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11 **NO FEE PURSUANT TO
GOVERNMENT CODE § 6103**

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 FOR THE COUNTY OF SAN DIEGO

14
15 THE PEOPLE OF THE STATE OF
CALIFORNIA,

16 Plaintiff,

17 v.

18 ROBERT BOSCH GmbH and ROBERT
19 BOSCH LLC,

20 Defendants.

Case No.

**COMPLAINT FOR PERMANENT
INJUNCTION, ABATEMENT, CIVIL
PENALTIES, AND OTHER EQUITABLE
RELIEF**

(BUS. & PROF. CODE, §§ 17200 et seq.,
17500 et seq., 17580.5; CIV. CODE, § 3494;
HEALTH & SAF. CODE §§ 43151, 43152;
43153)

[VERIFIED ANSWER REQUIRED
PURSUANT TO CODE OF CIVIL
PROCEDURE § 446]

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25 The People of the State of California, by and through Rob Bonta, Attorney General of the
26 State of California (“California Attorney General”), and by and through the California Air
27 Resources Board (“CARB”), represented by the Office of the California Attorney General
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1 (together, “Plaintiff” or “California”), bring this civil law enforcement action against Robert
2 Bosch GmbH and Robert Bosch LLC (collectively “Bosch” or “Defendants”). This action is
3 brought under California laws and regulations regarding environmental and consumer protection.
4 Plaintiff alleges the following on information and belief:

5 INTRODUCTION

6 1. California was the first state to regulate automobile tailpipe emissions, which it did to
7 combat dangerous levels of air pollution. California’s air-quality regulations preceded the federal
8 Clean Air Act (“CAA”), and the CAA preserves California’s authority to set and enforce its own
9 air quality standards. To legally import, offer for sale, or sell vehicles in California, a
10 manufacturer must submit a vehicle certification application and obtain an Executive Order from
11 CARB certifying the vehicles for sale. To obtain certification, vehicles must satisfy certain
12 requirements, including emissions testing. This regulatory scheme is designed to ensure that
13 vehicles sold in California comply with the state’s strict emissions requirements, including
14 standards limiting emissions of nitrogen oxides (“NOx”). NOx is a key contributor to ambient
15 ozone and fine particulate matter pollution in California, both of which have a detrimental effect
16 on public health and the environment.

17 2. Bosch is a global firm providing products and services to numerous industries.
18 Relevant here, Bosch is a major supplier of components and services to the automotive industry
19 around the world. This matter centers on Bosch’s role in the recent diesel emissions cheating
20 scandals at automobile manufacturers Volkswagen and Fiat Chrysler. This action is based upon
21 Bosch’s actions assisting these entities by providing hardware, software, and software
22 programming and/or calibration services to:

- 23 a. Volkswagen AG, Volkswagen Group of America, Inc., Audi AG, Dr. Ing. h.c. F.
24 Porsche AG d/b/a Porsche AG, and Porsche Cars North America, Inc.
25 (collectively, “VW”); and,
26 b. Fiat Chrysler Automobiles N.V. (now known as Stellantis N.V.), FCA US LLC
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1 (“FCA US”), VM Motori S.p.A., and VM North America (collectively, “FCA”).

2 3. VW, with assistance from Bosch, used sophisticated technology to evade California
3 and federal emissions standards for its supposedly “clean” diesel vehicles. VW has publicly
4 admitted that, beginning no later than 2008, it used engine control systems in its diesel vehicles to
5 cheat on emissions testing. VW’s “defeat devices” (as these devices are commonly called)
6 detected whether a vehicle was being tested, and, if it was, temporarily controlled the engine
7 performance and emissions control system for the duration of the test so that emissions appeared
8 to be within legal limits. Under real-world driving conditions on the road, however, the vehicles
9 functioned in a much different manner, emitting harmful NOx at up to 40 times the legal limits
10 under California law. VW marketed and sold or leased approximately 87,000 non-compliant 2.0
11 and 3.0 liter “clean diesel”-branded vehicles (“VW Subject Vehicles”) in California.

12 4. In 2016, in the wake of the VW scandal, CARB and other regulators determined that
13 FCA was also using undisclosed software strategies and/or defeat devices to minimize vehicle
14 emissions during regulatory testing but not during real-world driving conditions. FCA, with
15 assistance from Bosch, used these strategies in approximately 14,000 3.0 liter “EcoDiesel”-
16 branded vehicles (“FCA Subject Vehicles”) it marketed and sold or leased in California.

17 5. As detailed below, Bosch enabled VW’s and FCA’s misconduct, and in some cases
18 actively cooperated to create software and calibration strategies that Bosch knew or should have
19 known would be used to evade California and federal emissions requirements. Testing and
20 analysis by CARB, the U.S. Environmental Protection Agency (“USEPA”), and others confirmed
21 the presence of strategies that significantly reduced the effectiveness of the VW and FCA Subject
22 Vehicles (collectively, the “Subject Vehicles”)’s emissions controls during real-world operation,
23 causing the vehicles to emit NOx into the environment far in excess of legal limits.

24 6. As part of Bosch’s effort to promote and expand diesel technology in the U.S. market
25 through advertising, lobbying, and promotional campaigns, Bosch made false or deceptive claims
26 regarding its “clean diesel” technology and the Subject Vehicles, including targeted marketing in
27 California. Bosch also assisted VW’s and FCA’s advertising campaigns that falsely described the
28

1 non-compliant diesel vehicles as “clean,” “green,” environmentally friendly, and compliant with
2 California’s emissions standards, in addition to other similar misleading descriptions.

3 7. The State of California was especially harmed by Bosch’s misconduct. California
4 consumers make up the largest auto market in the United States, and a large number of affected
5 vehicles were sold or leased in California to California consumers. And, because California
6 suffers from particularly acute air quality issues, excess NOx emissions are particularly harmful
7 in California.

8 8. Moreover, CARB is the primary regulator of automobile emissions in California, and
9 thus CARB was a primary target of the deception related to the Subject Vehicles.

10 9. Accordingly, California has played a central role investigating the diesel emissions
11 scandals and bringing enforcement actions against those entities involved in misconduct. By this
12 action, the People seek to hold Bosch accountable for its deceptive and unlawful conduct.

13 **PARTIES**

14 10. Plaintiff is the People of the State of California. Under the Constitution of the State of
15 California and based on specific independent statutory authority, the California Attorney General
16 is authorized to bring suit and obtain relief on behalf of the People of the State of California. Cal.
17 Const. art. V, § 13.

18 11. The California Air Resources Board (“CARB”) is a public agency of the State of
19 California within the California Environmental Protection Agency. Among other duties and
20 responsibilities, CARB is charged with controlling motor vehicle emissions to systematically
21 address the serious air pollution problems they cause. To that end, Health and Safety Code
22 sections 43101 and 43104, among others, direct CARB to adopt and implement emissions
23 standards for new motor vehicles, and to adopt and implement test procedures and any other
24 procedures necessary to determine whether the vehicles or engines comply with those emissions
25 standards. Health and Safety Code section 43017 authorizes CARB to bring a civil action to
26 enjoin any violation of Division 26, Part 5 (sections 43000-44299.91, Vehicular Air Pollution
27 Control) of the Health and Safety Code or any CARB rule or regulation (and expressly exempts
28 CARB from any requirement that it allege inadequate remedy at law, irreparable damage, or loss

1 to obtain the requested injunction). Health and Safety Code sections 43150 through 43154
2 provide CARB with the authority to ensure that only motor vehicles that meet CARB's emissions
3 regulations, and that are certified by CARB, are sold and operated in California. CARB is
4 empowered to obtain civil penalties and injunctive relief for violations of these provisions. This
5 action is thus brought, in part, by the California Attorney General on behalf of CARB and in the
6 name of the People of the State of California.

7 12. The California Attorney General is also authorized to act in the name of the People of
8 the State of California by Business and Professions Code sections 17204 and 17535 to obtain
9 injunctive relief to halt violations of, and enforce compliance with, Business and Professions
10 Code section 17200 et seq., and Business and Professions Code section 17500 et seq.,
11 respectively. The Attorney General is authorized by Business and Professions Code sections
12 17206 and 17536 to obtain civil penalties of up to \$2,500 for each violation of sections 17200,
13 17500, and 17580.5. The Attorney General is authorized under Civil Code section 3494 to obtain
14 preliminary and permanent injunctions to abate any public nuisance present in the State of
15 California as defined by Civil Code sections 3479 and 3480. The California Attorney General's
16 claims are separate and independent from the claims asserted on behalf of CARB.

17 13. Defendant Robert Bosch GmbH is a German multinational engineering electronics
18 company headquartered in Gerlingen, Germany. Robert Bosch GmbH is the parent company of
19 Robert Bosch LLC.

20 14. Defendant Robert Bosch LLC is a Delaware limited liability company with its
21 principal place of business located at 38000 Hills Tech Dr., Farmington Hills, Michigan. Robert
22 Bosch LLC is an indirect wholly owned subsidiary of Robert Bosch GmbH.

23 15. At all relevant times, each Defendant acted individually and jointly with each other in
24 committing all acts alleged in this Complaint.

25 16. At all relevant times, each Defendant acted: (a) as a principal; (b) under express or
26 implied agency; and/or (c) with actual or ostensible authority to perform the acts alleged in this
27 Complaint on behalf of the other named Defendant.
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1 waiver from the federal government to adopt and enforce its own emission standards that meet or
2 exceed federal standards. 42 U.S.C. § 7543(b).

3 28. Despite California’s efforts to combat air pollution over the past half century, many
4 regions of California continue to suffer from some of the worst air quality in the nation. For
5 example, the Central Valley and Los Angeles air basins remain out of compliance with federal
6 health-based ambient air quality standards that target NOx, particulate matter, and ozone, among
7 other pollutants. These pollutants negatively affect public health and welfare across a broad
8 demographic spectrum. California has gone to great lengths to combat air pollution, and it has
9 devoted significant state resources over decades to the effort.

10 **II. CALIFORNIA’S REGULATION OF VEHICLE EMISSIONS**

11 29. Under its unique, retained authority, California has continued to set strict emissions
12 standards and test procedures for vehicles imported or sold in California. California has a special
13 interest in assuring that only those new motor vehicles that meet the state’s stringent emissions
14 standards and test procedures are sold, used, or registered in the state.

15 30. CARB administers a certification program designed to prevent the introduction of new
16 motor vehicles into California that do not satisfy applicable emissions standards. Under this
17 program, CARB reviews applications submitted for new motor vehicles and certifies them by
18 issuing Executive Orders.

19 31. California Health and Safety Code section 43150 declares that “only those new motor
20 vehicles and new motor vehicle engines which meet this state’s stringent emission standards and
21 test procedures, and which have been certified pursuant to this chapter, are used or registered in
22 this state.” The relevant Low Emission Vehicle II standards for the Subject Vehicles are set forth
23 in 13 C.C.R. § 1961, and test procedures for the Subject Vehicles are set out in title 13 C.C.R. §§
24 1961 and 1961.2.

25 32. California’s certification requirements and test procedures require, among other
26 things, that certification applications disclose all AECDs present in the vehicle. As defined in 40
27 C.F.R. § 86.1803-01 and incorporated into California law, an AECD is “any element of design
28 that senses temperature, vehicle speed, engine RPM, transmission gear, manifold vacuum, or any

1 other parameter for the purpose of activating, modulating, delaying, or deactivating the operation
2 of any part of the emission control system.” All AECDs must be disclosed so that CARB may
3 properly evaluate them for, among other things, their effect on emissions, their purpose, and their
4 effect on vehicle components and durability.

5 33. California’s certification requirements and test procedures also prohibit the use of
6 defeat devices. As set out in 40 C.F.R. § 86-1803-01 and incorporated into California law, a
7 defeat device is an AECD that reduces the effectiveness of the emission control system under
8 conditions that may reasonably be expected to be encountered during normal vehicle operation
9 and use and does not meet one of four exceptions set forth in the regulations. Vehicles equipped
10 with defeat devices may not be certified.

11 34. California’s certification requirements and test procedures require an OBD system that
12 meets regulatory requirements, is designed to test that the emissions control system is working
13 properly, and, when a malfunction is detected, alerts owners via a “check engine” light of needed
14 service and informs mechanics of the cause of the malfunction. In California, most newer cars
15 (model year 2000 and newer) no longer require tailpipe testing during smog checks; these cars are
16 now simply connected to an OBD scanner to detect malfunctions. Because of this reliance on
17 OBD scans to detect problems, if the OBD system is not operating properly (or was not designed
18 to operate properly), the vehicles may pass smog checks even though they possess significant
19 deficiencies.

20 35. The OBD regulations permit CARB to certify vehicles even though the vehicles do not
21 fully comply with one or more of the requirements set forth in the OBD regulations, unless the
22 requested deficiency would make the vehicle subject to an ordered recall. *See* 13 C.C.R. §
23 1968.2(k). As set out in the regulations, among other things, CARB considers the extent to which
24 the OBD requirements are satisfied, and the manufacturer must demonstrate a good faith effort to
25 meet the OBD requirements in full and come into compliance as expeditiously as possible. The
26 regulations require manufacturers to pay fines on a per deficiency, per vehicle basis for each
27 deficiency in excess of two granted by CARB at the time of certification.

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1 36. California law requires that each make and model year of vehicle comply with
2 California’s emissions standards and be certified by CARB before being imported, delivered,
3 purchased, acquired, received, offered, rented, leased, or sold for use, registration, or resale in
4 California.

5 37. California Health and Safety Code sections 43151, 43152, and 43153 generally
6 prohibit importing, delivering, selling, or leasing new motor vehicles for use, registration, or
7 resale in California unless such motor vehicles comply with California’s emissions standards and
8 other requirements and have been certified by CARB. Relevant here, these statutes also expressly
9 prohibit any person or entity from assisting in any such act.

10 **III. THE VW AND FCA SUBJECT VEHICLES**

11 38. VW’s and FCA’s diesel vehicles, like most passenger vehicles, include ECUs that
12 process numerous data inputs and coordinate and control the engine and emissions systems.
13 ECUs are essentially computers, sometimes described as the “brains” of the vehicle. The software
14 that runs on the ECU includes numerous variables (sometimes referred to as labels) that can be
15 set by the manufacturer through a process known as calibration. Calibration refers to the
16 collection of all of the settings for each of the software variables. These calibrated variables
17 include thresholds and enabling and disabling conditions, many of which alter the way that the
18 engine, emissions control system, and OBD system operate.

19 39. The ECU software in the Subject Vehicles incorporates various AECDs that sense
20 inputs like ambient temperature, motive speed, engine revolutions per minute, transmission gear,
21 or other parameters for the purpose of activating, modulating, delaying, or deactivating the
22 operation of any part of the emissions control system.

23 40. This Complaint focuses on Bosch’s development and programming of a particular
24 ECU, the EDC17, for installation in the VW Subject Vehicles and FCA Subject Vehicles, which
25 include the following makes, models, and model years:
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Model Year	EPA Test Group	Vehicle Make and Model(s)
2009	9VWXV02.035N	VW Jetta, VW Jetta Sportwagen
2009	9VWXV02.0U5N	VW Jetta, VW Jetta Sportwagen
2009	9ADX03.03LD	VW Touareg, Audi Q7
2010	AVWXV02.0U5N	VW Golf, VW Jetta, VW Jetta Sportwagen, Audi A3
2010	AADX03.03LD	VW Touareg, Audi Q7
2011	BVWXV02.0U5N	VW Golf, VW Jetta, VW Jetta Sportwagen, Audi A3
2011	BADX03.03UG	Audi Q7
2011	BADX03.02UG	VW Touareg
2012	CVWXV02.0U5N	VW Golf, VW Jetta, VW Jetta Sportwagen, Audi A3
2012	CVWXV02.0U4S	VW Passat
2012	CADX03.03UG	Audi Q7
2012	CADX03.02UG	VW Touareg
2013	DVWXV02.0U5N	VW Beetle, VW Beetle Convertible, VW Golf, VW Jetta, VW Jetta Sportwagen, Audi A3
2013	DVWXV02.0U4S	VW Passat
2013	DADX03.03UG	Audi Q7
2013	DADX03.02UG	VW Touareg
2013	DPRX03.0CDD	Porsche Cayenne
2014	EVWXV02.0U5N	VW Beetle, VW Beetle Convertible, VW Golf, VW Jetta, VW Jetta Sportwagen
2014	EVWXV02.0U4S	VW Passat
2014	EADX03.03UG	Audi Q7
2014	EADX03.02UG	VW Touareg
2014	EADXJ03.04UG	Audi A6, Audi A7, Audi A8, Audi A8L, and Audi Q5
2014	EPRX03.0CDD	Porsche Cayenne
2015	FVGAV02.0VAL	VW Beetle, VW Beetle Convertible, VW Golf, VW Golf Sportwagen, VW Jetta, VW Passat, Audi A3
2015	FVGAT03.0NU3	Audi Q7
2015	FVGAT03.0NU2	VW Touareg
2015	FVGAJ03.0NU4	Audi A6, Audi A7, Audi A8, Audi A8L, and Audi Q5
2015	FPRX03.0CDD	Porsche Cayenne
2016	GVGAJ03.0NU4	Audi A6 Quattro, Audi A7 Quattro, Audi A8, Audi A8L, and Audi Q5
2016	GVGAT03.0NU2	VW Touareg
2016	GPRX03.0CDD	Porsche Cayenne
2014-2016	ECRX03.05PV, FCRX03.05PV, GCRX03.05PV	Ram 1500, Jeep Grand Cherokee

1 41. Bosch’s EDC17 ECU contains base emissions control software, which Bosch
2 programs to meet each client manufacturer’s needs in close coordination and consultation with
3 the manufacturer. Programming is the task of creating a source code that instructs a computer
4 system, like the Bosch EDC17, to behave according to the programmed logic.

5 42. For VW and FCA, Bosch programmed the EDC17 software to include software
6 functionality that Bosch knew or should have known could be used as defeat devices. In other
7 words, the software could be programmed and calibrated to optimize the emission controls while
8 the vehicles were undergoing standard emissions testing cycles during regulatory testing (“on-
9 cycle”) and to substantially reduce emissions controls when the vehicles were being driven under
10 normal, real-world conditions (“off-cycle”), resulting in NOx emissions greatly exceeding
11 California and federal standards.

12 **IV. BOSCH’S ROLE IN DESIGNING, IMPLEMENTING, AND CONCEALING SOFTWARE**
13 **STRATEGIES IN THE SUBJECT VEHICLES USED TO EVADE CALIFORNIA EMISSIONS**
14 **REQUIREMENTS**

15 43. Both VW and FCA sought to leverage the diesel expertise they developed in the
16 European market to compete and profit in the U.S. automobile market, including in California,
17 the nation’s largest automobile market. But California and federal limits on NOx emissions are
18 more stringent than European limits.

19 44. Rather than invest the time, resources, and money necessary to develop emissions
20 controls that would comply with California and federal emissions requirements while also
21 providing certain vehicle characteristics desired for marketing in the United States (for example,
22 fuel economy targets, maintenance schedules, or cargo capacity), VW and FCA each separately
23 contracted with Bosch to program the EDC17 ECUs to include functionalities that VW and FCA
24 utilized as undisclosed AECDs and/or defeat devices.

25 **A. Bosch Assisted VW in Evading California Emissions Requirements**

26 45. As VW has publicly admitted, the 2.0 and 3.0 liter VW Subject Vehicles contained
27 various defeat devices and undisclosed AECDs using software code, timers, and/or calibrations in
28 the Bosch EDC17 ECU. The ECUs in the VW Subject Vehicles monitored certain vehicle
operation conditions so that the ECU could recognize when a vehicle was undergoing an

1 emissions test, which are typically performed by CARB or USEPA. When the ECU determined
2 that a vehicle was undergoing an emissions test, it would alter the engine's performance to reduce
3 NOx production by fully engaging the vehicle's NOx emission reduction technologies, thus
4 temporarily (for the known duration of the test cycle) bringing emissions within California and
5 federal standards. When the ECU determined that the vehicle was not undergoing emissions
6 testing, however, the engine would operate in a different manner, circumventing or significantly
7 reducing use of emissions control strategies and substantially increasing NOx emissions to many
8 multiples of the California emissions limits.

9 46. VW's decision to implement these defeat devices and related software was the result
10 of a willful and systematic scheme of cheating, which began prior to release of 2009 model year
11 vehicles and extended for nearly a decade.

12 47. At VW's instruction, Bosch programmed the software for VW and expanded and
13 refined its functionality over the years.

14 48. At all relevant times, Bosch understood that the software it provided to VW would
15 likely be employed for illegal uses but adopted the position that as long as its client was
16 responsible for the ultimate application or calibration, Bosch could not be held legally
17 responsible.

18 49. Bosch also helped conceal the existence of the undisclosed AECDs and illegal defeat
19 devices, including by agreeing to remove reference to them from Bosch's formal ECU software
20 documentation for the VW Subject Vehicles.

21 **B. Bosch Assisted FCA in Evading California Emissions Requirements**

22 50. With regard to the FCA Subject Vehicles, FCA partnered with Bosch to supply critical
23 components, software, and services for the engines and emissions control systems, including the
24 EDC17 ECU and its software, parts of the emissions control system, OBD calibration services for
25 certain vehicles, and the preparation of certain OBD documentation for submission by FCA to
26 CARB during the certification process.

27 51. As stated above, the ECU software in the FCA Subject Vehicles incorporated various
28 AECDs. During emissions testing, the ECU software and calibrations installed on the FCA

1 Subject Vehicles (including AECDs) operated the engine and emissions control systems in such a
2 way that emissions appeared to be compliant with California standards. In conditions outside of
3 emissions testing, however, the ECU software and calibrations installed on the FCA Subject
4 Vehicles (including AECDs) operated in such a way that the effectiveness of the emissions
5 control system was reduced—the engine and after-treatment systems operated in a way that
6 produced increased NOx emissions. The extent of the increase depended on various factors,
7 including the particular Subject Vehicle and the driving conditions.

8 52. To certify the FCA Subject Vehicles for sale in California, FCA submitted
9 applications and supporting materials to CARB and communicated with CARB regarding the
10 FCA Subject Vehicles. The application materials failed to disclose a number of AECDs, and for
11 certain others, although the AECDs or parts of the AECDs were disclosed, they were not
12 disclosed fully and accurately. These AECDs, operating alone or in combination with other
13 AECDs, reduced the effectiveness of the FCA Subject Vehicles' emissions control systems and
14 caused the vehicles to emit increased NOx under certain real world driving conditions as
15 compared to emissions during emissions testing.

16 53. At all relevant times, Bosch understood that FCA intended to use certain software
17 strategies in the EDC17 ECU to optimize the FCA Subject Vehicles' performance during
18 regulatory emissions testing and that disclosure to CARB of these strategies would raise serious
19 concerns about emissions cheating and pose a significant risk that the FCA Subject Vehicles
20 would not be certified for sale or lease in California.

21 54. Certain Bosch personnel raised concerns to colleagues and managers, as well as to
22 FCA personnel, that certain software functions in the FCA Subject Vehicles were AECDs
23 requiring disclosure and/or were illegal defeat devices. Notwithstanding these concerns, Bosch
24 continued to supply FCA with software including these functions. Bosch did so with the
25 understanding that FCA would not disclose these strategies to CARB.

26 55. Bosch also helped conceal the existence of the undisclosed AECDs and/or illegal
27 defeat devices, including by acquiescing to FCA's scheme not to disclose the relevant software
28 functions in certification documentation submitted to CARB for the FCA Subject Vehicles.

1 **V. BOSCH’S ROLE IN THE DECEPTIVE MARKETING OF THE SUBJECT VEHICLES**

2 56. In addition to assisting VW and FCA in the development of the Subject Vehicles,
3 Bosch also played a significant role in marketing related to the Subject Vehicles.

4 57. Bosch understood that in order to sell and lease the Subject Vehicles in the United
5 States, and in California specifically, VW and FCA would have to:

- 6 a. market, represent, and warrant to consumers that the Subject Vehicles were
7 compliant with California and federal emission standards;
- 8 b. omit the fact that the Subject Vehicles were appearing to comply with California
9 and federal emissions requirements by using undisclosed AECs and/or defeat
10 devices; and,
- 11 c. overcome consumer sentiment that diesel vehicles were dirtier than gasoline
12 powered cars.

13 58. At all relevant times, Bosch knew or should have known that VW and FCA were
14 using hidden software functionality programmed into the Subject Vehicles’ ECUs to appear to
15 comply with California and federal emissions requirements. Bosch also knew or should have
16 known that VW and FCA necessarily would misrepresent to consumers that the Subject Vehicles
17 were compliant with California and federal emissions requirements.

18 59. As described further below, Bosch not only failed to take corrective action when VW
19 and FCA marketed the Subject Vehicles to consumers as compliant with California and federal
20 emissions requirements and described them using terms like “clean,” “green,” and
21 environmentally friendly, but it also engaged in its own campaign to promote its diesel
22 technology and promote the Subject Vehicles that incorporated its diesel technology.

23 **A. Bosch Assisted VW in Deceptively Marketing the VW Subject Vehicles**

24 60. In conjunction with its plans to increase its market share and sales of its diesel vehicles
25 in the United States, beginning in 2008, VW engaged in widespread and successful advertising
26 campaigns for its 2.0 and 3.0 liter diesel-engine vehicles conveying the supposed environmental,
27 vehicle performance, and economic advantages of the VW Subject Vehicles.

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1 61. Bosch played an essential role in enabling VW’s deceptive advertising campaigns by
2 supplying VW with hardware, software, and/or software programming services in circumstances
3 where Bosch knew or should have known that VW would use that software as part of the illegal
4 strategy the automaker implemented to market and sell its vehicles in California. Without Bosch’s
5 assistance, VW’s consumer deception would not have been possible.

6 62. VW made numerous material misrepresentations and omissions arising out of its use
7 of undisclosed AECs and defeat devices in the VW Subject Vehicles, including but not limited
8 to the following major categories:

- 9 a. **Its Diesel Vehicles Had Low Emissions.** Such statements included that VW’s
10 “clean diesel” technology reduced NOx by 90%, resulted in lower NOx than
11 comparable diesel vehicles, had lower emissions than comparable diesel vehicles,
12 and had lower emissions than comparable gasoline vehicles.
- 13 b. **Its Diesel Vehicles Complied with State and Federal Emissions Standards.**
14 VW falsely represented that its diesel vehicles complied with state and federal
15 emissions standards. Such representations included, for example, that the vehicles
16 met the strictest emissions standards and were compliant in all 50 states. The 50-
17 state compliance statements were a direct reference to meeting California’s
18 emissions requirements, as California is the only state permitted to set its own
19 emissions standards under the CAA (which other states are permitted to follow).
- 20 c. **Its Diesel Vehicles Were Environmentally Friendly.** Targeting environmentally
21 conscious consumers, VW’s marketing included statements that the vehicles were
22 equipped with “clean diesel” technology, were “environmentally-conscious,” “eco-
23 conscious,” or “green,” and similar misrepresentations.
- 24 d. **Its Diesel Vehicles Would Provide Better Fuel Economy Than Displayed on**
25 **the Monroney Fuel Economy Label.** VW stated that the diesel vehicles had
26 better fuel economy than the EPA-rated fuel economy displayed on the Monroney
27 Label (the label required to be posted on new cars that provides fuel economy
28 information). These representations were misleading because they failed to

1 disclose that the cars only delivered these enhanced levels of fuel economy
2 because the vehicles had defeat devices and employed limited (or non-existent)
3 emissions controls during real world driving.

4 63. These representations were false and misleading because the VW Subject Vehicles
5 were equipped with defeat devices and/or undisclosed AECs and thus did not possess the
6 characteristics as represented by VW. Bosch's conduct facilitated VW's deceptive advertising,
7 and Bosch failed to take any corrective action when VW made these misrepresentations to
8 consumers. Instead, as further described below, Bosch affirmatively co-promoted the Subject
9 Vehicles and its "clean diesel" technology.

10 **B. Bosch Assisted FCA in Deceptively Marketing the FCA Subject Vehicles**

11 64. FCA's communications with consumers regarding the FCA Subject Vehicles similarly
12 contained false and misleading statements and omissions. And, as with VW, Bosch played a
13 central role in enabling FCA's deceptive advertising campaigns by supplying hardware, software,
14 programming, and/or calibration services in circumstances where Bosch knew or should have
15 known that FCA was using undisclosed AECs and/or defeat devices in the FCA Subject
16 Vehicles. Without Bosch's assistance, FCA's consumer deception would not have been possible.

17 65. FCA marketed the FCA Subject Vehicles through a variety of methods, and its false
18 and misleading statements and omissions primarily fell into three related categories:

- 19 a. **The FCA Subject Vehicles Were Environmentally Friendly.** For instance, FCA
20 used the trademarked name "EcoDiesel" in virtually all advertising for the Subject
21 Vehicles. FCA also portrayed the Subject Vehicles as environmentally friendly in
22 communications to consumers—using terms like "clean," "green," and
23 "ecological"—as well as using prominently placed photos of leaves, trees, and
24 nature scenes.
- 25 b. **The FCA Subject Vehicles Were Economical and Fuel Efficient.** FCA
26 regularly referenced the supposed economical nature of the Subject Vehicles—in
27 particular their fuel efficiency—in their communications with consumers. FCA
28 regularly communicated in their advertising the fuel economy ratings of the

1 Subject Vehicles and highlighted the reduced fuel consumption and additional
2 range available over gasoline vehicles and other diesel vehicles.

3 **c. The FCA Subject Vehicles Had Low Emissions and Met or Exceeded**

4 **California and Federal Emissions Rules.** FCA repeatedly represented that the
5 Subject Vehicles “meet and exceed” strict emissions standards (including those for
6 NOx, particulates, and carbon dioxide), making repeated reference to exceeding
7 50-state emissions standards, which as discussed above, is a direct reference to
8 California’s emissions requirements.

9 66. These representations were false and misleading because the FCA Subject Vehicles
10 were equipped with undisclosed AECs and/or defeat devices and thus did not possess the
11 characteristics as they were represented by FCA. Bosch’s conduct facilitated FCA’s deceptive
12 advertising, and Bosch failed to take any corrective action when FCA made these
13 misrepresentations to consumers. Instead, as further described below, Bosch affirmatively co-
14 promoted the Subject Vehicles and its “clean diesel” technology.

15 **C. Bosch Deceptively Promoted its Diesel Technology and VW’s and FCA’s**
16 **Supposedly “Clean Diesel” Vehicles Incorporating That Technology**

17 67. In addition to knowing of, and substantially assisting in, VW’s and FCA’s deceptive
18 conduct towards regulators and consumers about the legal compliance and characteristics of the
19 Subject Vehicles, Bosch also engaged in its own misrepresentations and omissions with respect to
20 its diesel products and the Subject Vehicles.

21 68. One of Bosch’s chief objectives was to expand its “clean diesel” reputation and
22 promote its diesel-related business into the United States.

23 69. Bosch paired its EDC17 ECU with a proprietary diesel fuel injection system and
24 claimed that the resulting “Common Rail System” produced enhanced performance while
25 complying with applicable emission limits.

26 70. Bosch made significant investments in developing and promoting its Common Rail
27 System as the centerpiece of its “clean diesel” technology, the heart of which was the EDC17.
28 During the times it was assisting VW and FCA in the creation and implementation of undisclosed

1 AECDS and/or defeat devices, Bosch used a variety of means to represent to regulators and other
2 government officials, automakers, and consumers that the Common Rail System was the key to
3 powerful, fuel-efficient diesel passenger cars that also could be engineered to comply with
4 stringent California and federal emissions limits.

5 71. For example, Bosch worked closely with VW to promote the sale of the “clean diesel”
6 VW Subject Vehicles in the United States. The two companies developed a coordinated press
7 strategy around the 2009 Jetta’s Green Car of the Year Award, in which VW reviewed, revised,
8 and approved Bosch’s press releases, emphasizing the “emission reduction” and “50-state
9 compliant” “clean diesel” vehicles. The 50-state compliance statements were a reference to
10 complying with California’s emissions requirements.

11 72. Bosch’s promotion of “clean diesel” technology specifically targeted California
12 regulators and consumers in the California market. In April 2009, Bosch organized and hosted a
13 two-day “California Diesel Days” event in Sacramento, California to promote “clean diesel”
14 powertrain technology. Key messages included the fuel efficiency and emissions benefits of
15 “clean diesel,” and the program featured the 2009 VW Jetta as a demonstration vehicle.

16 73. The “California Diesel Days” event sought to generate a positive perception of “clean
17 diesel” passenger vehicles and to assist supposedly “clean diesel” vehicles better compete with
18 hybrid and electric vehicles in the California market.

19 74. Bosch engaged in additional efforts to expand the market for diesel vehicles in
20 California. For example, as part of its “clean diesel” partnership with VW, Bosch deployed two
21 2009 VW Jetta diesel vehicles in California, demonstrating the supposed benefits of “clean
22 diesel” power. The marketing campaign included participation in the 2009 “California Green
23 Summit” held in Sacramento, California.

24 75. Similarly, in a January 24, 2013 press release, Bosch touted new platforms for its
25 Common Rail System, namely the soon-to-be released FCA Subject Vehicles. That release
26 announced that FCA’s 2014 Jeep Grand Cherokee would be powered by a 3.0 liter “EcoDiesel”
27 engine incorporating Bosch’s “clean diesel” technology. In the release, Bosch’s North America
28 division asserted that the Jeep Grand Cherokee’s “clean diesel” emission system complied “with

1 the most stringent emission regulations in the world”—which could be viewed as a direct
2 reference to California’s strict emissions requirements—and that a growing number of vehicle
3 manufacturers were adopting “clean diesel” technology, which supposedly provided fuel
4 efficiency, performance, and reduced emissions.

5 76. Later at an event jointly hosted by Ram, Jeep, and Bosch in Traverse City, Michigan,
6 the presenters also made a number of statements regarding the FCA EcoDiesel’s performance,
7 including that “Bosch emissions control system helps ensure that virtually no particulates and
8 minimal oxides of nitrogen (NOx) exit the tailpipe” and that the Jeep Grand Cherokee or Ram
9 1500 diesel engine provided fuel economy that was “30% better than a comparable gasoline
10 engine.”

11 77. Bosch continued its promotion of the Common Rail System well into 2015, including
12 by posting videos on YouTube and creating a “Bosch Clean Diesel” Facebook page devoted to
13 “clean diesel.” Bosch posted various articles and videos promoting “clean diesel” technology,
14 including links to VW clean diesel advertisements. Bosch also posted a video featuring a Ram
15 1500 EcoDiesel brandishing “Clean Diesel Power” and “Bosch” artwork, noting that while the
16 truck was rated at 29 mpg on the highway, “we can typically get upwards of 33 miles per gallon,
17 easily.” Bosch promoted the video using the hashtags “#cleandiesel” and “#goodcleanfun.”

18 78. Bosch engaged in this multi-year campaign to expand and increase sales and leases of
19 diesel vehicles containing its Common Rail System “clean diesel” technology in the United States
20 generally and in California specifically, including the Subject Vehicles sold by VW and FCA.
21 Bosch took these actions even though it had supplied hardware, software, programming, and/or
22 calibration services to VW and FCA in circumstances where Bosch knew or should have known
23 that VW and FCA were utilizing undisclosed AECDs and/or defeat devices in their Subject
24 Vehicles. For this same reason, Bosch knew or should have known that VW and FCA were
25 engaged in deceptive marketing of the Subject Vehicles to consumers.

26 **VI. EXCESS POLLUTION FROM THE SUBJECT VEHICLES HARMS THE ENVIRONMENT**
27 **AND PUBLIC HEALTH**

1 79. The Subject Vehicles have emitted (and for certain vehicles—including those that lack
2 CARB- and USEPA-approved emissions modifications—continue to emit) NOx emissions at
3 several times the CARB-compliant levels, depending on vehicle type, vehicle loads, and driving
4 conditions (e.g., city or highway).

5 80. The excess NOx emissions from the Subject Vehicles equipped with undisclosed
6 AECs and/or defeat devices have caused and are causing significant damage to the State of
7 California, including to the health of its residents and its natural resources.

8 81. NOx is a highly reactive gas that is a major contributor to two other air pollutants,
9 particulate matter and ozone. NOx emissions, and the particulate matter and ozone pollution to
10 which NOx contributes, are among the most regulated air pollutants in California due to the large
11 effect these pollutants have on public health and the environment.

12 82. Diesel particulate matter has scientifically demonstrated negative effects on public
13 health and welfare and has been identified as a toxic air contaminant. A strong and broad body of
14 evidence links inhalation of particulate matter pollution, of which diesel particulate matter is part,
15 with premature death, respiratory illnesses, and heart disease.

16 83. In the short term, NOx and particulate matter have been found by scientific studies in
17 California and elsewhere to reduce lung function and exacerbate the symptoms of asthmatics.
18 Long term, chronic conditions such as reduced lung function, asthma, and chronic obstructive
19 pulmonary disease are among the many adverse effects of these air pollutants. Particulate matter
20 can also impair visibility and damage vegetation.

21 84. Ozone is the prime precursor to smog. USEPA analyses have found that short-term
22 exposure to ozone “induced (or [was] associated with) statistically significant declines in lung
23 function.” Such short-term exposure results in increases in asthma medication use in children,
24 emergency room visits, and hospital admissions for respiratory conditions, and is a likely cause of
25 a range of other health and mortality issues.

26 85. A USEPA analysis of ozone in 2013 found that “strong evidence” exists that ozone
27 concentrations impair many native plants and trees by injuring foliage, decreasing growth and
28 biomass accumulation in annual, perennial, and woody plants (including agronomic crops,

1 annuals, shrubs, grasses, and trees), and decreasing the yield and/or nutritive quality in a large
2 number of agronomic and forage crops.

3 **CAUSES OF ACTION**

4 **FIRST CAUSE OF ACTION**

5 **Violation of Health and Safety Code § 43151 prior to January 1, 2017**
6 **(By CARB on Behalf of the People of the State of California against All Defendants)**

7 86. The People reallege and incorporate by reference each of the paragraphs above as
8 though fully set forth herein.

9 87. California Health and Safety Code section 43151(a) is a strict liability statute. Prior to
10 January 1, 2017, it stated: “No person who is a resident of, or who operates an established place
11 of business within, this state shall import, deliver, purchase, rent, lease, acquire, or receive a new
12 motor vehicle, new motor vehicle engine, or motor vehicle with a new motor vehicle engine for
13 use, registration, or resale in this state unless such motor vehicle engine or motor vehicle has been
14 certified pursuant to this chapter. No person shall attempt or assist in any such action.”

15 88. Defendants are liable for assisting FCA US and VW in the actions described in this
16 cause of action through the provision of hardware, software, and/or software programming
17 services in circumstances where Defendants knew or should have known that VW and FCA US
18 would use that software as part of the illegal and/or undisclosed strategies the automakers
19 implemented to market and sell their vehicles in California, and thus Defendants are strictly liable
20 for multiple violations of Health and Safety Code section 43151 that occurred prior to January 1,
21 2017.

22 89. At all relevant times prior to January 1, 2017, FCA US operated several established
23 places of business in California, including a California Business Center in Newport Beach,
24 California, and a Parts Distribution Center in Ontario, California.

25 90. At all relevant times prior to January 1, 2017, FCA US imported and/or delivered the
26 new FCA Subject Vehicles for intended use, registration, or resale in California, and/or attempted
27 or assisted in such actions. The new FCA Subject Vehicles, as manufactured, were not certified in
28 compliance with California law because they did not conform in all material respects to the
design specifications described in the applications for certification that purportedly covered them.

1 For example, they (a) contained AECDs that were not disclosed in the applications, (b) contained
2 defeat devices, and/or (c) contained undisclosed or unapproved OBD non-compliances or OBD
3 non-compliances for which CARB granted deficiencies at the time of certification based on false,
4 incomplete, or misleading information in the certification applications.

5 91. FCA US's actions prior to January 1, 2017 constituted multiple violations of Health
6 and Safety Code section 43151.

7 92. At all relevant times, VW operated numerous places of business in California,
8 including without limitation an Electronics Research Laboratory in Silicon Valley, a regional
9 sales office in Woodland Hills, and the Test Center California ("TCC") in Oxnard.

10 93. VW imported and/or delivered the new VW Subject Vehicles for intended use,
11 registration, or resale in California, and/or attempted or assisted in such actions. The new VW
12 Subject Vehicles, as manufactured, were not certified in compliance with California law because
13 they did not conform in all material respects to the design specifications described in the
14 applications for certification that purportedly covered them. For example, they (a) contained
15 AECDs that were not disclosed in the applications, (b) contained defeat devices, and/or (c)
16 contained undisclosed or unapproved OBD non-compliances or OBD non-compliances for which
17 CARB granted deficiencies at the time of certification based on false, incomplete, or misleading
18 information in the certification applications.

19 94. VW's actions prior to January 1, 2017 constituted multiple violations of Health &
20 Safety Code section 43151.

21 95. Defendants, through their actions described above, assisted FCA US and VW in the
22 violations of Health and Safety Code section 43151(a) prior to January 1, 2017, and are thus
23 liable for each of these violations.

24 **SECOND CAUSE OF ACTION**

25 **Violation of Health and Safety Code § 43151 on or after January 1, 2017**
26 **(By CARB on Behalf of the People of the State of California against All Defendants)**

27 96. The People reallege and incorporate by reference each of the paragraphs above as
28 though fully set forth herein.

1 97. California Health and Safety Code section 43151 was amended with an effective date
2 of January 1, 2017.¹

3 98. As of January 1, 2017, California Health and Safety Code section 43151(a), a strict
4 liability statute, states: “A person shall not offer for sale, introduce into commerce, import,
5 deliver, purchase, rent, lease, acquire, or receive a new motor vehicle, new motor vehicle engine,
6 or motor vehicle with a new motor vehicle engine for use, registration, or resale in this state
7 unless the motor vehicle engine or motor vehicle has been certified pursuant to this
8 chapter. A person shall not attempt or assist in any such action.”

9 99. Defendants are liable for assisting FCA US in the actions described in this cause of
10 action through the provision of hardware, software, and/or software programming services in
11 circumstances where Defendants knew or should have known that FCA US would use that
12 software as part of the illegal and/or undisclosed strategies the automaker implemented to market
13 and sell its vehicles in California, and thus Defendants are strictly liable for multiple violations of
14 Health and Safety Code section 43151 that occurred on or after January 1, 2017.

15 100. On or after January 1, 2017, FCA US offered for sale, introduced into commerce,
16 imported, and/or delivered the new FCA Subject Vehicles for intended use, registration, or resale
17 in California, and/or attempted or assisted in such actions. The new FCA Subject Vehicles, as
18 manufactured, were not certified in compliance with California law because they did not conform
19 in all material respects to the design specifications described in the applications for certification
20 that purportedly covered them. For example, they (a) contained AECs that were not disclosed in
21 the applications, (b) contained defeat devices, and/or (c) contained undisclosed or unapproved
22 OBD non-compliances, or OBD non-compliances for which CARB granted deficiencies at the
23 time of certification based on false, incomplete, or misleading information in the certification
24 applications.

25 101. FCA US’s actions on or after January 1, 2017 constitute multiple violations of Health
26 and Safety Code section 43151.

27 _____
28 ¹ See 2016 Cal. Legis. Serv. Ch. 604 (A.B. 1685, “AIR POLLUTION—MOTOR VEHICLES—FINES AND PENALTIES”).

1 102. Defendants assisted FCA US in the violations of Health and Safety Code section
2 43151(a) on or after January 1, 2017, and are thus liable for each of these violations.

3 **THIRD CAUSE OF ACTION**
4 **Violation of Health and Safety Code § 43152**
5 **(By CARB on Behalf of the People of the State of California against All Defendants)**

6 103. The People reallege and incorporate by reference each of the paragraphs above as
7 though fully set forth herein.

8 104. California Health and Safety Code section 43152 provides that no person engaged in
9 the business of selling to an ultimate purchaser or renting or leasing new motor vehicles shall
10 intentionally or negligently import, deliver, purchase, receive, or otherwise acquire new motor
11 vehicles intended for use primarily in California for sale or resale to an ultimate purchaser who is
12 a resident of or doing business in California, or for registration, leasing, or rental in California,
13 that have not been certified by CARB pursuant to its regulatory authority.² It also provides that no
14 person shall attempt or assist in any such action.

15 105. Defendants are liable for assisting FCA and VW in the actions described in this cause
16 of action through the provision of hardware, software, and/or software programming services in
17 circumstances where Defendants knew or should have known that VW and FCA would use that
18 software as part of the illegal and/or undisclosed strategies the automakers implemented to market
19 and sell their vehicles in California, and thus Defendants are liable for multiple violations of
20 Health and Safety Code section 43152.

21 106. FCA engaged in the business of selling to an ultimate purchaser or leasing new motor
22 vehicles. It intentionally or negligently imported and/or delivered the new FCA Subject Vehicles,
23 which were intended for use primarily in California for sale or resale to an ultimate purchaser
24 who is a resident of or doing business in California, or for registration, leasing, or rental in
25 California, and/or attempted or assisted in such actions.

26 107. The FCA Subject Vehicles, as manufactured, were not certified in compliance with
27 California law because they do not conform in all material respects to the design specifications

28 ² See Division 26, Part 5, Chapter 2 (sections 43100-43214, Vehicular Air Pollution Control- New Motor Vehicles) of the Health and Safety Code.

1 described in the applications for certification that purportedly covered them, in that they, among
2 other things, (a) contained AECDs that were not disclosed in the applications, (b) contained
3 defeat devices, and/or (c) contained undisclosed or unapproved OBD non-compliances, or OBD
4 non-compliances for which CARB granted deficiencies at the time of certification based on false,
5 incomplete, or misleading information in the certification applications.

6 108. FCA's actions constitute multiple violations of Health and Safety Code section 43152.

7 109. VW engaged in the business of selling to an ultimate purchaser or leasing new motor
8 vehicles. It intentionally or negligently imported and/or delivered the new VW Subject Vehicles,
9 which were intended for use primarily in California for sale or resale to an ultimate purchaser
10 who is a resident of or doing business in California, or for registration, leasing, or rental in
11 California, and/or attempted or assisted in such actions.

12 110. The new VW Subject Vehicles, as manufactured, were not certified in compliance
13 with California law because they did not conform in all material respects to the design
14 specifications described in the applications for certification that purportedly covered them, in that
15 they, among other things, (a) contained AECDs that were not disclosed in the applications, (b)
16 contained defeat devices, and/or (c) contained undisclosed or unapproved OBD non-compliances
17 or OBD non-compliances for which CARB granted deficiencies at the time of certification based
18 on false, incomplete, or misleading information in the certification applications.

19 111. VW's actions constitute multiple violations of Health and Safety Code section 43152.

20 112. Defendants assisted FCA and VW in the violations of Health and Safety Code section
21 43152, and are thus liable for each of these violations.

22 **FOURTH CAUSE OF ACTION**
23 **Violation of Health and Safety Code § 43153**
24 **(By CARB on Behalf of the People of the State of California against All Defendants)**

25 113. The People reallege and incorporate by reference each of the paragraphs above as
26 though fully set forth herein.

27 114. California Health and Safety Code section 43153 provides that no person engaged in
28 the business of selling to an ultimate purchaser or renting or leasing new motor vehicles shall
intentionally or negligently sell, or offer to sell, to an ultimate purchaser who is a resident of or

1 doing business in California, or lease, rent, or offer to rent in California, any new motor vehicle
2 that is intended primarily for use or for registration in California and has not been certified by
3 CARB pursuant to its regulatory authority. It also provides that no person shall attempt or assist
4 in any such action.

5 115. Defendants assisted FCA and VW in the actions described in this cause of action
6 through the provision of hardware, software, and/or software programming services in
7 circumstances where Defendants knew or should have known that VW and FCA would use that
8 software as part of the illegal and/or undisclosed strategies the automakers implemented to market
9 and sell their vehicles in California, and thus Defendants are liable for multiple violations of
10 Health and Safety Code section 43153.

11 116. FCA engaged in the business of selling to an ultimate purchaser or leasing the new
12 FCA Subject Vehicles. It intentionally or negligently sold, or offered to sell, to an ultimate
13 purchaser who is a resident of or doing business in California, or leased, or offered to lease, in
14 California the new FCA Subject Vehicles, which were not certified in compliance with California
15 requirements, and that were intended primarily for use or for registration in California, and/or
16 attempted or assisted in such actions.

17 117. The FCA Subject Vehicles were not certified in compliance with California
18 requirements, because, as manufactured, they did not conform in all material respects to the
19 design specifications described in the applications for certification that purportedly covered them,
20 in that they, among other things, (a) contained AECDs that were not disclosed in the application,
21 (b) contained defeat devices, and/or (c) contained undisclosed or unapproved OBD non-
22 compliances, or OBD non-compliances for which CARB granted deficiencies at the time or
23 certification based on false, incomplete, or misleading information in the certification
24 applications.

25 118. FCA's actions constitute multiple violations of Health and Safety Code section 43153.

26 119. VW engaged in the business of selling to an ultimate purchaser or leasing new VW
27 Subject Vehicles. It intentionally or negligently sold, or offered to sell, to an ultimate purchaser
28 who is a resident of or doing business in California, or leased, or offered to lease, in California the

1 new VW Subject Vehicles, which were not certified in compliance with California requirements,
2 and that were intended primarily for use or for registration in California, or attempted or assisted
3 in any such actions.

4 120. The new VW Subject Vehicles were not certified in compliance with California
5 requirements, because, as manufactured, they did not conform in all material respects to the
6 design specifications described in the applications for certification that purportedly covered them,
7 in that they, among other things, (a) contained AECDs that were not disclosed in the application,
8 (b) contained defeat devices, and/or (c) contained undisclosed or unapproved OBD non-
9 compliances or OBD non-compliances for which CARB granted deficiencies at the time or
10 certification based on false, incomplete, or misleading information in the certification
11 applications.

12 121. VW's actions constitute multiple violations of Health & Safety Code section 43153.

13 122. Defendants assisted FCA and VW in the violations of Health and Safety Code section
14 43153, and are thus liable for each of these violations.

15 **FIFTH CAUSE OF ACTION**

16 **Abatement of a Public Nuisance, Civ. Code § 3494**

17 **(By California Attorney General on Behalf of the People of the State of California against
18 All Defendants)**

19 123. The People reallege and incorporate by reference each of the paragraphs above as
20 though fully set forth herein.

21 124. A "nuisance" is defined in section 3479 of the California Civil Code as "[a]nything
22 which is injurious to health . . . or is indecent or offensive to the senses, or an obstruction to the
23 free use of property, so as to interfere with the comfortable enjoyment of life or property"

24 125. A "public nuisance" is defined in section 3480 of the California Civil Code as a
25 nuisance "which affects at the same time an entire community or neighborhood, or any
26 considerable number of persons, although the extent of the annoyance or damage inflicted upon
27 individuals may be unequal."

28 126. Pursuant to California Code of Civil Procedure section 3494, "a public nuisance may
be abated by any public body or officer authorized thereto by law." Courts have recognized that

1 the Attorney General has authority to maintain an action in the name of the People of the State of
2 California to abate a public nuisance.

3 127. The emission of excess NOx throughout California is injurious to the health of the
4 public so as to substantially and reasonably interfere with the comfortable enjoyment of life
5 and/or property.

6 128. The emission of excess NOx throughout California causes significant harm, and any
7 alleged social utility is outweighed by the gravity of the harm inflicted.

8 129. The emission of excess NOx throughout California constitutes a nuisance pursuant to
9 California Civil Code section 3479.

10 130. The emission of excess NOx throughout California affects and/or interferes with an
11 entire community's and/or a considerable number of persons' right to health, safety, peace,
12 comfort, and convenience in the State of California, thereby constituting a public nuisance
13 pursuant to California Civil Code section 3480.

14 131. Defendants, through their actions in connection with the development, marketing, and
15 sale of the Subject Vehicles, engaged in conduct that created, contributed to the creation of,
16 assisted in the creation of, and/or was a substantial contributing factor causing vehicles to be
17 present throughout California that emit NOx in excess of California's emissions limits. These
18 Subject Vehicles threaten public health and safety, the environment, and the People of the State of
19 California, and constitute a continuing nuisance throughout the State pursuant to California Civil
20 Code sections 3479 and 3480.

21 132. As a direct and proximate result of Defendants' conduct, excess NOx, ozone, and
22 particulate matter are present throughout California, and are continuing to be emitted into the
23 environment.

24 133. As a direct and proximate result of Defendants' conduct, large numbers of people
25 throughout the State of California have been exposed and/or will continue to be exposed to excess
26 NOx, ozone, and particulate matter throughout California, thereby affecting the health, safety, and
27 welfare of each person.

28 134. Defendants' actions are a direct cause of the public nuisance.

1 135. The threat to the public health and safety and to the environment posed by the public
2 nuisance in the State of California will continue unless Defendants are ordered to abate, and do
3 abate, the nuisance.

4 136. The People of the State of California are entitled to preliminary and permanent
5 injunctions from this Court requiring Defendants to abate the nuisance present in the State of
6 California.

7 **SIXTH CAUSE OF ACTION**

8 **Violations of False Advertising Law, Bus. & Prof. Code § 17500**
9 **(By California Attorney General on Behalf of the People of the State of California against**
10 **All Defendants)**

11 137. The People reallege and incorporate by reference each of the paragraphs above as
12 though fully set forth herein.

13 138. Defendants, with the intent to induce California consumers to purchase or lease the
14 Subject Vehicles, have made or caused to be made, in violation of Business and Professions Code
15 section 17500, numerous untrue or misleading statements including, but not limited to, the
16 following types of claims, as further described in paragraphs 67-78 above: advertising,
17 promoting, and representing the diesel emissions-related technology they were providing to VW
18 and FCA as “clean diesel” technology that would allow the Subject Vehicles to meet emissions
19 standards in all fifty states, including specifically California, and enable the Subject Vehicles to
20 achieve performance and fuel-efficiency comparable or superior to that of other vehicles while
21 emitting fewer pollutants; and co-promoting the Subject Vehicles with VW and FCA as “clean,”
22 “green,” and compliant with emissions standards. These statements and omissions constitute
23 untrue and misleading advertising under section 17500.

24 139. Defendants knew, or by the exercise of reasonable care should have known, that the
25 statements or omissions were untrue or misleading at the time such statements were made.

26 140. Additionally, Defendants have violated Business and Professions Code section 17500
27 by aiding and abetting, and/or conspiring to engage in, violations of Business and Professions
28 Code section 17500 committed by: (a) VW through its marketing of the VW Subject Vehicles as
described in paragraphs 62-63 above; and (b) FCA through its marketing of the FCA Subject

1 Vehicles as described in paragraphs 65-66 above. As detailed herein, Defendants knowingly and
2 substantially enabled and/or assisted in VW's and FCA's misconduct by providing hardware,
3 software, and/or software programming services in circumstances where Defendants knew or
4 reasonably should have known that VW and FCA would use that software as part of the illegal
5 and/or undisclosed strategies the automakers implemented to market and sell their vehicles in
6 California.

7 **SEVENTH CAUSE OF ACTION**

8 **Untrue, Deceptive, or Misleading Environmental Marketing, Bus. & Prof. Code §17580.5**
9 **(By California Attorney General on Behalf of the People of the State of California against**
10 **All Defendants)**

11 141. The People reallege and incorporate by reference each of the paragraphs above as
12 though fully set forth herein.

13 142. California Business and Professions Code section 17580.5 makes it “unlawful for any
14 person to make any untruthful, deceptive, or misleading environmental marketing claim, whether
15 explicit or implied.”

16 143. Defendants have engaged in making untruthful, deceptive, or misleading
17 environmental marketing claims, both express and implied, as prohibited by Business and
18 Professions Code section 17580.5. Such untruthful, deceptive, and misleading representations and
19 omissions include, but are not limited to, the following types of marketing claims, as further
20 described in paragraphs 67-78 above: portraying their diesel emissions-related technology as
21 “clean diesel” technology that would allow the Subject Vehicles to meet emissions standards in
22 all fifty states, including specifically California, and emit fewer pollutants than other vehicles;
23 and co-promoting the Subject Vehicles with VW and FCA as “clean,” “green,” compliant with
24 emissions standards, and similar deceptive representations. Defendants’ false statements and
25 omissions constitute untruthful, deceptive, or misleading environmental marketing claims.

26 144. Additionally, Defendants have violated Business and Professions Code section
27 17580.5 by aiding and abetting, and/or conspiring to engage in, violations of Business and
28 Professions Code section 17580.5 committed by: (a) VW through its marketing of the VW
Subject Vehicles as described in paragraphs 62-63 above; and (b) FCA through its marketing of

1 the FCA Subject Vehicles as described in paragraphs 65-66 above. As detailed herein, Defendants
2 knowingly and substantially enabled and/or assisted in VW's and FCA's misconduct by
3 providing hardware, software, and/or software programming services in circumstances where
4 Defendants knew or reasonably should have known that VW and FCA would use that software as
5 part of the illegal and/or undisclosed strategies the automakers implemented to market and sell
6 their vehicles in California.

7 **EIGHTH CAUSE OF ACTION**

8 **Violations of Unfair Competition Law, Bus. & Prof. Code § 17200**
9 **(By California Attorney General on Behalf of the People of the State of California against**
10 **All Defendants)**

11 145. The People reallege and incorporate by reference each of the paragraphs above as
12 though fully set forth herein.

13 146. As set forth in California's Unfair Competition Law ("UCL"), California Business and
14 Professions Code section 17200 et seq. prohibits unfair competition, which is defined to "mean
15 and include any unlawful, unfair or fraudulent business act or practice and unfair, deceptive,
16 untrue or misleading advertising and any act prohibited by [Business and Professions Code §§
17 17500-17606]."

18 147. Defendants have engaged, have aided and abetted, and have conspired to engage in
19 unlawful, unfair, or fraudulent acts or practices that constitute unfair competition within the
20 meaning of California Business and Professions Code section 17200. Defendants' unlawful,
21 unfair, or fraudulent acts and practices in violation of Business and Professions Code section
22 17200 include, but are not limited to, the following:

- 23 a. Defendants' actions prior to January 1, 2017 constitute multiple violations of
24 Health & Safety Code section 43151, as alleged in the First Cause of Action in
25 paragraphs 86 through 95.
26 b. Defendants' actions on or after January 1, 2017 constitute multiple violations of
27 Health & Safety Code section 43151, as alleged in the Second Cause of Action in
28 paragraphs 96 through 102.

- 1 c. Defendants' actions constitute multiple violations of Health & Safety Code
2 section 43152, as alleged in the Third Cause of Action in paragraphs 103 through
3 112.
- 4 d. Defendants' actions constitute multiple violations of Health & Safety Code
5 section 43153, as alleged in the Fourth Cause of Action in paragraphs 113 through
6 122.
- 7 e. Defendants' actions helped create a continuing nuisance throughout California
8 pursuant to Civil Code sections 3479 and 3480 in violation of Civil Code section
9 3494, as alleged in the Fifth Cause of Action in paragraphs 123 through 136.
- 10 f. Defendants' actions constitute multiple violations of Business and Professions
11 Code section 17500, as alleged in the Sixth Cause of Action in paragraphs 137
12 through 140.
- 13 g. Defendants' actions constitute multiple violations of Business and Professions
14 Code section 17580.5, as alleged in the Seventh Cause of Action in paragraphs 141
15 through 144.

16 **PRAYER FOR RELIEF**

17 WHEREFORE, the People pray for judgment as follows:

- 18 1. Pursuant to Health and Safety Code section 43017, that Defendants be enjoined from
19 further violations of the Health and Safety Code relating to vehicular air pollution control as
20 alleged in this Complaint, in particular from further assisting in the importation or delivery of
21 new motor vehicles for sale, lease, or rental in California that were not validly certified by CARB,
22 and from further assisting in the selling or offering to sell, leasing or offering to lease, or renting
23 or offering to rent in California, new motor vehicles that have not been validly certified by
24 CARB.
- 25 2. Pursuant to Health and Safety Code section 43017, that Defendants take appropriate
26 steps to remedy and prevent violations of the California Health and Safety Code relating to
27 vehicular air pollution control as alleged in this Complaint.
- 28 3. Pursuant to Health and Safety Code section 43154, for violations occurring prior to

1 January 1, 2017, that the Court assess civil penalties of up to \$5,000 per affected vehicle against
2 Defendants for each violation of Health and Safety Code sections 43151, 43152, and 43153.

3 4. Pursuant to Health and Safety Code section 43154, for violations occurring on or after
4 January 1, 2017,³ that the Court assess civil penalties of up to \$37,500 per action for each
5 violation of Health and Safety Code sections 43151, 43152, and 43153.

6 5. That pursuant to California Code of Civil Procedure section 3494, Defendants be
7 ordered and enjoined to abate the public nuisance that exists within the State of California.

8 6. Pursuant to California Business and Professions Code section 17535, that Defendants
9 be permanently enjoined from making any false or misleading statements in violation of
10 California Business and Professions Code section 17500, as alleged in this Complaint.

11 7. Pursuant to California Business and Professions Code section 17535, that Defendants
12 be permanently enjoined from making any untruthful, deceptive, or misleading environmental
13 marketing claim, whether explicit or implied, in violation of California Business and Professions
14 Code section 17580.5, as alleged in this Complaint.

15 8. Pursuant to California Business and Professions Code section 17203, that Defendants
16 be permanently enjoined from any act or practice that constitutes unfair competition in violation
17 of California Business and Professions Code section 17200.

18 9. Pursuant to Business and Professions Code section 17203, that the Court enter all
19 orders or judgment as may be necessary to restore to any person in interest any money or other
20 property that Defendants may have acquired by violations of Business and Professions Code
21 section 17200, as proved at trial.

22 10. Pursuant to California Business and Professions Code section 17536, that the Court
23 assess a civil penalty of \$2,500 against Defendants for each violation of California Business and
24 Professions Code section 17500, as proved at trial.

25 11. Pursuant to California Business and Professions Code section 17536, that the Court

26 _____
27 ³ Section 43154, which authorizes civil penalties for violations of these statutes, was
28 amended, effective January 1, 2017, to increase the penalty from up to \$5,000 per vehicle to up to
\$37,500 per action. *See* 2016 Cal. Legis. Serv. Ch. 604 (A.B. 1685, “AIR POLLUTION—
MOTOR VEHICLES—FINES AND PENALTIES”).

1 assess a civil penalty of \$2,500 against Defendants for each violation of California Business and
2 Professions Code section 17580.5, as proved at trial.

3 12. Pursuant to California Business and Professions Code section 17206, that the Court
4 assess a civil penalty of \$2,500 against Defendants for each violation of California Business and
5 Professions Code section 17200, as proved at trial.

6 13. Pursuant to California Business and Professions Code section 17206.1(a), that the
7 Court assess, in addition to any penalties assessed under California Business and Professions
8 Code sections 17206 and 17536, a civil penalty of \$2,500 against Defendants for each violation of
9 California Business and Professions Code section 17200 perpetrated against a senior citizen or
10 disabled person, as proved at trial.


11 14. That Plaintiff recover its costs of suit, including costs of investigation.

12 15. For such other and further relief as the Court deems just and proper.

13
14 Dated: November 7, 2022

Respectfully Submitted,

15 ROB BONTA
16 Attorney General of California
17 NICKLAS A. AKERS
18 Senior Assistant Attorney General

19 
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21 JON F. WORM
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26 *California*