered substantial losses and harms as described herein.

111. As a direct and proximate result of Defendant's conduct, Plaintiff and the Class Members are entitled to recover actual damages, equitable injunctive relief, treble damages, attorney's fees, litigation expenses, and punitive damages pursuant to the O.C.G.A. § 10-1-390 *et seq.*

REQUEST FOR RELIEF

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

- A. Certification of the proposed Class, including appointment of Plaintiff's counsel as Class Counsel;
- B. An order enjoining Defendant from continuing the unlawful, deceptive, fraudulent, and unfair business practices alleged in this Complaint;
- C. Injunctive relief in the form of a recall or free replacement program;
- D. Costs, restitution, damages, and disgorgement in an amount to be determined at trial;
- E. Rescission and revocation of acceptance;
- F. Treble damages and/or punitive damages as permitted by applicable laws;
- G. An order requiring Defendant to pay both pre- and post-judgment interest on any amounts awarded;
- H. Attorney's fees, costs, and litigation expenses; and
- I. Such other and further relief as may be appropriate.

[SIGNATURE BLOCK APPEARS ON THE NEXT PAGE]

Respectfully Submitted,

/s/ Adam P. Princenthal

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Attorneys for Plaintiff

September 30, 2015

CIVIL COVER SHEET

The JS44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form is required for the use of the Clerk of Court for the purpose of initiating the civil docket record. (SEE INSTRUCTIONS ATTACHED)

<p>I. (a) PLAINTIFF(S) Victoria Kealy</p> <p>(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF <u>Fulton County, Georgia</u> (EXCEPT IN U.S. PLAINTIFF CASES)</p>	<p>DEFENDANT(S) Volkswagen Group of America, Inc.</p> <p>COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT _____ (IN U.S. PLAINTIFF CASES ONLY)</p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED</p>
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<p>(c) ATTORNEYS (FIRM NAME, ADDRESS, TELEPHONE NUMBER, AND E-MAIL ADDRESS) Adam P. Princenthal and Matthew T. Wilson Princenthal and May 5901 Peachtree Dunwoody Road, Bldg. A, Ste. 525, Sandy Springs, GA 30328, 678-534-1980, adam@princemay.com</p> <p>Michael J. Brickman, Nina Fields Britt Richardson Patrick Westbrook and Brickman, 1017 Chuck Dawley Blvd, Mt. Pleasant, SC 29464, 843-727-6500, mbrickman@rpwb.com</p>	<p>ATTORNEYS (IF KNOWN)</p>
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II. BASIS OF JURISDICTION
(PLACE AN "X" IN ONE BOX ONLY)

<input type="checkbox"/> 1 U.S. GOVERNMENT PLAINTIFF	<input type="checkbox"/> 3 FEDERAL QUESTION (U.S. GOVERNMENT NOT A PARTY)
<input type="checkbox"/> 2 U.S. GOVERNMENT DEFENDANT	<input checked="" type="checkbox"/> 4 DIVERSITY (INDICATE CITIZENSHIP OF PARTIES IN ITEM III)

III. CITIZENSHIP OF PRINCIPAL PARTIES
(PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)
(FOR DIVERSITY CASES ONLY)

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PLF	DEF		PLF	DEF																					
<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	CITIZEN OF THIS STATE	<input type="checkbox"/> 4	<input type="checkbox"/> 4	INCORPORATED OR PRINCIPAL PLACE OF BUSINESS IN THIS STATE																				
<input type="checkbox"/> 2	<input type="checkbox"/> 2	CITIZEN OF ANOTHER STATE	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5	INCORPORATED AND PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE																				
<input type="checkbox"/> 3	<input type="checkbox"/> 3	CITIZEN OR SUBJECT OF A FOREIGN COUNTRY	<input type="checkbox"/> 6	<input type="checkbox"/> 6	FOREIGN NATION																				

IV. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

<input checked="" type="checkbox"/> 1 ORIGINAL PROCEEDING	<input type="checkbox"/> 2 REMOVED FROM STATE COURT	<input type="checkbox"/> 3 REMANDED FROM APPELLATE COURT	<input type="checkbox"/> 4 REINSTATED OR REOPENED	<input type="checkbox"/> 5 TRANSFERRED FROM ANOTHER DISTRICT (Specify District)	<input type="checkbox"/> 6 MULTIDISTRICT LITIGATION	<input type="checkbox"/> 7 APPEAL TO DISTRICT JUDGE FROM MAGISTRATE JUDGE JUDGMENT
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V. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE - DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

This is a class action asserting several state-law causes of action, including Georgia RICO Act, Georgia Fair Business Practices Act, fraud, breach of contract, unjust enrichment, and breach of express and implied warranties. Jurisdiction is proper under the diversity statute, 28 U.S.C. 1332(a), and the Class Action Fairness Act, 28 U.S.C. 1332(d)(2)(A)

(IF COMPLEX, CHECK REASON BELOW)

<input checked="" type="checkbox"/> 1. Unusually large number of parties.	<input type="checkbox"/> 6. Problems locating or preserving evidence
<input type="checkbox"/> 2. Unusually large number of claims or defenses.	<input type="checkbox"/> 7. Pending parallel investigations or actions by government.
<input type="checkbox"/> 3. Factual issues are exceptionally complex	<input type="checkbox"/> 8. Multiple use of experts.
<input checked="" type="checkbox"/> 4. Greater than normal volume of evidence.	<input type="checkbox"/> 9. Need for discovery outside United States boundaries.
<input type="checkbox"/> 5. Extended discovery period is needed.	<input type="checkbox"/> 10. Existence of highly technical issues and proof.

CONTINUED ON REVERSE

FOR OFFICE USE ONLY			
RECEIPT # _____	AMOUNT \$ _____	APPLYING IFP _____	MAG. JUDGE (IFP) _____
JUDGE _____	MAG. JUDGE _____ (Referral)	NATURE OF SUIT _____	CAUSE OF ACTION _____

VI. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT - "0" MONTHS DISCOVERY TRACK

- 150 RECOVERY OF OVERPAYMENT & ENFORCEMENT OF JUDGMENT
- 152 RECOVERY OF DEFAULTED STUDENT LOANS (Excl. Veterans)
- 153 RECOVERY OF OVERPAYMENT OF VETERAN'S BENEFITS

CONTRACT - "4" MONTHS DISCOVERY TRACK

- 110 INSURANCE
- 120 MARINE
- 130 MILLER ACT
- 140 NEGOTIABLE INSTRUMENT
- 151 MEDICARE ACT
- 160 STOCKHOLDERS' SUITS
- 190 OTHER CONTRACT
- 195 CONTRACT PRODUCT LIABILITY
- 196 FRANCHISE

REAL PROPERTY - "4" MONTHS DISCOVERY TRACK

- 210 LAND CONDEMNATION
- 220 FORECLOSURE
- 230 RENT LEASE & EJECTMENT
- 240 TORTS TO LAND
- 245 TORT PRODUCT LIABILITY
- 290 ALL OTHER REAL PROPERTY

TORTS - PERSONAL INJURY - "4" MONTHS DISCOVERY TRACK

- 310 AIRPLANE
- 315 AIRPLANE PRODUCT LIABILITY
- 320 ASSAULT, LIBEL & SLANDER
- 330 FEDERAL EMPLOYERS' LIABILITY
- 340 MARINE
- 345 MARINE PRODUCT LIABILITY
- 350 MOTOR VEHICLE
- 355 MOTOR VEHICLE PRODUCT LIABILITY
- 360 OTHER PERSONAL INJURY
- 362 PERSONAL INJURY - MEDICAL MALPRACTICE
- 365 PERSONAL INJURY - PRODUCT LIABILITY
- 367 PERSONAL INJURY - HEALTH CARE/ PHARMACEUTICAL PRODUCT LIABILITY
- 368 ASBESTOS PERSONAL INJURY PRODUCT LIABILITY

TORTS - PERSONAL PROPERTY - "4" MONTHS DISCOVERY TRACK

- 370 OTHER FRAUD
- 371 TRUTH IN LENDING
- 380 OTHER PERSONAL PROPERTY DAMAGE
- 385 PROPERTY DAMAGE PRODUCT LIABILITY

BANKRUPTCY - "0" MONTHS DISCOVERY TRACK

- 422 APPEAL 28 USC 158
- 423 WITHDRAWAL 28 USC 157

CIVIL RIGHTS - "4" MONTHS DISCOVERY TRACK

- 441 VOTING
- 442 EMPLOYMENT
- 443 HOUSING/ ACCOMMODATIONS
- 444 WELFARE
- 440 OTHER CIVIL RIGHTS
- 445 AMERICANS with DISABILITIES - Employment
- 446 AMERICANS with DISABILITIES - Other
- 448 EDUCATION

IMMIGRATION - "0" MONTHS DISCOVERY TRACK

- 462 NATURALIZATION APPLICATION
- 465 OTHER IMMIGRATION ACTIONS

PRISONER PETITIONS - "0" MONTHS DISCOVERY TRACK

- 463 HABEAS CORPUS- Alien Detainee
- 510 MOTIONS TO VACATE SENTENCE
- 530 HABEAS CORPUS
- 535 HABEAS CORPUS DEATH PENALTY
- 540 MANDAMUS & OTHER
- 550 CIVIL RIGHTS - Filed Pro se
- 555 PRISON CONDITION(S) - Filed Pro se
- 560 CIVIL DETAINEE: CONDITIONS OF CONFINEMENT

PRISONER PETITIONS - "4" MONTHS DISCOVERY TRACK

- 550 CIVIL RIGHTS - Filed by Counsel
- 555 PRISON CONDITION(S) - Filed by Counsel

FORFEITURE/PENALTY - "4" MONTHS DISCOVERY TRACK

- 625 DRUG RELATED SEIZURE OF PROPERTY 21 USC 881
- 690 OTHER

LABOR - "4" MONTHS DISCOVERY TRACK

- 710 FAIR LABOR STANDARDS ACT
- 720 LABOR/MGMT. RELATIONS
- 740 RAILWAY LABOR ACT
- 751 FAMILY and MEDICAL LEAVE ACT
- 790 OTHER LABOR LITIGATION
- 791 EEMPL. RET. INC. SECURITY ACT

PROPERTY RIGHTS - "4" MONTHS DISCOVERY TRACK

- 820 COPYRIGHTS
- 840 TRADEMARK

PROPERTY RIGHTS - "8" MONTHS DISCOVERY TRACK

- 830 PATENT

SOCIAL SECURITY - "0" MONTHS DISCOVERY TRACK

- 861 HIA (1395ff)
- 862 BLACK LUNG (923)
- 863 DIWC (405(g))
- 863 DIWW (405(g))
- 864 SSD TITLE XVI
- 865 RSI (405(g))

FEDERAL TAX SUITS - "4" MONTHS DISCOVERY TRACK

- 870 TAXES (U.S. Plaintiff or Defendant)
- 871 IRS - THIRD PARTY 26 USC 7609

OTHER STATUTES - "4" MONTHS DISCOVERY TRACK

- 375 FALSE CLAIMS ACT
- 400 STATE REAPPORTIONMENT
- 430 BANKS AND BANKING
- 450 COMMERCE/ICC RATES/ETC.
- 460 DEPORTATION
- 470 RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS
- 480 CONSUMER CREDIT
- 490 CABLE/SATELLITE TV
- 891 AGRICULTURAL ACTS
- 893 ENVIRONMENTAL MATTERS
- 895 FREEDOM OF INFORMATION ACT
- 950 CONSTITUTIONALITY OF STATE STATUTES
- 890 OTHER STATUTORY ACTIONS
- 899 ADMINISTRATIVE PROCEDURES ACT / REVIEW OR APPEAL OF AGENCY DECISION

OTHER STATUTES - "8" MONTHS DISCOVERY TRACK

- 410 ANTTITRUST
- 850 SECURITIES / COMMODITIES / EXCHANGE

OTHER STATUTES - "0" MONTHS DISCOVERY TRACK

- 896 ARBITRATION (Confirm / Vacate / Order / Modify)

*** PLEASE NOTE DISCOVERY TRACK FOR EACH CASE TYPE. SEE LOCAL RULE 26.3**

VII. REQUESTED IN COMPLAINT:

CHECK IF CLASS ACTION UNDER F.R.Civ.P. 23 DEMAND \$ _____

JURY DEMAND YES NO (CHECK YES ONLY IF DEMANDED IN COMPLAINT)

VIII. RELATED/REFILED CASE(S) IF ANY

JUDGE Timothy C. Batten, Sr. DOCKET NO. 1:15-cv-3332-TCB

CIVIL CASES ARE DEEMED RELATED IF THE PENDING CASE INVOLVES: (CHECK APPROPRIATE BOX)

- 1. PROPERTY INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
- 2. SAME ISSUE OF FACT OR ARISES OUT OF THE SAME EVENT OR TRANSACTION INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
- 3. VALIDITY OR INFRINGEMENT OF THE SAME PATENT, COPYRIGHT OR TRADEMARK INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
- 4. APPEALS ARISING OUT OF THE SAME BANKRUPTCY CASE AND ANY CASE RELATED THERETO WHICH HAVE BEEN DECIDED BY THE SAME BANKRUPTCY JUDGE.
- 5. REPETITIVE CASES FILED BY PRO SE LITIGANTS.
- 6. COMPANION OR RELATED CASE TO CASE(S) BEING SIMULTANEOUSLY FILED (INCLUDE ABBREVIATED STYLE OF OTHER CASE(S)):

- 7. EITHER SAME OR ALL OF THE PARTIES AND ISSUES IN THIS CASE WERE PREVIOUSLY INVOLVED IN CASE NO. _____, WHICH WAS DISMISSED. This case IS IS NOT (check one box) SUBSTANTIALLY THE SAME CASE.

s/ Adam Princenthal

September 30, 2015

SIGNATURE OF ATTORNEY OF RECORD

DATE