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7 **UNITED STATES DISTRICT COURT**
8 **CENTRAL DISTRICT OF CALIFORNIA**

9 ROBERT WRIGHT, JACQUELINE
10 WRIGHT, JENNIFER SEGARINI,
11 CATHERINE WILSON, EDWARD
12 NORRIS, ANDREAS ZEMBRZYCKI,
EDWARD PISHCHIK, OLGA NIKITINA,
and WAMIDH JAWAD, individually and
on behalf of all others similarly situated,

13 Plaintiffs,

14 v.

15 VOLKSWAGEN GROUP OF AMERICA,
16 INC.,

17 Defendant.

Case No.: 5:24-cv-02171-JGB-SHK
Hon. Jesus G. Bernal

SECOND AMENDED CLASS
ACTION COMPLAINT

Breach of Express Warranty

Breach of Implied Warranty of
Merchantability

Violation of the Song-Beverly
Consumer Warranty Act for
Breach of Express Warranties

Violation of the Song-Beverly
Consumer Warranty Act for
Breach of Implied Warranties

Violations of the
Consumer Legal Remedies Act

Violations of California's Unfair
Competition Law

Violations of California's Unfair
Business Practices Act, Secret
Warranty Law

Violations of New York General
Business Law § 349

Violations of New York General
Business Law § 350

Violations of Illinois Consumer
Fraud & Deceptive Practices Act

Fraud/Fraudulent Concealment

JURY TRIAL DEMANDED

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INTRODUCTION

1
2 1. Plaintiffs Robert and Jacqueline Wright, Jennifer Segarini, Catherine
3 Wilson, and Andreas Zembrzycki (the “California Plaintiffs”), Edward Norris,
4 Edward Pishchik and Olga Nikitina (the “New York Plaintiffs”), and Wamidh
5 Jawad (the “Illinois Plaintiff”; collectively with California Plaintiffs and New York
6 Plaintiffs, “Plaintiffs”) by and through counsel, bring this Class Action Complaint
7 against Defendant Volkswagen Group of America, Inc. (“Defendant,”
8 “Volkswagen,” or “VW”), individually and on behalf of all others similarly
9 situated, and allege, upon personal knowledge as to their own actions and their
10 counsel’s investigations, and upon information and belief as to all other matters, as
11 follows:

12 **I. NATURE OF THE CASE**

13 2. Plaintiffs bring this case individually and on behalf of all similarly
14 situated persons (“Class Members”) who purchased or leased Volkswagen’s 2021-
15 2024 Atlas and/or Atlas Cross Sport vehicles (“Class Vehicles” or “Vehicles”) that
16 were designed, manufactured, distributed, marketed, and sold or leased by
17 Defendant or Defendant’s parent, subsidiary, or affiliates thereof.

18 3. Defendant designed, manufactured, distributed, marketed, sold, and
19 leased 2021-2024 Atlas and/or Atlas Cross Sport vehicles equipped with defective
20 braking systems as described herein to Plaintiffs and Class Members.

21 4. Defendant knew or should have known that the Vehicles have one or
22 more defects manifesting when the brakes are applied during ordinary and intended
23 use, including but not limited to (1) a loud, high-pitched squealing, squeaking, or
24 screeching noise (the “Squealing Defect”), (2) a loud, grinding, scraping noise of
25 metal rubbing on metal which is occasionally accompanied by a vibrating and
26 scraping sensation that can be felt through the brake pedal (the “Grinding Defect”),
27 (3) an activation of the Vehicle’s proximity alert resulting from the Squealing
28 and/or Grinding Defects despite there being no objects within the Vehicle’s

1 immediate vicinity (the “Proximity Alert Defect”), and/or (4) slipping, “spongy,”
2 “grabby,” and otherwise inconsistent braking (the “Erratic Function Defect”;
3 collectively with the Squealing Defect, the Grinding Defect, and the Proximity
4 Alert Defect, the “Brake Defect”).

5 5. The Brake Defect presents numerous safety concerns.

6 6. One safety concern resulting from the Brake Defect is that the
7 Squealing Defect is distracting and startling given that it frequently, yet
8 intermittently, causes the Vehicle to emit a loud, high-pitched squealing noise
9 when the brakes are applied, surprising Plaintiffs and other Vehicle drivers, nearby
10 motorists, and nearby pedestrians. Further, due to its startling and distracting
11 nature, the Squealing Defect causes drivers to adjust their braking strategy to
12 minimize the volume and duration of the loud, high-pitched squealing; whether
13 this includes braking harder and shorter, or avoiding braking wherever possible, or
14 some other method, it interferes with the regular, expected, and safe operation of
15 the Vehicles, increasing the risk to all putative class members and their passengers,
16 as well as motorists and pedestrians in the Vehicles’ vicinity.

17 7. Another safety concern resulting from the Brake Defect is that the
18 Grinding Defect is distracting and startling because it unexpectedly produces a
19 loud sound of metal grinding on metal, surprising Plaintiffs and other Vehicle
20 drivers, nearby motorists, and nearby pedestrians. The Grinding Defect also causes
21 Plaintiffs and Class Members to question the viability of the Vehicles’ brakes as
22 the sound is often accompanied by a vibrating and grinding sensation felt through
23 the brake pedal. As with the Squeaking Defect, the loud sound caused by the
24 Grinding Defect has the added effect of adversely impacting Vehicle drivers’
25 braking habits and driving decisions.

26 8. A further safety concern resulting from the Brake Defect is that the
27 Proximity Alert Defect sets off the Vehicles’ loud and intentionally distracting
28 proximity alert—sometimes referred to as ‘parking aid sensors’—when the brakes

1 emit the loud squealing, squeaking, or grinding (in relation to the Squealing and
2 Grinding Defects). The Proximity Alert Defect occurs intermittently, exacerbating
3 its startling nature, and confusing drivers while they are in the midst of slowing
4 their Vehicles. In addition to surprising drivers and distracting them by incorrectly
5 indicating there is something near their Vehicle that they were not aware of, the
6 Proximity Alert Defect also introduces safety risks by causing drivers to disregard
7 their Vehicles’ proximity alerts even when they may be triggering on an actual
8 person or object.

9 9. The Erratic Function Defect is another safety concern resulting from
10 the Brake Defect, as it also occurs unexpectedly—surprising and distracting
11 drivers—and requires that drivers focus excessively on braking, often at the
12 expense of other road hazards. The Erratic Function Defect also raises safety
13 concerns because it impacts the Vehicles’ ability to brake consistently and reliably
14 by causing an uneven, harsh, and “grabbing” sensation as the Vehicles’ brakes are
15 applied (which leads Vehicle drivers to reduce the pressure on the brake pedal or
16 otherwise adjust their braking strategy), and/or causing the brakes to feel “spongy”
17 or “squishy” (which leads Vehicle drivers to depress the brake pedal especially
18 hard to achieve the same braking effect).

19 10. Amongst the other safety concerns, the Brake Defect is dangerous
20 because it causes Vehicle drivers to disregard sounds and symptoms which are
21 typically affiliated with deteriorating and ineffective brakes. Thus, if Plaintiffs and
22 Class Members accept what they are told by Defendant and VW dealerships when
23 they present the Brake Defect—that it is “normal operation”—they are deprived of
24 the typical warning signs related to deteriorating brakes, namely squealing,
25 grinding, and erratic function.

26 11. Although the Vehicles’ brakes were specifically and especially
27 designed, manufactured, and approved by Defendant to be installed on the Atlas
28 and Atlas Cross Sport, due to the Brake Defect they do not provide regular,

1 reliable, and safe braking and operation of the Vehicles when used as expected and
2 intended.

3 12. As evidenced by Plaintiffs’ experiences, and other complaints by
4 Vehicle owners that have been received by the National Highway Safety
5 Administration (“NHTSA”), the Vehicles’ Brake Defect manifests at different
6 mileages and under different driving conditions, including in both reverse and
7 forward and at different speeds. The loud, high-pitched squealing noise, as well as
8 the loud metal-on-metal grinding sound, emitted when the brakes are applied
9 creates a safety hazard due to their likelihood of startling the Vehicle drivers, and
10 thereby having an adverse impact on driving decisions and habits of the Vehicle
11 drivers. In addition, recommendations from Defendant and/or their distributors that
12 Vehicle drivers should alter their braking strategies to mitigate the noise being
13 emitted increases the risk of unsafe “underbraking” or “overbraking” when Vehicle
14 drivers follow Defendant’s and/or its authorized dealerships’ advice.

15 13. The Brake Defect distracts Class Members, other Vehicle drivers, and
16 third parties on the road, endangering their physical safety and well-being due to a
17 loss of concentration and focus while driving. Similarly, nearby pedestrians hear
18 the loud braking noise then pay attention to the noise rather than having their full
19 attention on other hazards in their path.

20 14. The unworn brakes on these large, family Vehicles—which had a
21 Manufacturer’s Suggested Retail Price beginning at over \$30,000, even in 2021—
22 should not squeal, screech, and make other jarring noises when applied as intended
23 and expected. Defendant and its authorized dealerships do not forewarn purchasers
24 despite their knowledge of the Brake Defect.

25 **II. PARTIES**

26 15. Plaintiffs Robert and Jacqueline Wright are married California
27 citizens who live in Menifee, in Riverside County, California. The Wrights
28

1 purchased a 2023 Atlas. This Vehicle was designed, manufactured, sold,
2 distributed, advertised, marketed, and/or warranted by Defendant.

3 16. Plaintiff Jennifer Segarini is a California citizen who lives in San Jose,
4 in Santa Clara County, California. Ms. Segarini leased a 2021 Atlas. This Vehicle
5 was designed, manufactured, sold, distributed, advertised, marketed, and/or
6 warranted by Defendant.

7 17. Plaintiff Catherine Wilson is a California citizen who lives in
8 Richmond in Contra Costa County, California. Ms. Wilson purchased a 2021 Atlas
9 Cross Sport. This Vehicle was designed, manufactured, sold, distributed,
10 advertised, marketed, and/or warranted by Defendant.

11 18. Plaintiff Andreas Zembrzycki is a California citizen who lives in San
12 Diego County, California. Mr. Zembrzycki purchased a 2021 Atlas. This Vehicle
13 was designed, manufactured, sold, distributed, advertised, marketed, and/or
14 warranted by Defendant

15 19. Plaintiff Edward Norris is a New York citizen who lives in
16 Smithtown, in Suffolk County, New York. Mr. Norris purchased a 2022 Atlas.
17 This Vehicle was designed, manufactured, sold, distributed, advertised, marketed,
18 and/or warranted by Defendant.

19 20. Plaintiffs Edward Pishchik and Olga Nikitina are married New Jersey
20 citizens who live in Manalapan, in Monmouth County, New Jersey. Mr. Pishchik
21 and Ms. Nikitina leased a 2022 Atlas. This Vehicle was designed, manufactured,
22 sold, distributed, advertised, marketed, and/or warranted by Defendant.

23 21. Plaintiff Wamidh Jawad is an Illinois citizen who lives in
24 Lincolnwood, in Cook County, Illinois. Mr. Jawad purchased a 2024 Atlas Cross
25 Sport. This Vehicle was designed, manufactured, sold, distributed, advertised,
26 marketed, and/or warranted by Defendant.

27 22. Defendant Volkswagen Group of America, Inc., is a corporation
28 organized and in existence under the laws of the State of New Jersey with its

1 headquarters located in Herndon, Virginia. At all times relevant herein,
2 Volkswagen was engaged in the business of importing, advertising, marketing,
3 distributing, warranting, servicing, repairing and selling automobiles, including the
4 Vehicles and Vehicle components, throughout the United States of America.

5 **III. JURISDICTION AND VENUE**

6 23. The Court has subject matter jurisdiction over this action under the
7 Class Action Fairness Act (“CAFA”), 28 U.S.C. § 1332(d), because the proposed
8 class has more than 100 members, the class contains at least one member of
9 diverse citizenship from Defendant, and the amount in controversy exceeds \$5
10 million.

11 24. The Court has personal jurisdiction over Defendant because
12 Defendant is authorized to, and conducts substantial business in California,
13 generally, and this District, specifically. Defendant has advertised, marketed,
14 promoted, distributed, and sold the Vehicles in California.

15 25. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)(2),
16 because a substantial part of the events and omissions giving rise to this action
17 occurred in this District as the Brake Defect in Plaintiffs’ Vehicles manifested
18 itself within this District.

19 26. To the extent there is any contractual or other impediment to pursuit
20 of these claims on a class action basis, Plaintiffs specifically allege, and will prove,
21 if necessary, that any bar to class action proceedings is unconscionable, unfair and
22 against public policy.

23 **FACTUAL ALLEGATIONS**

24 **I. Volkswagen’s Knowledge of the Defect**

25 27. On information and belief, Volkswagen became aware of the Brake
26 Defect at least as early as 2020, before Plaintiffs and Class Members purchased or
27 leased their Class Vehicles, through sources such as Technical Service Bulletins
28

1 issued by Volkswagen, pre-release design, manufacturing, and testing data; in-
2 warranty repair data; replacement part sales data; early consumer complaints made
3 directly to Volkswagen, collected by NHTSA, testing done in response to those
4 complaints; aggregate data from Volkswagen dealers; as well as through other
5 internal sources unavailable to Plaintiffs prior to discovery.

6 **A. Volkswagen's Knowledge of the Brake Defect Gained From Pre-**
7 **Release Design, Manufacture, Engineering, and Testing Data.**

8 28. Expert analysis, conducted without the benefit and prior to discovery,
9 suggests that around 2021 Volkswagen modified the design of the brake pads and
10 related components in certain or all Class Vehicles, apparently as a cost-cutting
11 measure. These design and material changes led to a marked rise in consumer
12 complaints and service visits. During the decision-making process to install
13 unreliable and defects brake pads and associated parts, Volkswagen necessarily
14 would have gained exclusive knowledge about the Class Vehicle's brake system,
15 including: (i) the types and properties of materials used to make the parts, their
16 durability, and whether those materials would weaken over time regardless of wear
17 and use; (ii) the basic engineering principles behind the construction and function
18 of the parts; (iii) the forces and stresses the parts would face; when and how the
19 parts would fail; and (iv) the cumulative and specific impacts on the parts caused
20 by wear and use, the passage of time, and environmental factors.

21 29. The design, engineering, manufacturing, and testing information for
22 the braking system remains solely within Volkswagen's possession and is
23 unavailable to Plaintiffs without discovery. Upon information and belief,
24 Volkswagen's own pre-release evaluations of the braking system components
25 installed in the Class Vehicles revealed that the design and materials chosen for the
26 brake pads and related parts were inadequate for their intended function,
27 unreasonably prone to failure, and defective. Despite this knowledge, Volkswagen
28

1 approved the use of these components, thereby knowingly exposing consumers to
2 heightened safety risks and inevitable repair costs.

3 **B. Volkswagen's Knowledge of the Brake Defect From In-Warranty**
4 **Repair Data.**

5 30. Volkswagen also knew or should have known about the Brake Defect
6 because of the large number of brake repairs made during the Class Vehicles'
7 warranty periods.

8 31. Upon information and belief, Volkswagen gathers, reviews, and
9 evaluates extensive data regarding warranty repairs performed at its dealerships
10 and authorized service centers, including the nature and frequency of those repairs.
11 Volkswagen requires that, whenever a warranty repair is completed, the service
12 center prepare detailed records of the issue and the remedy. Such documentation
13 must include the customer's complaint, the identified cause, the corrective action
14 taken, and preservation of the replaced part, so that Volkswagen may later audit the
15 dealership or otherwise confirm the legitimacy of the warranty work.

16 32. Upon information and belief, Volkswagen service centers diligently
17 provide this detailed information about in-warranty repairs to Volkswagen,
18 because Volkswagen will not pay the service centers for the repair if the complaint,
19 cause, and correction are not sufficiently described.

20 33. While complete data on warranty repairs is exclusively within
21 Volkswagen's control and unavailable to Plaintiffs without discovery, upon
22 information and belief, Volkswagen service centers began to see an increasing
23 number of brake system complaints on Class Vehicles beginning in or around
24 2021.

25 34. In addition to the large number of in-warranty brake repairs on Class
26 Vehicles, numerous customer complaints collected by NHTSA's show that as early
27 as 2021 Volkswagen was put on direct notice by customers of the Brake Defect.
28 For example:

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A. NHTSA Complaint dated 6/2/2021 (ID No. 11574497): “Within several days of owning the Atlas, I noticed a grinding, shrieking noise coming from the brakes every time they were applied. I immediately notified the [Chapman VW dealership in Scottsdale] and they said that this was a common occurrence on the Atlas. ... I contacted VW executives in the US and they once again said that they were aware of the issue but that no reimbursement would be given if I paid for new brakes myself, which I had to do. All participants, including the manager of Chapman VW, agree that this is a problem issue.”

B. NHTSA Complaint dated 11/22/2021 (ID No. 11448695): “[U]pon depression of the brake pedal, an abnormal grinding noise would emit from the brakes. The contact had called and taken the vehicle to several dealers ... The manufacturer was then notified of the failure...”

C. NHTSA Complaint dated 1/14/2022 (ID No. 11449185): “With 10k miles and barely over a year, my atlas cross sport needs new brakes and rotors! Brought to dealership and opened a case with VW corporate but they won’t cover it because I’ve owned it more than a year. The dealership service manager even said they have had seen this issue with other atlas cross sports.”

D. NHTSA Complaint dated 1/29/2024 (ID No. 11568606): “Since I purchased the vehicle the brakes sound like they are bad, yet they are not bad. I was told at Volkswagen that they are aware of the issue in these SUV’s but the only fix will void out my warranty if I choose to do it.”

E. NHTSA Complaint dated 3/3/2022 (ID No. 11510003): The brakes on this new car constantly grind and are extremely noisy. There have been a few occasions where they barely stopped the car before we hit another car. We have brought the car in for service several times and the dealer is

1 unable to repair the vehicle. The service reps tell us this is a known
2 problem with this car.”

3 F. NHTSA Complaint dated 10/1/2022 (ID No. 11518484): “I purchased
4 my car in July 2022 and started having issues with it within 3 months.
5 I’ve have my car at the dealer 4 times for them to look at the brakes
6 (grinding, scraping noise, squeaking that can be felt in the pedal). I was
7 told each time that the rotors and brake pads aren’t compatible. VW
8 knows about the problem but doesn’t have a fix for it.”

9 G. NHTSA Complaint dated 10/1/2022 (ID No. 11551307): “Purchased
10 April 2022, and once the weather got cooler, brakes make a horrendous
11 grinding, squeaky noise, sounds like metal on metal. Have brought into
12 dealership multiple times to no avail until a few months ago, confirmed
13 that it is a known issue, but nothing they can do about it.”

14 H. NHTSA Complaint dated 10/4/2023 (ID No. 11561013): “JUST
15 PURCHASED MY ATLAS AROUND SEPTEMBER, AFTER
16 DRIVING IT A MONTH WE NOTICED A LOAD SCREACH SOUND
17 WEN COMING TO A STOP, I HAVE TAKEN IT TO TO0 VW
18 DEALERS ONLY TO BE TOLD VOLKSWAGON IS AWARE OF
19 THE ISSUE AND THERE IS NOTHING THEY CAN DO.”

20 35. The complete warranty repair data in Volkswagen’s exclusive
21 possession, including the large number of Brake Defect repairs made on Class
22 Vehicles during the warranty period, putting Volkswagen on notice of the Brake
23 Defect.

24 **C. Volkswagen’s Knowledge of the Brake Defect Gleaned from the Large**
25 **Number of Replacement Brake Pads Ordered from Volkswagen.**

26 36. Volkswagen also knew or should have known about the Brake Defect
27 because of the high number of replacement brake parts that were ordered from
28

1 Volkswagen, which should have alerted Volkswagen that this was a serious defect
2 affecting a wide range of its vehicles.

3 37. Upon information and belief, all Volkswagen service centers are
4 required to order replacement parts, including brake pads and related parts, directly
5 from Volkswagen. Other independent vehicle repair shops that service the Class
6 Vehicles also order replacement parts, including brake pads, directly from
7 Volkswagen.

8 38. Thus, Volkswagen has detailed, accurate, and real-time data regarding
9 the number and frequency of replacement part orders. The sudden increase in
10 orders for replacement brake pads and related parts beginning in or around 2021,
11 and the ongoing high sales of replacement brake pads from that time forward, was
12 known to Volkswagen, and alerted Volkswagen that its braking system was
13 defective.

14 **D. Volkswagen's Knowledge of the Brake Defect Gained From Class**
15 **Member Complaints Made Directly To Volkswagen.**

16 39. Volkswagen also knew or should have known about the Brake Defect
17 because numerous consumer complaints regarding failures of the braking system
18 were made directly to Volkswagen. The large number of complaints, and the
19 consistency of their descriptions of the Brake Defect in the Class Vehicles, alerted
20 Volkswagen to this serious safety defect affecting a wide range of its vehicles.

21 40. The full universe of complaints made directly to Volkswagen about
22 the Brake Defect is information presently in the exclusive custody and control of
23 Volkswagen and is not yet available to Plaintiffs prior to discovery. However,
24 upon information and belief, many Class Vehicle owners complained directly to
25 Volkswagen and Volkswagen dealerships about the Brake Defect their vehicles
26 experienced.

27 41. Some instances of these direct-to-Volkswagen complaints are
28 described in Class Vehicle owners' complaints logged with NHTSA and posted on

1 online vehicle owner forums. A selection of these complaints are excerpted in
2 Section V.D., herein.

3 42. As those complaints make clear, Class Members have been vocal in
4 complaining directly to Volkswagen about the Brake Defect, and the number and
5 consistency of their complaints should have alerted Volkswagen about the Brake
6 Defect.

7 **E. Volkswagen's Knowledge of the Brake Defect From Class Member**
8 **Complaints Collected by NHTSA**

9 43. In addition to complaints made directly to Volkswagen, many Class
10 Vehicle owners lodged complaints about the Brake Defect with NHTSA beginning
11 as early as 2021 before Plaintiffs and Class Members purchased or leased their
12 Class Vehicles.

13 44. Federal law requires automakers like Volkswagen to be in close
14 contact with NHTSA regarding potential auto defects, including imposing a legal
15 requirement, backed by criminal penalties for violation, of confidential disclosure
16 of defects by automakers to NHTSA, including field reports, customer complaints,
17 and warranty data. *See* TREAD Act, Pub. L. No. 106-414, 114 Stat. 1800 (2000).

18 45. Automakers have a legal obligation to identify and report emerging
19 safety-related defects to NHTSA under the Early Warning Report requirements.

20 46. Automakers are expected to, and in fact do, monitor NHTSA
21 databases for consumer complaints as part of their ongoing duty to detect potential
22 defects in their vehicles, including serious safety issues such as failures in occupant
23 protection systems. Accordingly, Volkswagen knew or, at a minimum, should have
24 known of the numerous complaints submitted to NHTSA concerning the Brake
25 Defect. The volume, uniformity, and substance of these complaints placed
26 Volkswagen on clear notice that the Brake Defect was widespread and dangerous,
27 yet Volkswagen failed to take timely corrective action.

1 47. As the sampling of complaints in Section V.D. herein makes clear,
2 Class Members have been vocal in complaining to NHTSA about the Window
3 Regulator Defect since at least 2021, and Volkswagen was, or should have been,
4 aware of and monitoring those complaints and, thus, should have known about the
5 Brake Defect since at least 2021, before Plaintiffs and Class Members purchased or
6 leased their Class Vehicles.

7 **F. Volkswagen's Knowledge of the Brake Defect Shown in Service**
8 **Bulletins Volkswagen Sent to its Dealerships and Service Centers**

9 48. Service bulletins issued by Volkswagen to its dealerships indicate that
10 more than a decade before Plaintiffs and Class Members purchased or leased their
11 vehicles, Volkswagen was aware of ongoing operating problems with the braking
12 systems.

13 49. Technical Service Bulletin 46-19-02 was originally issued on June 11,
14 2007 in relation to customers experiencing "Brake Noise", "Vibration", and
15 "Pulsation".

16 50. Then, in 2020, the issue suddenly resurfaced throughout the country,
17 regardless of the climate, and with drivers of every age, gender, and driving-style.
18 The Brake Defect became so ubiquitous that Volkswagen was forced to reissue this
19 Technical Service Bulletin on June 4, 2020 to include Model Year 2021 vehicles.

20 51. Volkswagen was then forced to reissued the Technical Service
21 Bulletin once again on February 2, 2022 to include Model Year 2022 vehicles.

22 52. A year later, as the Brake Defect exploded in complaints and service
23 requests, Volkswagen reissued the Technical Service Bulletin for the fourth time
24 on July 13, 2023 to include Model Year 2024 vehicles.

25 53. Each time, the bulletin purportedly advised how to service Class
26 Vehicles to correct the Brake Defect.

1 **G. Volkswagen’s Knowledge of Brake Defect Shown by Volkswagen**
2 **Service Center Employees’ Knowledge of Defect**

3 54. Volkswagen’s knowledge of the Brake Defect is also shown by the
4 fact that some Volkswagen service center employees admitted to Class Members,
5 including Plaintiffs, that the Brake Defect was a well-known and pervasive
6 problem affecting Class Vehicles. For example:

7 A. A service technician at Volkswagen of Murrieta acknowledged that Mr.
8 and Plaintiffs Mrs. Wrights’ concerns were “pretty common,” and that he
9 even had personal experience with this problem, but there was not any
10 remedy other than purchasing new and different brakes to replace those
11 equipped on the Wrights’ brand-new Vehicle.

12 B. Within her first year of ownership, Plaintiff Segarini took her Vehicle to
13 authorized VW dealerships. Despite being accused of being responsible
14 for the Defect symptoms—everything from how she drove, to using the
15 wrong type of fuel—she was ultimately told that it was part of a “script”
16 that Volkswagen’s employees are required to use, that they must propose
17 “solutions” to the Brake Defect in a certain sequence which forces
18 customers to return multiple times to VW dealerships with repeated but
19 unresolved complaints about noisy and defective brakes. Plaintiff
20 Segarini was also told by a VW service manager that “VW went cheap”
21 with the brake pads equipped in the Atlas, and that if she had purchased
22 “deluxe” it would have better brake pads which would not squeak.

23 C. Shortly after purchasing his Class Vehicle, Plaintiff Zembrzycki various
24 issues when he applied the brakes, including loud squealing, squeaking,
25 and screeching noise, as well as emitting a metal-on-metal grinding or
26 grating sound, both of which would trigger the Vehicle’s proximity alert
27 approximately 90% of the time a sound was made. Plaintiff Zembrzycki
28 brought his Class Vehicle to Mission Bay Volkswagen during the

1 warranty period and the dealership confirmed the Brake Defect, but
2 Volkswagen’s service technicians said that he would have to pay for any
3 replacement of brake components. Plaintiff Mr. Zembrzycki then raised
4 his concerns with Volkswagen’s corporate office in writing.

5 D. Within his first year of ownership, Plaintiff Norris took his Class Vehicle
6 to authorized VW dealerships—both Smithtown Volkswagen and
7 Volkswagen of Huntington, in Huntington Station, New York—
8 approximately ten different times in an attempt to address the Brake
9 Defect.

10 E. Within the first year of ownership, Plaintiffs Pishchik and Nikitina took
11 their Class Vehicle to Bay Ridge Volkswagen several times in an attempt
12 to address the Brake Defect. A Volkswagen service technician stated that
13 Plaintiffs Pishchik and Nikitina’s concerns regarding the brakes “seem to
14 be normal with these models.”

15 F. Shortly after Plaintiff Jawad purchased his Class Vehicle, a loud and
16 high-pitched squealing emitted whenever the brakes were applied.
17 Plaintiff Jawad raised the issue with City Volkswagen of Evanston within
18 the first year of ownership and was told only that these sounds were
19 common in Class Vehicles.

20 55. Therefore, as early as 2021 before Plaintiffs and Class Members
21 purchased or leased their Class Vehicles, Volkswagen was aware of the Brake
22 Defect, should have been aware of the Brake Defect through the exercise of
23 reasonable care, and/or was negligent in failing to be aware of the Brake Defect,
24 based on, among others, the following sources:

25 A. Knowledge Volkswagen must have gleaned during design, manufacture,
26 and pre-release testing of the braking system and the Class Vehicles;

27 B. Detailed data gathered by Volkswagen about large number of in-warranty
28 Brake Defect repairs;

- 1 C. Knowledge Volkswagen had of the large number of replacement Brake
2 pads and related parts ordered from Volkswagen;
- 3 D. Numerous and consistent vehicle owner complaints made directly to
4 Volkswagen about the Brake Defect;
- 5 E. Numerous and consistent vehicle owner complaints collected by NHTSA
6 about the Brake Defect;
- 7 F. Service bulletins sent by Volkswagen to its dealerships evincing
8 knowledge of ongoing issues with braking system consistent with the
9 Brake Defect in the Class Vehicles; and
- 10 G. Volkswagen service center employees' familiarity with and knowledge of
11 the Brake Defect.

12 56. Moreover, the large number and consistency of Class Member
13 complaints describing the Brake Defect as a safety risk underscores the fact that
14 Class Members considered the Brake Defect to be a material issue to the
15 reasonable consumer.

16 **II. Volkswagen's Active Concealment of the Warranty**

17 57. Despite having actual knowledge of the Brake Defect through
18 multiple sources including customer complaints, dealership reports, warranty
19 claims, and internal testing data, Volkswagen actively concealed the defect from
20 consumers through affirmative misrepresentations and denials.

21 58. When customers complained about the Brake Defect, Volkswagen's
22 authorized dealerships, acting as Volkswagen's agents, systematically denied that
23 the Vehicles were defective. Dealership personnel repeatedly told customers that
24 the loud squealing, grinding, and erratic braking was "normal operation" for the
25 Vehicles.

26 59. Volkswagen's employees went beyond mere nondisclosure by
27 affirmatively representing to customers that their vehicles had no defects when
28 customers specifically complained about the Brake Defect. For example, a

1 Volkswagen Service Manager told Plaintiff Segarini that “Volkswagen went
2 cheap” with the brake pads after first telling her that the noise was “normal” and
3 otherwise suggesting that the issues she was encountering were the result of her
4 own actions, her driving style, or the type of fuel she used.

5 60. Indeed, this Volkswagen Service Manager—Jonathon Demkowski at
6 Capitol Volkswagen in San Jose, California—informed Plaintiff Segarini that he
7 was required to follow a script, provide certain pre-arranged messages when
8 consumers complained about the brakes on Class Vehicles, and refuse service for
9 those complaints until consumers had complained a certain number of times.

10 61. Nor was this the only systematic protocols implemented at authorized
11 Volkswagen dealerships designed to conceal the Brake Defect from customers,
12 prevent documentation of the widespread problem, and thwart further
13 investigations.

14 62. For example, Volkswagen dealerships regularly avoided recording
15 brake-related complaints in service records when vehicles were within the “1
16 year/12,000 miles” warranty period described in Volkswagen’s NVLW’s
17 limitations related to “brake pads/shoes” and “brake drums/discs,” thereby
18 artificially suppressing documentation of the Defect (particularly where it
19 manifested early in the Vehicles’ ownership), preventing creation of a record
20 revealing the systematic nature of the problem, and precluding Plaintiffs and class
21 members from even receiving an attempted fix—replacement brake pads and
22 rotors—under warranty.

23 63. This practice of not recording brake complaints for low-mileage
24 vehicles was designed to prevent customers from establishing a documented
25 history of the defect and to avoid triggering warranty obligations or potential recall
26 investigations.

27 64. Plaintiff Jacqueline Wright, Plaintiff Segarini, and Plaintiff Wilson all
28 explicitly mentioned their concerns about the Brake Defect in their Vehicles at

1 their first visit to a Volkswagen dealership, all of which were within their first year
2 of ownership and within 12,000 miles (except for Plaintiff Wilson, whose vehicle
3 was purchased “certified pre-owned”). None of the Repair Orders from these visits,
4 however, mention a concern about the Vehicles’ brakes.

5 65. At most, Volkswagen’s dealerships would record that they performed
6 a “Multipoint Inspection,” a standardized inspection protocol that uses a checklist,
7 and Red/Yellow/Green matrix, to ostensibly indicate whether the Vehicles’
8 systems are operating as designed. Volkswagen’s “Multipoint Inspection,”
9 however, was designed to (and does) conceal the Brake Defect from Plaintiffs and
10 consumers by suggesting that their concerns about the brakes can be adequately
11 investigated and addressed by a single measurement of each “brake lining,” and
12 that when the measurement is deemed “Green,” the brakes are “normal,” “in good
13 condition,” and, most critically, *not* defective.

14 66. Despite customers experiencing obvious brake problems including
15 loud grinding, squealing, and erratic function, Volkswagen’s service personnel
16 routinely marked the Vehicles’ brake components as “Green” (i.e., satisfactory) on
17 these inspection reports, providing customers with false assurance that their brake
18 systems were functioning properly.

19 67. This systematic misrepresentation through the inspection matrix
20 served to actively mislead customers about the condition of their vehicles and
21 discourage them from seeking further repairs or escalating their complaints.

22 68. Even outside of the initial “1 year/12,000 miles” limitation on brake
23 warranty repairs, Volkswagen dealerships routinely refused and/or failed to include
24 customer complaints about the Brake Defect on service requests or Repair Orders,
25 thereby creating an artificial record that suggested the Brake Defect did not exist or
26 was less prevalent than it is.

27 69. This systematic practice of omitting brake-related complaints from
28 service documentation served to actively mislead customers about the widespread

1 nature of the defect and prevented the creation of accurate records that would
2 demonstrate the systematic problems affecting Class Vehicles.

3 70. Likewise, when confronted with customer complaints about the Brake
4 Defect, Volkswagen’s employees regularly and intentionally provided specific
5 false assurances designed to prevent customers from recognizing the defective
6 nature of their Vehicles and concealing the Defect. These false representations
7 included telling customers that their brake problems were “normal operation,”
8 “everything is fine,” “entirely normal,” and “within normal parameters,” despite
9 the employees’ knowledge that the symptoms described were indicative of the
10 widespread Brake Defect.

11 71. Alternatively, Volkswagen employees would actively conceal the
12 seriousness of the Defect, and further dissuaded investigation and pursuit of
13 remedies, by regularly telling customers that these kinds of problems were “pretty
14 common” and that all of the Class Vehicles have this problem, “they come off the
15 [factory] floor that way”; such complicit and obvious knowledge of the widespread
16 nature of the Defect, and its risks, alongside their indication that the Brake Defect
17 was “normal,” created deliberate confusion and prevented customers from
18 recognizing the defective nature of their vehicles.

19 72. These standardized false statements were not mere opinions, but
20 deliberate misrepresentations designed to discourage customer complaints and
21 prevent recognition of the systematic defect affecting the Class Vehicles.

22 73. Likewise, when customers escalated complaints to Volkswagen’s
23 corporate customer service, representatives provided scripted responses denying
24 any defect existed and refusing to provide remedies.

25 74. Further, Volkswagen selectively addressed the Brake Defect for some
26 customers while concealing the availability of such repairs from other customers,
27 including Plaintiffs and Class Members. For instance, some Volkswagen service
28 departments acknowledged to some customers that they “replaced the whole front

1 end braking system” for brake problems, demonstrating Volkswagen’s knowledge
2 that replacement parts could address the defect. *See, e.g.*, NHTSA Complaint ID
3 No. 11551226 (dated 10/22/2023, involving 2021 Atlas).

4 75. Upon information and belief, Volkswagen provided replacement
5 brake components to certain “vocal customers” or customers who persistently
6 complained, while refusing to disclose the availability of such replacements to
7 other affected customers.

8 76. Volkswagen failed to notify all affected customers about available
9 solutions or replacement programs, despite knowing that the same defect affected
10 thousands of vehicles based on the pattern of complaints received.

11 77. Rather than issuing recalls or service bulletins to alert customers to
12 the defect, Volkswagen instructed its dealerships to minimize and dismiss
13 customer complaints about the Brake Defect.

14 78. The consistency of these false responses and deceptive actions across
15 different dealerships across diverse geographic locations demonstrates that
16 Volkswagen implemented a coordinated strategy to actively conceal the Brake
17 Defect rather than merely failing to disclose it.

18 79. This systematic approach to denying, minimizing, and
19 misrepresenting the Brake Defect constituted active concealment that prevented
20 customers from understanding the true nature and extent of the problems with their
21 vehicles.

22 80. These affirmative actions went far beyond mere silence or
23 nondisclosure and constituted active concealment designed to prevent customers
24 from learning about the true nature and extent of the Brake Defect.

25 81. Volkswagen’s knowledge of the Brake Defect is evidenced by the fact
26 that customers across multiple model years (2021-2024) reported identical
27 symptoms, yet Volkswagen continued manufacturing Vehicles with the same
28 defective brake systems without modification or customer notification.

1 82. Volkswagen possesses aggregate data from warranty claims, customer
2 complaints, and dealership reports that clearly demonstrated the systematic nature
3 of the Brake Defect across Class Vehicles. Despite this knowledge, Volkswagen
4 continues to sell Vehicles infected by the Brake Defect to unsuspecting consumers
5 such as Plaintiffs, without disclosure of the Defect.

6 **III. The Brake Defect Renders Class Vehicles Unreliable, Unsafe, and**
7 **Unfit For the Minimal Purpose of Everyday Transportation.**

8 83. A vehicle's main purpose is providing a means of transportation, and
9 for many, its utility renders it an essential for daily life: commuting to work,
10 carpooling children to school, getting to and from the doctor's office, the grocery
11 store, the airport.

12 84. While manufacturers have upgraded and embellished car models with
13 technology and heightened safety features, the three fundamental components of a
14 functioning car remain the same: (1) forward movement, (2) directing the vehicle,
15 and (3) bringing it to a stop. Accordingly, a driver's only way of making a vehicle
16 useful for its intended purpose is to have control of (1) the acceleration, (2) the
17 steering wheel, and (3) the brakes. A car which is unreliable in any of these three
18 components is unfit for even the shortest drive, as the risks of losing control on the
19 road undermine a car's safety in such a fundamental way as to undermine its
20 merchantability as a product.

21 85. Drivers of the Class Vehicle lack any guarantee of control over the
22 car's braking system as manufactured. Volkswagen impliedly warranted that the
23 Class Vehicles were of merchantable quality and fit for use as an automobile. This
24 implied warranty included, among other things: (i) a warranty that the Class
25 Vehicles and their braking systems manufactured, supplied, distributed, and/or sold
26 by Volkswagen were safe and reliable for providing transportation; and (ii) a
27 warranty that the Class Vehicles and their braking systems would be fit for their
28 intended use while the Class Vehicles were being operated.

1 86. Contrary to this implied warranty, the Class Vehicles and their
2 braking system at the time of sale and thereafter were not fit for their ordinary and
3 intended purpose of providing Plaintiff and Class Members with reliable, durable,
4 and safe transportation, as evidenced by the unprompted and unavoidable Defects
5 in the brake system. What should be one of the few variables of control available
6 to a driver—braking—is a safety hazard rendering the Class Vehicles unfit for use.

7 87. Not only is a consumer that cannot rely on their vehicle’s brake
8 system a hazard to drivers nearby, but it defeats the purpose of purchasing a
9 vehicle for use in the first place as passenger safety and reliability were factors in
10 Plaintiffs’ decision to purchase this vehicle. Instead, drivers of the Class Vehicle
11 fear the continued viability of their Vehicles’ brakes as a result of the Brake Defec.
12 Indeed, Plaintiffs and Class Members report using excessive force, “stomping on
13 the brakes,” or “really pushing the brakes down to the floor,” to ensure that they
14 apply, given that the Grinding Defect and Erratic Function Defect cause the brakes
15 to intermittently feel like they are not braking effectively.

16 88. The Vehicles were also implicitly warranted against danger to other
17 motorists, passengers, pedestrians and the public. But sudden and loud noises—
18 like those generated by the Squealing and Grinding Defect—not only distract the
19 driver, but also startle pedestrians and other drivers on the road.

20 89. Further, the Class Vehicles can be deemed to provide reliable and
21 functional transportation, as a vehicle is reasonably anticipated to do, *only if*
22 Plaintiffs and other consumers can withstand, and are willing to ignore, loud and
23 distracting screeching, squealing, and grinding, and other symptoms which cause
24 fear and distrust in their Vehicles. To do so, many drivers report foregoing braking
25 as much as possible.

26 90. For instance, Plaintiff Zembrzycki avoids trips where “lots of braking
27 is expected,” including adjusting his normal instinctual habits while driving to
28 avoid triggering the brake noises. A driver in fear of utilizing their brakes due to a

1 defect in the manufacturing of the brake pads is an interference well beyond
2 tarnishing the car’s most basic degree of fitness. When paired with the “Proximity
3 Alert Defect,” the Vehicle is more distracting, unreliable, and hazardous than it is
4 functioning. Indeed, while automobiles have not always had proximity alerts to
5 assist drivers, having one which does not function, triggering erratically and
6 errantly so as to distract drivers, renders a vehicle unmerchantable.

7 91. In fact, the proximity alert function *is* distracting on purpose—meant
8 to alert a driver of an unnoticed object close to the vehicle, the sensors are
9 designed to aid the car’s safety capabilities as an extra set of eyes. The reality,
10 however, is a dangerously confusing sensor alert that is triggered by the Brake
11 Defect. The flagrant and unpredictable nature of the Brake Defect severely affects
12 the driver’s capability to control the Vehicle.

13 92. Moreover, Volkswagen *itself* touts the Vehicle’s proximity alert
14 function as integral to the safety of every Atlas driver, as evidenced by the fact that
15 the feature can only be temporarily muted, but not disabled permanently. VW has
16 campaigned the Atlas as a car with hassle-free safety features: “There’s safety in
17 numbers with six stability-enhancing features.”¹ Ironically, the vehicle is branded
18 as one “equipped for peace of mind,” specifically representing “enhanced safety,”
19 and calling on consumers to “enjoy the drive from A to B without much of the
20 stress,” while using an image that depicts the exact function rendered useless by
21 the Proximity Alert Defect:

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¹ See <https://in.pinterest.com/pin/116389971607903205/> (last visited September 19, 2025).



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11 *See*

12 https://www.vw.com/en/models/atlas.html/_layer/layers/showrooms/shared_content/_2026/explore/iq-drive/master.layer (last visited September 19, 2025).

14 93. Complaints from Plaintiffs and other consumers, however, prove that
15 the opposite is true: driving in the Class Vehicle is both embarrassing, anxiety
16 inducing, and does not even provide the functionality that Plaintiffs believed they
17 were purchasing.

18 94. Plaintiff Zembrzycki, for instance, is so distressed by the Brake
19 Defect that he avoids offering colleagues a ride in his car, has to apologize to the
20 parents of his children's friends and attempt to assure them that his Vehicle is not
21 unsafe, and subjects him to uncomfortable questions from strangers asking him
22 why he has not attempt to get the squealing noise fixed.

23 95. In fact, many Class Plaintiffs face the decision between ignoring
24 squealing, grinding, and motion sensor alerts of an impending collision, putting
25 themselves and their passengers in fear, and sacrificing the utility of owning an
26 operable car:

1 A. “I’ve taken it into multiple dealerships for them to inspect and ensure the
2 safety...I’m concerned for my family safety” *See* NHTSA Complaint ID
3 No. 11531086 (dated 7/8/23, involving 2021 Volkswagen Atlas).

4 B. “I have 2 kids and do not feel confident in my cars brakes when they are
5 in there.” *See* NHTSA Complaint ID No. 11557510 (dated 11/29/2023,
6 involving 2021 Volkswagen Atlas).

7 C. “[Y]ou will hear a loud noise when applying the brake and now getting
8 louder and louder everywhere...it scares me to drive the vehicle.” *See*
9 NHTSA Complaint ID No. 11576673 (dated 3/11/2024, involving 2021
10 Volkswagen Atlas).

11 96. Most Class Members, however, are not in a position to forego use of
12 their vehicle, even though they do not trust in its safety:

13 “I have about nine payments remaining on my lease and I
14 am anxious to move on to a better safer vehicle with a
15 brand that does right by the consumer. ... The vehicle was
16 consistently having problems, All the while, I’m paying
17 for a car I wasn’t even able to drive for a huge chunk of
18 year 1.” *See* NHTSA Complaint ID No. 11621632 (dated
10/23/24, involving 2021 Volkswagen Atlas).

19 97. This is exacerbated by repeated claims by Volkswagen that the Brake
20 Defect is common, normal, and the brakes are still working “just fine”:

21 A. “I’ve taken it into multiple dealerships...given me the same spiel, that the
22 brakes are working just fine.” *See* NHTSA Complaint ID No. 11531086
23 (dated 7/8/2023, involving 2021 Volkswagen Atlas).

24 B. “They are telling me they see 4-5 people a week with the same issue.”
25 *See* NHTSA Complaint ID No. 11529687 (dated 6/29/23, involving 2021
26 Volkswagen Atlas).

27 C. “My brakes squeal and make a grinding noise. They don’t stop well...I
28 have taken it to VW service and they say that it is normal for those kinds

1 of brakes.” *See* NHTSA Complaint ID No. 11561753 (reporting an
2 incident on 10/22/21, involving 2021 Volkswagen Atlas).

3 98. Those who could, however, at least avoided using their Vehicle
4 whenever possible. For example, Plaintiff Wamidh Jawad postponed a necessary
5 trip to Detroit, Michigan, to visit the Iraqi Consulate General—a trip of
6 approximately just four hours—because of his fear that the brakes were not going
7 to work as expected. Only after another visit to the Volkswagen dealership, where
8 he was (again) informed that nothing could be done and (again) told that brakes on
9 his Vehicle were normal—and he could no longer put off the trip—did he risk the
10 extended drive.

11 99. Plaintiff Wilson likewise cannot trust her Vehicle’s brakes during
12 inclement, or even rainy, weather due to the Erratic Function Defect, and her
13 feeling that the brakes on her Vehicle do not apply consistently and firmly enough,
14 and instead has had to rely on rides from her mother to and from work during the
15 winter season.

16 100. Although Plaintiff Norris initially purchased his Vehicle for use by his
17 wife, primarily to transport their four children, after seven months of being
18 subjected to the Defect—and Volkswagen’s repeated failed efforts to remedy it—
19 she refused to drive it any more due to her concerns about the Vehicle’s safety and
20 reliability. However, when he tried to trade in the Vehicle he was offered such a
21 diminished price that he could not afford to get rid of it.

22 101. Similarly, Plaintiff Nikitina could not pick her kids up from school
23 without triggering the proximity alert brake sensor, causing herself and others
24 distress and fear, but had to continue using the Vehicle based on her family’s needs
25 for a large-sized SUV. Her husband, Plaintiff Pishchik, presses the brakes harder
26 than he would otherwise he would expect he would need to—incurring excessive
27 wear-and-tear on his Vehicle—because the Grinding and Erratic Function Defects
28

1 make the Vehicle feel as though it is not braking sufficiently with a normal
2 application of the brake pedal.

3 102. Plaintiff Zembrzycki limits his use of his Vehicle in many ways, due
4 to distress about the Brake Defect: he avoids long distance driving, driving where
5 increased braking is expected, and trips including other passengers in the Vehicle.
6 He is acutely aware of how the loud noise caused by the Defect startles bikers and
7 pedestrians nearby, causing Plaintiff Zembrzycki to fear that the Defect put those
8 around him at risk of injuring themselves. Intersections, traffic lights, and stop
9 signs pose embarrassing and anxiety-inducing situations, worried that he may
10 become responsible for causing harm to property, himself, and others.

11 103. Plaintiff Jennifer Segarini also avoids driving, and otherwise adjusts
12 her driving, as a result of the Defect. For instance, she has foregone visiting her
13 father—approximately a 6.5 hour drive—because she is concerned that the
14 Vehicle’s brakes are unsafe and unreliable. For the same reason, she avoids driving
15 near schools or other areas where children are present, and when she has to drives
16 extremely slowly out of caution, which then exacerbates the Squealing Defect.

17 104. But driving is ubiquitous in today’s world; the fundamental need to
18 drive and have access to reliable transportation is undeniable. Nor does a consumer
19 have the ability or resources to simply use a different vehicle when they do not
20 trust the one they own. Thus, a consumer’s use—out of necessity—of a Vehicle
21 that is defective and dangerous does not demonstrate that it is merchantable. *See*
22 *Stearns v. Select Comfort Retail Corp.*, 2009 WL 1635931, *8 (N.D. Cal.
23 2009) (“[T]he fact that a person still may sleep on a moldy bed does not bar as a
24 matter of law a claim for breach of the implied warranty of merchantability”).

25 105. While the Defects are persistent in their nature, they are by no means
26 predictable. Generally speaking, a driver’s safety is measured by their ability to
27 control their vehicle. While other cars and hazards on the road will arise, a driver’s
28 main focus is their handling of the car. The braking system acts as a crucial

1 variable of control, affecting a driver’s gauge of how they might approach traffic,
2 intersections, parking lots. In short, an unpredictable car is a safety hazard, and “it
3 is clear that a defect that manifests suddenly and without adequate warning can
4 give rise to a such a claim.” *Baranco v. Ford Motor Co.*, 294 F. Supp. 3d 950, 965
5 (N.D. Cal. 2018).

6 **IV. Volkswagen’s Express Warranty**

7 106. At all relevant times, Volkswagen has advertised and promoted its
8 Class Vehicles as subject to a “New Vehicle Limited Warranty” (“NVLW”). As
9 advertised, pursuant to Volkswagen’s NVLW, all new vehicles are accompanied
10 by a “4-year or 50-000-mile (whichever occurs first) bumper-to-bumper limited
11 warranty.”

12 107. In its representations regarding the NVLW applicable to Class
13 Vehicles Volkswagen does not indicate that it is limited with respect to any brake
14 components.

15 108. An example of such representations is seen on Volkswagen’s so-
16 called “Carefree Coverage” webpage, which states: “Our Carefree Coverage
17 package comes standard on all new Volkswagen Vehicles”:
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Coverage

New Vehicle Limited Warranty 4yrs. or 50,000 miles: Peace of mind when you need it

Ownership is easy with a 4-year or 50,000-mile (whichever occurs first) bumper-to-bumper limited warranty.²

See

<https://www.vw.com/en/owners-and-services/ownership-benefits/carefree-coverage.html> (last visited Sept. 19, 2025). This statement from Volkswagen does not suggest that this coverage does not extend to brake components, or that such coverage would be limited.

109. In order to determine whether there are any applicable limitations, a consumer has to obtain an actual copy of the warranty which applies to a specific vehicle. However, while some of Volkswagen’s express warranties are available online, in order to access them a potential consumer has to either enter a specific VIN for a particular vehicle, or identify the model year, model, and exact trim level in order to access Volkswagen’s “Owners Literature.” *See* <https://maintenance.vw.com/#/search>.

110. Thus, even if a consumer knows the exact model year and model of vehicle they will purchase, they still have to select amongst several options to get

1 an applicable warranty booklet. *See id.* For instance, if a consumer selects a 2025
2 Atlas, there are still **eight** different options before being able to access the
3 appropriate warranty booklet, each of them dozens of pages long; if one wanted to
4 compare the warranties across these options they would have to review hundreds
5 of pages.

6 111. Further, it is not Volkswagen’s policy to provide copies of its NVLW
7 to consumers, or otherwise make them readily accessible, during the marketing or
8 sales of Class Vehicles. The NVLW is not offered for review, nor is it part of the
9 package of materials that is discussed, reviewed, and/or signed during the actual
10 sales transaction.

11 112. According to the written terms of Volkswagen’s NVLW, “What is
12 covered” includes:

13 **Warranty period**

14
15 The New Vehicle Limited Warranty period is **4 years or**
16 **50,000 miles**, whichever occurs first, except as specified
17 in the section entitled “**Limited Coverage**” → page 9,
Limited Coverage.

18
19 **Any implied warranty, including any implied**
20 **warranty of merchantability or warranty of fitness for**
21 **a particular purpose, is limited in duration to the**
22 **period of this written warranty. Some states do not**
23 **allow limitations on how long an implied warranty**
24 **lasts, so this limitation may not apply to you.**

25 **Coverage**

26 Except as specified in the section entitled “**Limited**
27 **Coverage**” → page 9, *Limited Coverage*, this warranty
28 covers any repair to correct a defect in manufacturer's
material or workmanship (i.e., mechanical defects), except
wheel alignment, tire balance, and the repair or
replacement of tires.

1 113. Under the NVLW’s “Limited Coverage” section is a heading titled
2 “Brakes Pads/Shoes” which states:

3 Brake pads/shoes are covered for 1 year or 12,000 miles,
4 whichever occurs first, for defects in manufacturer's
5 material or workmanship.

6 114. Under the NVLW’s “Limited Coverage” section is a heading titled
7 “Wear and Tear Coverage for Brake Pads/ Shoes, Brake Discs/Drums and Wiper
8 Blades” which states:

9 The repair or replacement of wear and tear items, which
10 are defined as brake pads/shoes worn below manufacturer
11 specifications, and brake discs/drums worn below
12 manufacturer specifications, replaced for wear and tear,
13 are covered up to 1 year or 12,000 miles, whichever occurs
14 first. Wiper blades replaced for wear and tear are covered
15 up to 6 months or 6,000 miles, whichever occurs first.

16 115. These limitations are not valid as they are buried within a 38-page
17 documents and are contrary to the expectations of a reasonable consumer.

18 116. Even if such limitations on the coverage provided by the NVLW are
19 otherwise valid—which Plaintiffs dispute—they are not applicable to the warranty
20 claims made in relation to the Brake Defect for several reasons.

21 117. By their express terms, the so-called “brake limitations” in the NVLW
22 only limit warranty coverage regarding brakes with respect to “brake *pads*,” “brake
23 *shoes*,” “brake *discs*,” and “brake *drums*.”

24 118. The Brake Defect involves components in the Vehicles’ brake
25 systems beyond merely the “brake pads/shoes” or “brake discs/drums,” such as the
26 brake rotors, brake calipers, brake carriers, brake pad retaining plates, brake pad
27 springs, guide pins, guide pin caps, and lithium grease, as well as implicating
28 issues with the brake master cylinder, brake booster, and brake lines.

1 119. Additionally, Volkswagen has attempted to repair or resolve the Brake
2 Defect under warranty, including outside of the 1-year “brake limitation” written
3 into the NVLW.

4 120. As demonstrated by the attempts that Volkswagen has made to repair
5 the Brake Defect in Plaintiffs’ Vehicles, such repair includes *at minimum*
6 replacement of the brake rotors (as well as the brake pads), and brake rotors are not
7 included the explicit list of brake components limited by the “brake limitations” in
8 the NVLW.

9 121. Volkswagen has thereby demonstrated that it acknowledges the Brake
10 Defect to be covered by the NVLW and other applicable warranties, but *not*
11 limited by the “1 year or 12,000 miles” “brake limitation.”

12 122. Volkswagen’s attempts to repair the Brake Defect, however, all failed
13 as they amounted to only replacing the Class Vehicles’ defective brake pads and/or
14 rotors with identical brake pads and/or rotors plagued by the same Brake Defect.

15 123. To the extent a Class Member sought to correct the Brake Defect by
16 upgrading their braking system with non-“Genuine Volkswagen Parts” which
17 might permanently resolve their issues, they put their Vehicle’s NVLW in jeopardy
18 and would lose its coverage.

19 **V. PLAINTIFFS’ EXPERIENCES**

20 **A. California Plaintiffs**

21 **i. Plaintiffs Robert & Jacqueline Wright**

22 124. The Wrights purchased a 2023 Atlas from VW Santa Monica, an
23 authorized VW dealership in Santa Monica, California, on January 30, 2023.

24 125. The Wrights had previously owned an earlier model year Volkswagen
25 Atlas but nevertheless considered and investigated other vehicle options. Amongst
26 their considerations were the safety, reliability, interior capacity, as well as the
27 warranty coverage that accompanied each vehicle option.
28

1 126. The Wrights made their decision to purchase a VW Atlas, in part, in
2 reliance on representations communicated through Defendant’s advertisements and
3 marketing campaigns emphasizing the quality, reliability, and safety of
4 Defendant’s Vehicles.

5 127. The Wrights’ decision to purchase a VW Atlas was based on their
6 understanding that it could be driven as a typical vehicle is expected to operate,
7 including with brakes that can be engaged without distracting and concerning
8 sounds or sensations, that engage with regular pressure and consistency, and which
9 do not errantly trigger startling, distracting, and worrying alerts while the Vehicle
10 is in motion.

11 128. The Wrights also decided to purchase a VW Atlas based on their
12 understanding—under the terms of the accompanying warranty extended by
13 Volkswagen—that they were the intended beneficiary of Volkswagen’s agreement
14 to cover repairs to address or correct defects, and that this agreement could be
15 effectuated at any Volkswagen dealership, which would operate as an agent of
16 Volkswagen for purposes of fulfilling the warranty.

17 129. At the time of Mr. and Mrs. Wright’s purchase, on information and
18 belief, Volkswagen knew that the Vehicles suffered from the Brake Defect, but
19 neither Volkswagen, nor Volkswagen’s representatives, disclosed the Defect to the
20 Wrights when advertising or discussing the features, components, and performance
21 of the Vehicle. Volkswagen was not only in a superior position regarding its access
22 to knowledge regarding the function of the Vehicle—including its braking system
23 and components—but also understood that a fundamental consideration for any
24 consumer in purchasing a vehicle is the reliable, unobtrusive, and non-distracting
25 function of the most basic functions in a vehicle, particularly including its ability to
26 slow-down and stop. Despite having this knowledge impacting the fundamental
27 safety of the Vehicle, Volkswagen withheld all information and made no
28 disclosures about the Braking Defect at the time of the Wrights’ purchase of their

1 Vehicle. In reliance on these material omissions and misrepresentations, the
2 Wrights purchased and operated the Vehicle on the belief that the Vehicle's brakes
3 would operate as expected by a reasonable consumer.

4 130. Within the first two days of their purchase, the Wrights' Vehicle
5 began intermittently exhibiting various issues when they applied the brakes,
6 including loud squealing, squeaking, and screeching noises, as well as emitting a
7 metal-on-metal grinding or grating sound, occasionally triggering of the Vehicle's
8 proximity alert sensors despite the absence of any objects in the Vehicle's
9 proximity (which sets off audio and visual alerts in the car and on the instrument
10 clusters).

11 131. The Wrights' Vehicle also began demonstrating inconsistent function,
12 sometimes engaging too strongly or harshly.

13 132. The Vehicle began exhibiting the various symptoms of the Braking
14 Defect—whether Squealing, Grinding, Proximity Alert, Erratic Function, or a
15 combination of them—nearly every time it was driven.

16 133. All of the Braking Defect symptoms that they have suffered have
17 caused the Wrights great concern. The Proximity Alert Defect, however, has been
18 particularly problematic, and drastically reduced the functionality of the Vehicle,
19 because it causes Mrs. Wright to panic whenever it is triggered as it suggests that
20 something (unseen) is about to hit the Vehicle.

21 134. Nor does the Proximity Alert Defect only cause Mrs. Wright
22 momentary panic; it also causes her to distrust the proximity alert sensors, and the
23 Vehicles' safety features more generally.

24 135. First, on August 31, 2023—at 9,845 miles—Mrs. Wright brought the
25 Vehicle to the authorized Volkswagen dealership in Murietta. She discussed the
26 Brake Defect with Service Advisor Anthony Briseno, who advised her that it was a
27 common issue, and that his own wife's vehicle (also an Atlas) had the same issue
28 to such an extreme degree that they traded the vehicle for a different make

1 altogether. Volkswagen’s employee, Mr. Briseno, further advised Mrs. Wright that
2 Volkswagen could not offer any permanent solution for the Defect, because the
3 most that would ever be provided under warranty is a replacement of the Vehicle’s
4 brake pads and rotors with the exact same component (i.e. same part number
5 provided by Volkswagen).

6 136. Mr. Briseno stated that the only possible permanent solution would be
7 to purchase replacement brakes from a third-party and have them installed by a
8 non-Volkswagen entity. When Mrs. Wright expressed her extreme dissatisfaction,
9 and commented on the absurdity of needing to replace anything on a brand new
10 vehicle—including the additional expense involved—Mr. Briseno agreed and
11 again discussed his own experience with his wife’s vehicle.

12 137. Despite this prolonged and explicit discussion about the Brake Defect
13 during the Wrights’ first service visit, neither the brakes nor their concerns were
14 included in the associated repair order (“RO”; also variously referred to by
15 Plaintiffs and Volkswagen dealerships as an “invoice,” or “service sheet”).

16 138. Instead, the RO from the Wrights’ first service visit—which notably
17 occurred *within* the “1 year or 12,000 mile” limitation on “brake pads/shoes” or
18 “brake discs/drums”—only includes the intentionally misleading “multipoint
19 inspection.”

20 139. The “multipoint inspection” undertaken at the August 2023 visit, and
21 the resulting “inspection results” form that was provided to the Wrights, was
22 designed to, and did, deceive the Wrights into thinking that the brakes on their
23 Vehicle were not defective and preventing them from taking further action to
24 address their concerns about the Brake Defect.

25 140. Mr. Briseno’s comments at the Wrights’ August 2023 visit—
26 particularly that it was a common issue, not something that could be remedied by
27 Volkswagen, as well as his personal experiences of the same—further discouraged
28

1 the Wrights from investigating the Brake Defect any further or pursuing other
2 remedies.

3 141. Mrs. Wright brought the Wrights' Vehicle back to Volkswagen of
4 Murrieta just a few months later, on or about December 19, 2023, at 15,562 miles,
5 again expressing seeking assistance with the Brake Defect and insisting that
6 *something* be done to remediate the issue. The Volkswagen Service Advisor, Mr.
7 Briseno, advised that they would inspect the Vehicles' brakes again, but reiterated
8 that there is not anything that can be done to permanently remedy the problems,
9 that it was a consistent problem across the Vehicle's model and model year:
10 "unfortunately they come off the floor that way."

11 142. At the December 2023 visit, Mr. Briseno advised that they could sand
12 the brake pads and rotors, and apply an "anti-squeal solution," but emphasized that
13 this would be a very *short term* solution and that the Vehicles' brakes would
14 probably begin making noise within a few weeks again, at which point there would
15 be nothing further to be done.

16 143. As Mr. Briseno anticipated, the Brake Defect was not resolved by
17 Volkswagen's efforts at the Wrights' December 2023 appointment, and their
18 Vehicle's Brake Defect symptoms reappeared within just three or four weeks.

19 144. Mrs. Wright returned to the Murietta dealership again on April 5,
20 2024, at 19,413 miles. Once again, although she expressly raised concerns about
21 the Vehicle's brakes, expressed her frustration, and sought assistance, she was told
22 only that Volkswagen would perform the deceptive "Multipoint Inspection" but
23 otherwise there was nothing that could be done.

24 145. At the April 2024 visit, the Murietta Volkswagen dealership
25 performed its deceptive and misleading "Multipoint Inspection," and used its
26 "green/yellow/red" metric to falsely indicate that there were no problems with the
27 brakes on the Wrights' Vehicle, and everything was normal.

28

1 146. The Wrights brought their Vehicle back to the Marietta Volkswagen
2 dealership on or about December 19, 2024, at 32,534 miles. They once again noted
3 their concerns about the Vehicles' brakes, but were told by Volkswagen's
4 employees that nothing could be done.

5 147. The Wrights thereafter took their Vehicle on a road-trip, during which
6 they experienced worsening brake symptoms – including pulsating while applying
7 the brakes going downhill (indicating that the brake rotors were developing heat
8 spots), in addition to the other Squealing Defect, Grinding Defect, and Erratic
9 Function Defect symptoms they customarily experience.

10 148. Because these symptoms continued to worsen, the Wrights decided
11 that they could no longer suffer the Brake Defect and decided to attempt to remedy
12 the Defect permanently by purchasing and installing new brake pads and rotors
13 from a third-party supplier. These symptoms continued to worsen with subsequent
14 use.

15 149. Neither Volkswagen nor any of its agents, dealers, or representatives
16 informed the Wrights of the Brake Defect prior to their purchase of the Vehicle.

17 150. While Volkswagen employees subsequently acknowledged the Brake
18 Defect multiple times to the Wrights, they have repeatedly insisted that
19 Volkswagen cannot or will not do anything to permanently remedy the Defect, and
20 that the most that could ever be done would be to replace the Vehicle's brake pads
21 and rotors with the same defective components, which would not remedy the
22 Defect.

23 151. The Wrights therefore notified Volkswagen of its intention to replace
24 the brake pads and rotors, and made their Vehicle available for a litigation
25 inspection on May 2, 2025. During this inspection, the Marietta Volkswagen
26 dealership again performed Volkswagen's deceptive and misleading "Multipoint
27 Inspection" which fraudulently indicated that the Vehicle's brakes were still
28

1 operating within normal parameters and that, at most, the rear “Brake Linings”
2 “will require further attention.”

3 152. Without any other recourse, and burdened by their ongoing concerns
4 about the Brake Defect, the safety and reliability of the Vehicle generally—as well
5 as Volkswagen’s ability, and even desire, to repair the Defect—the Wrights then
6 purchased brake pads and rotors from a third-party supplier, incurring
7 approximately \$750 in out-of-pocket expenses, and installed them in their Vehicle.

8 153. Had Mr. or Mrs. Wright been advised of the Brake Defect at or before
9 the point of sale, they would not have purchased their Vehicle or else would have
10 paid significantly less for the Vehicle.

11 154. The Wrights have owned a Volkswagen vehicle in the past, and had
12 every reason to expect that they would eventually purchase another Volkswagen
13 vehicle in the future. Indeed, they anticipate buying another vehicle in the future,
14 and would even consider purchasing another vehicle from Volkswagen if they
15 were confident that it had not only corrected the Braking Defect and disclosed the
16 Braking Defect to existing consumers, but also warned potential consumers about
17 the possibility of the Braking Defect in any affected vehicles.

18 155. In other words, monetary damages alone will not stop remedy the
19 Wrights’ injuries resulting from the Defect, because mere damages will not prevent
20 Volkswagen’s wrongful conduct, nor will they stop Volkswagen from further
21 deceptive distribution, sales, leasing, and warranty service practices with respect to
22 Class Vehicles.

23 156. The Wrights did not receive the benefit of their bargain.

24 **ii. Plaintiff Jennifer Segarini**

25 157. Ms. Segarini leased her 2021 Atlas from Capitol Volkswagen, an
26 authorized VW dealership in San Jose, California, on or about November 13, 2021.

27 158. She decided to lease the Atlas because she had been a long-time
28 Volkswagen enthusiast, having owned several Volkswagen vehicles in the past.

1 She trusted the brand due to its reputation for safety and reliability, particularly
2 because she knew that another Volkswagen model (i.e. the Passat) had been an
3 award-winning safety vehicle. Ms. Segarini’s decision to lease the Atlas was also
4 influenced by her growing family and the need for a larger vehicle.

5 159. Ms. Segarini made her decision to lease a VW Atlas, in part, in
6 reliance on representations communicated through Defendant’s advertisements and
7 marketing campaigns emphasizing the quality, reliability, and safety of
8 Defendant’s Vehicles. She did not conduct independent research prior to leasing
9 the Vehicle, as she trusted Volkswagen’s reputation and marketing.

10 160. Ms. Segarini’s decision to lease a VW Atlas was based on her
11 understanding that it could be driven as a typical vehicle is expected to operate,
12 including with brakes that can be engaged without distracting and concerning
13 sounds or sensations, that engage with regular pressure and consistency, and which
14 do not errantly trigger startling, distracting, and worrying alerts while the Vehicle
15 is in motion.

16 161. Ms. Segarini also decided to lease a VW Atlas based on her
17 understanding—under the terms of the accompanying warranty extended by
18 Volkswagen—that she was the intended beneficiary of Volkswagen’s agreement to
19 cover repairs to address or correct defects, and that this agreement could be
20 effectuated at any Volkswagen dealership, which would operate as an agent of
21 Volkswagen for purposes of fulfilling the warranty. Although she did not
22 specifically investigate the warranty prior to leasing the Vehicle, she understood it
23 to be a bumper-to-bumper warranty during the lease period, except for wear-and-
24 tear items such as brake pads. She does not recall ever receiving a copy of the
25 warranty but assumes it may be in the Vehicle’s glovebox.

26 162. At the time of Ms. Segarini’s lease, on information and belief,
27 Volkswagen knew that the Vehicles suffered from the Brake Defect, but neither
28 Volkswagen, nor Volkswagen’s representatives, disclosed the Defect to Ms.

1 Segarini when advertising or discussing the features, components, and performance
2 of the Vehicle. Volkswagen was not only in a superior position regarding its access
3 to knowledge regarding the function of the Vehicle—including its braking system
4 and components—but also understood that a fundamental consideration for any
5 consumer in purchasing a vehicle is the reliable, unobtrusive, and non-distracting
6 function of the most basic functions in a vehicle, particularly including its ability to
7 slow down and stop. Despite having this knowledge impacting the fundamental
8 safety of the Vehicle, Volkswagen withheld all information and made no
9 disclosures about the Braking Defect at the time of Ms. Segarini’s lease of her
10 Vehicle. In reliance on these material omissions and misrepresentations, Ms.
11 Segarini leased and operated the Vehicle on the belief that the Vehicle’s brakes
12 would operate as expected by a reasonable consumer.

13 163. Before leasing her Vehicle, Ms. Segarini test drove it. At the time of
14 her test drive and lease, she had no forewarning of the Brake Defect.

15 164. Beginning within the first three months of her lease, the brakes on Ms.
16 Segarini’s Vehicle began squeaking horribly and emitting a metal-on-metal
17 grinding or “scraping” sound whenever they were applied.

18 165. On some occasions, when applying the brakes during normal
19 operation, she has experienced the brakes skipping and not braking firmly and
20 consistently, while emitting a loud metal-on-metal sound.

21 166. Further, occasionally, Ms. Segarini’s Vehicle has activated the
22 proximity alert when no objects have been present to trigger the alert.

23 167. The Brake Defect has caused Ms. Segarini significant emotional
24 distress and practical limitations. She has avoided visiting her father in Loma
25 Linda, California, because she is afraid of driving the Vehicle long distances.

26 168. Ms. Segarini also drives extremely cautiously near schools, because
27 she is nervous about whether the brakes will function properly, which exacerbates
28 the sounds generated by the Brake Defect.

1 169. On multiple occasions, Ms. Segarini has had to press the brakes
2 unusually hard to ensure the Vehicle comes to a complete stop, which has
3 heightened her concerns about the Vehicle’s safety and reliability.

4 170. On July 27, 2022, at 10,049 miles, Ms. Segarini brought her Vehicle
5 to Capitol Volkswagen for its first service visit. She explicitly mentioned the Brake
6 Defect to her service advisor, Patty Argetsinger, and requested that the brakes be
7 inspected because they were making noise. However, the Brake Defect was not
8 recorded in the repair order. Instead, Ms. Argetsinger suggested a complimentary
9 28-point inspection, which was performed, but no issues were noted and the
10 Vehicle’s brakes were deceptively graded as “Green.”

11 171. On March 18, 2023, at 19,822 miles, Ms. Segarini again brought her
12 Vehicle to Capitol Volkswagen and mentioned the Brake Defect. The repair order
13 noted that the front rotors were glazed and recommended replacing the front rotors
14 and brake pads to eliminate the noise. However, the service advisor informed Ms.
15 Segarini that the brakes were still functional, and the replacement would be an out-
16 of-pocket expense. The advisor also suggested that she “stomp on the brakes” to
17 rough up the rotors, claiming this could improve their performance. Ms. Segarini
18 declined the repair due to the cost and lack of assurance that it would resolve the
19 issue.

20 172. On November 21, 2023, at 29,102 miles, Ms. Segarini returned to
21 Capitol Volkswagen and again raised concerns about the Brake Defect. The repair
22 order noted that all rotors were overheated and glazed and recommended replacing
23 the front and rear brakes and rotors. However, the service advisor reiterated that
24 the replacement would be at Ms. Segarini’s expense and could not guarantee that it
25 would resolve the issue.

26 173. Concerned that she was not being provided with complete and truthful
27 responses regarding her concerns about the brakes, Ms. Segarini involved her
28 brother who is knowledgeable about vehicles, and Volkswagens in particular. With

1 her brother's assistance, Ms. Segarini was able to get her concerns escalated the
2 matter to the service manager, Jonathon Demkowski.

3 174. During this conversation Mr. Demkowski initially claimed that her
4 issues were caused by the type of gasoline she used, and if she used more
5 expensive "premium" gasoline, she would not have the issues. Ms. Segarini's
6 brother expressed his skepticism regarding that explanation.

7 175. Upon further inquiry, the Service Manager admitted that this excuse
8 was just part of a "script" that they are required to use; that they must propose
9 "solutions" to the Brake Defect in a certain sequence which forces customers to
10 return multiple times to VW dealerships, with repeated but unresolved complaints
11 about noisy and defective brakes.

12 176. Mr. Demkowski further stated that "VW went cheap" with the brake
13 pads equipped in the Atlas, and that if Ms. Segarini had purchased "deluxe" it
14 would have better brake pads which would not squeak.

15 177. On July 30, 2024, at 37,567 miles, Ms. Segarini brought her Vehicle
16 to Capitol Volkswagen for another service visit. The repair order from that visit
17 confirmed the presence of squeaking brakes and heat spots on the rotors, which
18 were attributed to heavy braking or prolonged application of the brakes. However,
19 this was not discussed at the time of her visit to the dealership, and is in fact
20 contrary to what she was told. Specifically, Volkswagen employees had
21 commented that her Vehicle had a notable amount of brake pad material left, and
22 thought it might be related to how she primarily drives on the freeway, rather than
23 using the brakes a lot in stop-and-go city traffic. The repair order again
24 recommended replacing the brake pads and rotors, but no further action was taken.

25 178. On April 7, 2025, at 42,923 miles, Ms. Segarini mentioned the Brake
26 Defect during another service visit, but her concerns were not documented in the
27 repair order.

28

1 179. Neither Volkswagen nor any of its agents, dealers, or representatives
2 informed Ms. Segarini of the Brake Defect prior to her lease of the Vehicle.

3 180. Had Ms. Segarini been advised of the Brake Defect at or before the
4 point of sale, she would not have leased her Vehicle or else would have paid
5 significantly less for the Vehicle.

6 181. Ms. Segarini anticipates buying another vehicle in the future and
7 would even consider purchasing another vehicle from Volkswagen if she was
8 confident that it had not only corrected the Braking Defect and disclosed the
9 Braking Defect to existing consumers, but also warned potential consumers about
10 the possibility of the Braking Defect in any affected vehicles.

11 182. Ms. Segarini did not receive the benefit of her bargain.

12 **iii. Plaintiff Catherine Wilson**

13 183. Ms. Wilson purchased her 2021 Atlas Cross Sport certified pre-owned
14 from Volkswagen of Newark, an authorized VW dealership in Newark, California,
15 on or about December 17, 2022. She also purchased the VW Care Package, which
16 covered approximately her first three service visits.

17 184. Ms. Wilson made her decision to purchase a VW Atlas Cross Sport, in
18 part, in reliance on representations communicated through Defendant's
19 advertisements and marketing campaigns emphasizing the quality, reliability, and
20 safety of Defendant's Vehicles.

21 185. Ms. Wilson's decision to purchase a VW Atlas Cross Sport was based
22 on her understanding that it could be driven as a typical vehicle is expected to
23 operate, including with brakes that can be engaged without distracting and
24 concerning sounds or sensations, that engage with regular pressure and
25 consistency, and which do not errantly trigger startling, distracting, and worrying
26 alerts while the Vehicle is in motion.

27 186. Ms. Wilson also decided to purchase a VW Atlas Cross Sport based
28 on her understanding—under the terms of the accompanying warranty extended by

1 Volkswagen—that she was the intended beneficiary of Volkswagen’s agreement to
2 cover repairs to address or correct defects, and that this agreement could be
3 effectuated at any Volkswagen dealership, which would operate as an agent of
4 Volkswagen for purposes of fulfilling the warranty.

5 187. At the time of Ms. Wilson’s purchase, on information and belief,
6 Volkswagen knew that the Vehicles suffered from the Brake Defect, but neither
7 Volkswagen, nor Volkswagen’s representatives, disclosed the Defect to Ms.
8 Wilson when advertising or discussing the features, components, and performance
9 of the Vehicle. Volkswagen was not only in a superior position regarding its access
10 to knowledge regarding the function of the Vehicle—including its braking system
11 and components—but also understood that a fundamental consideration for any
12 consumer in purchasing a vehicle is the reliable, unobtrusive, and non-distracting
13 function of the most basic functions in a vehicle, particularly including its ability to
14 slow-down and stop. Despite having this knowledge impacting the fundamental
15 safety of the Vehicle, Volkswagen withheld all information and made no
16 disclosures about the Braking Defect at the time of Ms. Wilson’s purchase of her
17 Vehicle. In reliance on these material omissions and misrepresentations, Ms.
18 Wilson purchased and operated the Vehicle on the belief that the Vehicle’s brakes
19 would operate as expected by a reasonable consumer.

20 188. Before purchasing her Vehicle, Ms. Wilson test drove it. At the time
21 of her test drive and purchase, she had no forewarning of the Brake Defect.

22 189. Shortly after her purchase, the brakes on Ms. Wilson’s Vehicle began
23 emitting a loud, high-pitched squealing noise, as well as the sound of metal-on-
24 metal grinding, when they were applied.

25 190. Additionally, Ms. Wilson felt that she needed to press especially hard
26 on her brakes to achieve an appropriate braking force, because they were
27 “squishy,” and sometimes it felt as though the brakes were not engaging
28 consistently, but were slipping, and grabbing harshly when they did apply.

1 191. Ms. Wilson’s Vehicle has also triggered the proximity alert when no
2 objects were present or within proximity.

3 192. Ms. Wilson first mentioned the Brake Defect to a service writer at
4 Volkswagen of Newark during her first service visit on February 17, 2023, at
5 21,148 miles. However, her concerns about the brakes were not documented in the
6 service history or repair order. Instead, the service record only reflects that a
7 20,000-mile maintenance and the deceptive and misleading multi-point inspection
8 were performed.

9 193. Ms. Wilson returned to Volkswagen of Newark on May 29, 2023, at
10 29,313 miles, for her 30,000-mile maintenance. By this time, she did not mention
11 the Brake Defect because she had been told during her prior visit that “everything
12 is fine.” The service record again reflects only a multi-point inspection and routine
13 maintenance.

14 194. Ms. Wilson brought her Vehicle back to Volkswagen of Newark on
15 October 6, 2023, at 37,393 miles, for her 40,000-mile maintenance. During this
16 visit, she raised unrelated issues, including problems with rolling down windows,
17 the carpet coming detached, and the air filter. The service record, dated September
18 19, 2023, and prepared by Service Advisor Doug Delaney and Technician Chad
19 Bessey, again reflects a multi-point inspection but does not document any concerns
20 about the brakes.

21 195. On May 21, 2024, at 48,540 miles, Ms. Wilson brought her Vehicle to
22 Volkswagen of Hayward, an authorized VW dealership in Hayward, California,
23 where she was informed that her front brake pads and rotors were so badly worn
24 that they needed immediate replacement. Ms. Wilson paid more than \$800 to have
25 the brake pads and rotors replaced. Despite this replacement, the brakes on Ms.
26 Wilson’s Vehicle continued to exhibit symptoms of the Brake Defect, including
27 emitting a loud, high-pitched squeal when applied and requiring that Ms. Wilson
28 press harder than usual to achieve a regular braking force.

1 196. In or around September or October 2024, after driving approximately
2 5,300 to 5,400 miles on the replaced brakes, Ms. Wilson returned to Volkswagen
3 of Hayward because the brakes had begun making grinding and screeching noises
4 again. She mentioned the issue to the service advisor, who said he would speak to
5 the technician. When she picked up her Vehicle, she was told that “everything is
6 fine,” but her concerns were not documented in the service record.

7 197. Ms. Wilson recently returned to Volkswagen of Hayward for an oil
8 change. Although she did not mention the Brake Defect during this visit, the brakes
9 continued to exhibit symptoms of the Defect, including pulsating when coasting
10 and squealing during regular use.

11 198. The Brake Defect has significantly impacted Ms. Wilson’s ability to
12 use her Vehicle as she ordinarily would. She has found the defect embarrassing,
13 particularly when the brakes emit loud noises in public. During the rainy season,
14 she was so nervous about the brakes that she carpooled with her mother instead of
15 driving her Vehicle. Even after replacing the brakes, she was told by service
16 advisors that the noises were “normal” and would stop after a while, but they
17 persisted.

18 199. Neither Volkswagen nor any of its agents, dealers, or representatives
19 informed Ms. Wilson of the Brake Defect prior to her purchase of the Vehicle.

20 200. Had Ms. Wilson been advised of the Brake Defect at or before the
21 point of sale, she would not have purchased her Vehicle or else would have paid
22 significantly less for the Vehicle.

23 201. Ms. Wilson anticipates buying another vehicle in the future and would
24 even consider purchasing another vehicle from Volkswagen if she was confident
25 that it had not only corrected the Braking Defect and disclosed the Braking Defect
26 to existing consumers, but also warned potential consumers about the possibility of
27 the Braking Defect in any affected vehicles.

28 202. Ms. Wilson did not receive the benefit of her bargain.

1 **iv. Plaintiff Zembrzycki**

2 203. Mr. Zembrzycki purchased his 2021 Atlas from Ontario Volkswagen,
3 an authorized VW dealership in Ontario, California, on February 3, 2024.

4 204. Mr. Zembrzycki made his decision to purchase a VW Atlas, in part, in
5 reliance on representations communicated through Defendant’s advertisements and
6 marketing campaigns emphasizing the quality, reliability, and safety of
7 Defendant’s Vehicles. He also relied on the dealership’s assurances that the
8 Vehicle was in good working condition.

9 205. Mr. Zembrzycki’s decision to purchase a VW Atlas was based on his
10 understanding that it could be driven as a typical vehicle is expected to operate,
11 including with brakes that can be engaged without distracting and concerning
12 sounds or sensations, that engage with regular pressure and consistency, and which
13 do not errantly trigger startling, distracting, and worrying alerts while the Vehicle
14 is in motion.

15 206. Mr. Zembrzycki also decided to purchase a VW Atlas based on his
16 understanding that he was the intended beneficiary of Volkswagen’s agreement to
17 cover repairs to address or correct defects, and that this agreement could be
18 effectuated at any Volkswagen dealership, which would operate as an agent of
19 Volkswagen for purposes of fulfilling the warranty.

20 207. At the time of Mr. Zembrzycki’s purchase, on information and belief,
21 Volkswagen knew that the Vehicles suffered from the Brake Defect, but neither
22 Volkswagen, nor Volkswagen’s representatives, disclosed the Defect to Mr.
23 Zembrzycki when advertising or discussing the features, components, and
24 performance of the Vehicle. Volkswagen was not only in a superior position
25 regarding its access to knowledge regarding the function of the Vehicle—including
26 its braking system and components—but also understood that a fundamental
27 consideration for any consumer in purchasing a vehicle is the reliable, unobtrusive,
28

1 and non-distracting function of the most basic functions in a vehicle, particularly
2 including its ability to slow down and stop. Despite having this knowledge
3 impacting the fundamental safety of the Vehicle, Volkswagen withheld all
4 information and made no disclosures about the Braking Defect at the time of Mr.
5 Zembrzycki's purchase of his Vehicle. In reliance on these material omissions and
6 misrepresentations, Mr. Zembrzycki purchased and operated the Vehicle on the
7 belief that the Vehicle's brakes would operate properly as expected by a reasonable
8 consumer.

9 208. Before purchasing his Vehicle, Mr. Zembrzycki test drove it. At the
10 time of his test drive and purchase, he had no forewarning of the Brake Defect.

11 209. Shortly after the purchase, Mr. Zembrzycki's Vehicle intermittently
12 began exhibiting various issues when he applied the brakes, including loud
13 squealing, squeaking, and screeching noises, as well as emitting a metal-on-metal
14 grinding or grating sound. These sounds frequently triggered the Vehicle's
15 proximity alert sensors, approximately 90% of the time, despite no objects being in
16 the vicinity. The triggering of these sensors caused a battery of audio and visual
17 alerts to activate in the car and on the instrument cluster, creating a stressful and
18 unsafe driving environment. Instead of simply decelerating when engaging its
19 brakes, the Vehicle's braking system caused significant distractions and concerns
20 for both Mr. Zembrzycki and his passengers.

21 210. On some occasions, the Vehicle's proximity alert sensors triggered so
22 severely—indicating that a collision was extremely imminent—that the Vehicle's
23 emergency brake applied automatically, despite no objects being in the vicinity.

24 211. Mr. Zembrzycki's Vehicle also began demonstrating inconsistent
25 function, sometimes engaging too strongly or harshly, and other times feeling
26 "spongy" or less effective.

27 212. The Vehicle began exhibiting the various symptoms of the Braking
28 Defect—Squealing, Grinding, Proximity Alert, and Erratic Function—nearly every

1 time Mr. Zembrzycki drove until, within the first year of ownership, he brought the
2 Vehicle to Mission Bay Volkswagen, an authorized Volkswagen dealership in San
3 Diego, California.

4 213. Following his discovery of the Brake Defect in his Vehicle, Mr.
5 Zembrzycki's research revealed that the Vehicle had undergone multiple service
6 visits for brake inspections, including visits on January 12, 2023, and January 17,
7 2023, at 19,908 miles. These visits, which occurred before Mr. Zembrzycki's
8 purchase, further demonstrate that Volkswagen was aware of the Brake Defect but
9 failed to disclose it to prospective buyers.

10 214. During a July 19, 2024 visit to Mission Bay Volkswagen, Mr.
11 Zembrzycki described the Brake Defect in detail, including the proximity alert and
12 emergency braking issues. Service Advisor Tina Allison initially feigned ignorance
13 regarding the Brake Defect but ultimately stated, "You're not going to get anything
14 from us, take it up with VW corporate." Despite Mr. Zembrzycki's insistence that
15 his concerns be documented and his provision of video evidence demonstrating the
16 Defect, Volkswagen technicians told him that this was "normal operation" for the
17 Vehicle, and the dealership failed to record his complaints about the proximity
18 alert and emergency braking issues in the service records.

19 215. The service records from the July 19, 2024 visit inaccurately stated
20 that the brake noise was "random" and suggested that the noise would disappear
21 after the brakes heated up. The records also noted that the brakes were "within
22 spec" and recommended replacing the front and rear pads and rotors at Mr.
23 Zembrzycki's expense, which he declined.

24 216. On July 30, 2024, Mr. Zembrzycki attempted to follow the
25 dealership's directions and raise his concerns with VW's corporate office. After
26 struggling to reach a representative, he finally spoke with a service representative
27 who appeared friendly but ultimately read from a script, stating that the issues were
28 "within normal parameters." Mr. Zembrzycki requested this response in writing,

1 which was provided via email a few days later. He replied on August 9, 2024,
2 detailing the Brake Defect and respectfully disagreeing with VW's assessment, but
3 he received no further response.

4 217. The Brake Defect has caused significant emotional, personal, and
5 practical impacts on Mr. Zembrzycki. He has avoided road trips in the Atlas,
6 including trips to the local mountains, due to safety concerns. During an August
7 2024 road trip from Tahoe to San Diego, the Vehicle's brakes pulsated while going
8 downhill, further exacerbating his anxiety about the Defect. He now uses his older,
9 smaller Kia Sorento for road trips instead.

10 218. The Brake Defect has also caused embarrassment and anxiety in Mr.
11 Zembrzycki's daily life. He purchased the Vehicle to commute to a new job as a
12 member of the leadership team, but the excruciating brake noises have negatively
13 impacted his professional image. He avoids driving colleagues or supervisors in
14 the Vehicle and feels embarrassed when braking at intersections, near pedestrians,
15 or in the presence of friends and family. He has had to explain the Defect to
16 parents of his children's friends and reassure them of the Vehicle's safety, despite
17 his own doubts.

18 219. Neither Volkswagen nor any of its agents, dealers, or representatives
19 informed Mr. Zembrzycki of the Brake Defect prior to his purchase of the Vehicle.

20 220. Had Mr. Zembrzycki been advised of the Brake Defect at or before
21 the point of sale, he would not have purchased his Vehicle or else would have paid
22 significantly less for the Vehicle.

23 221. Mr. Zembrzycki anticipates buying another vehicle in the future and
24 would even consider purchasing another vehicle from Volkswagen if he was
25 confident that it had not only corrected the Braking Defect and disclosed the
26 Braking Defect to existing consumers but also warned potential consumers about
27 the possibility of the Braking Defect in any affected vehicles.

28 222. Mr. Zembrzycki did not receive the benefit of his bargain.

1 **B. New York Plaintiffs**

2 **i. Plaintiff Edward Norris**

3 223. Mr. Norris purchased his 2022 Atlas from Smithtown Volkswagen, an
4 authorized Volkswagen dealership in St. James, New York, on or about July 27,
5 2022.

6 224. Prior to purchasing the Vehicle, Mr. Norris conducted research by
7 visiting dealerships and looking online. Among the vehicles he considered were
8 the Chevy Traverse, Nissan Armada, Kia Telluride, Honda Odyssey, and Toyota
9 Sienna. Ultimately, Mr. Norris decided to purchase the VW Atlas.

10 225. Mr. Norris looked into the warranty accompanying the Vehicle prior
11 to purchase. However, he did not receive a physical copy of the warranty at the
12 time of purchase and does not recall whether the warranty booklet was provided
13 during his meeting with the dealership's finance representative.

14 226. Mr. Norris made his decision to purchase a VW Atlas, in part, in
15 reliance on representations communicated through Defendant's advertisements and
16 marketing campaigns emphasizing the quality, reliability, and safety of
17 Defendant's Vehicles.

18 227. Mr. Norris's decision to purchase a VW Atlas was based on his
19 understanding that it could be driven as a typical vehicle is expected to operate,
20 including with brakes that can be engaged without distracting and concerning
21 sounds or sensations, that engage with regular pressure and consistency, and which
22 do not errantly trigger startling, distracting, and worrying alerts while the Vehicle
23 is in motion.

24 228. Mr. Norris also decided to purchase a VW Atlas based on his
25 understanding that he was the intended beneficiary of Volkswagen's agreement to
26 cover repairs to address or correct defects, and that this agreement could be
27

1 effectuated at any Volkswagen dealership, which would operate as an agent of
2 Volkswagen for purposes of fulfilling the warranty.

3 229. At the time of Mr. Norris's purchase, on information and belief,
4 Volkswagen knew that the Vehicles suffered from the Brake Defect, but neither
5 Volkswagen, nor Volkswagen's representatives, disclosed the Defect to Mr. Norris
6 when advertising or discussing the features, components, and performance of the
7 Vehicle. Volkswagen was not only in a superior position regarding its access to
8 knowledge regarding the function of the Vehicle—including its braking system
9 and components—but also understood that a fundamental consideration for any
10 consumer in purchasing a vehicle is the reliable, unobtrusive, and non-distracting
11 function of the most basic functions in a vehicle, particularly including its ability to
12 slow-down and stop. Despite having this knowledge impacting the fundamental
13 safety of the Vehicle, Volkswagen withheld all information and made no
14 disclosures about the Braking Defect at the time of Mr. Norris's purchase of his
15 Vehicle. In reliance on these material omissions and misrepresentations, Mr. Norris
16 purchased and operated the Vehicle on the belief that the Vehicle's brakes would
17 operate properly as warranted.

18 230. Before purchasing his Vehicle, Mr. Norris test drove it. At the time of
19 his test drive and purchase, he had no forewarning of the Brake Defect.

20 231. Shortly after purchasing the Vehicle, the brakes began emitting loud,
21 obnoxious, and distracting sounds of metal-on-metal grinding and squealing.
22 Sometimes accompanying these other sounds was the sound of gurgling.

23 232. Beginning within his first year of ownership, Mr. Norris took his
24 Vehicle to authorized VW dealerships—both Smithtown Volkswagen and
25 Volkswagen of Huntington, in Huntington Station, New York—approximately ten
26 different times in an attempt to address the Brake Defect. However, none of these
27 visits resolved the Brake Defect; to the contrary, Mr. Norris was repeatedly
28 informed that there was no resolution available.

1 233. On January 16, 2023, at 5,408 miles, Mr. Norris brought his Vehicle
2 to Smithtown Volkswagen and expressed concerns about the brakes. The repair
3 order noted his concerns and stated that the dealership drove the Vehicle multiple
4 times, acknowledged that something was wrong, and took steps to mitigate the
5 squeaking. However, a Volkswagen employee at the dealership also stated, “this is
6 what ceramic brakes do; it’s a heavy car.” Despite these efforts, the problem
7 persisted.

8 234. On March 11, 2023, at 6,941 miles, Mr. Norris again brought his
9 Vehicle to Smithtown Volkswagen, reporting squealing, grinding, and pulsating
10 brakes. The repair order noted his concerns but stated that the brakes were
11 “operating as designed.” The dealership also performed a deceptive and misleading
12 multipoint inspection, which falsely indicated that the Brakes were not defective
13 and deceptively indicated that there was no problem.

14 235. On May 20, 2023, at 9,151 miles, Mr. Norris returned to Smithtown
15 Volkswagen. The repair order noted grinding noises and stated that the dealership
16 followed TSB 46-19-02, ultimately removing and replacing all brake pads and
17 rotors. These repairs were performed under warranty. However, the Brake Defect
18 symptoms reappeared shortly thereafter.

19 236. On October 21, 2023, at 16,123 miles, Mr. Norris brought his Vehicle
20 back to Smithtown Volkswagen, again expressing concerns about the brakes. The
21 dealership verified his concerns but attributed the issue to “normal dust wear.”
22 They cleaned and adjusted the brakes and stated that the Vehicle was “operating as
23 designed.” This attempted repair was also covered under warranty even though his
24 Vehicle was outside of the “brake limitation” described in the NVLW.

25 237. On October 28, 2023, at 16,639 miles, Mr. Norris returned to
26 Smithtown Volkswagen. The dealership verified his concerns and found the rotors
27 “rusted.” They attempted to address the issue by sanding the rotors. This repair was
28

1 also covered under Volkswagen’s warranty, despite the Vehicle being beyond the
2 “1 year/12,000 miles” limitation relating to brake components.

3 238. On November 18, 2023, at 18,280 miles, Mr. Norris again brought his
4 Vehicle to Smithtown Volkswagen, reporting grinding noises while driving. The
5 dealership verified his concerns and replaced the front rotor. This repair was
6 covered under Volkswagen’s warranty, despite the Vehicle being beyond the “1
7 year/12,000 miles” limitation relating to brake components.

8 239. On December 7, 2023, at 19,447 miles, Mr. Norris returned to
9 Smithtown Volkswagen, reporting ongoing brake issues. The dealership verified
10 his concerns, performed an inspection, and lubricated all brake pads. They also
11 performed another deceptive multipoint inspection. This repair was also covered
12 by Volkswagen’s warranty, despite the Vehicle being beyond the “1 year/12,000
13 miles” limitation relating to brake components.

14 240. On October 14, 2024, at 37,069 miles, Mr. Norris brought his Vehicle
15 to Smithtown Volkswagen, reporting a “reoccurring brake issue.” The dealership
16 stated that “all looked good” and that the brakes “sound and operate as similar
17 vehicles.” They also performed another fraudulent multipoint inspection.

18 241. Mr. Norris escalated his concerns to Volkswagen’s general customer
19 assistance hotline after Smithtown Volkswagen informed him that he needed new
20 brakes again, and which would not be covered under warranty and would cost
21 approximately \$800. In response, Mr. Norris expressed his frustration, stating that
22 the issue began just months after purchase and had been ongoing for over a year.
23 Volkswagen ultimately refused to assist, claiming the Vehicle was “operating as
24 designed.”

25 242. The Brake Defect has significantly impacted the Vehicle’s usability.
26 Mr. Norris’s wife, for whom the Vehicle was purchased, refused to continue
27 driving it, stating that she did not feel safe. Mr. Norris attempted to trade in the
28 Vehicle just seven months after purchase but was offered approximately \$8,000

1 less than the purchase price. As a result, Mr. Norris traded in his Honda Accord
2 and purchased a larger used car for his wife to use, while he was forced to subject
3 himself to the Defect and the ongoing risks it presents.

4 243. Neither Volkswagen nor any of its agents, dealers, or representatives
5 informed Mr. Norris of the Brake Defect prior to his purchase of the Vehicle.

6 244. Had Mr. Norris been advised of the Brake Defect at or before the
7 point of sale, he would not have purchased his Vehicle or else would have paid
8 significantly less for the Vehicle.

9 245. Mr. Norris anticipates buying another vehicle in the future, and would
10 even consider purchasing another vehicle from Volkswagen if he was confident
11 that it had not only corrected the Braking Defect and disclosed the Braking Defect
12 to existing consumers, but also warned potential consumers about the possibility of
13 the Braking Defect in any affected vehicles.

14 246. Mr. Norris did not receive the benefit of his bargain.

15 **ii. Plaintiffs Edward Pishchik & Olga Nikitina**

16 247. Plaintiffs Edward Pishchik and Olga Nikitina were married in New
17 York in 2012 and have lived together as a married couple since that time. They
18 have three children. Together they leased a 2022 Volkswagen Atlas for their family
19 use, and it is the shared family car.

20 248. Plaintiff Pishchik personally contacted the leasing company to arrange
21 the details of the lease and coordinated the delivery of the Vehicle to the family
22 home. Although the lease was executed by Plaintiff Nikitina, Mr. Pishchik was
23 actively involved in all aspects of the transaction and reviewed all of the lease
24 paperwork with his wife.

25 249. Plaintiffs Pishchik and Nikitina jointly made the down payment on the
26 vehicle and continue to make lease payments using funds from their joint bank
27 account. Both of them contribute to their joint bank account from their individual
28

1 earnings and use it to cover insurance, maintenance, and related expenses for the
2 Vehicle.

3 250. Plaintiff Pishchik is listed on the vehicle's insurance policy as a
4 driver, and he is responsible for coordinating its maintenance.

5 251. Plaintiff Pishchik regularly drives the Atlas for personal use, including
6 to work, for running errands, and transporting the couple's children to and from
7 school and activities.

8 252. Mr. Pishchik and Ms. Nikitina leased their 2022 Atlas from Douglas
9 Volkswagen, an authorized Volkswagen dealership in Summit, New Jersey, on or
10 about January 21, 2022.

11 253. Mr. Pishchik and Ms. Nikitina made their decision to lease a VW
12 Atlas, in part, in reliance on representations communicated through Defendant's
13 advertisements and marketing campaigns emphasizing the quality, reliability, and
14 safety of Defendant's Vehicles.

15 254. Mr. Pishchik and Ms. Nikitina's decision to lease a VW Atlas was
16 based on their understanding that it could be driven as a typical vehicle is expected
17 to operate, including with brakes that can be engaged without distracting and
18 concerning sounds or sensations, that engage with regular pressure and
19 consistency, and which do not errantly trigger startling, distracting, and worrying
20 alerts while the Vehicle is in motion.

21 255. Mr. Pishchik and Ms. Nikitina also decided to lease a VW Atlas based
22 on their understanding—under the terms of the accompanying warranty extended
23 by Volkswagen—that they were the intended beneficiary of Volkswagen's
24 agreement to cover repairs to address or correct defects, and that this agreement
25 could be effectuated at any Volkswagen dealership, which would operate as an
26 agent of Volkswagen for purposes of fulfilling the warranty.

27 256. At the time of Mr. Pishchik and Ms. Nikitina's lease, on information
28 and belief, Volkswagen knew that the Vehicles suffered from the Brake Defect, but

1 neither Volkswagen, nor Volkswagen’s representatives, disclosed the Defect to
2 Mr. Pishchik or Ms. Nikitina when advertising or discussing the features,
3 components, and performance of the Vehicle. Volkswagen was not only in a
4 superior position regarding its access to knowledge regarding the function of the
5 Vehicle—including its braking system and components—but also understood that
6 a fundamental consideration for any consumer in purchasing a vehicle is the
7 reliable, unobtrusive, and non-distracting function of the most basic functions in a
8 vehicle, particularly including its ability to slow-down and stop. Despite having
9 this knowledge impacting the fundamental safety of the Vehicle, Volkswagen
10 withheld all information and made no disclosures about the Braking Defect at the
11 time of Mr. Pishchik and Ms. Nikitina’s lease of their Vehicle. In reliance on these
12 material omissions and misrepresentations, Mr. Pishchik and Ms. Nikitina leased
13 and operated the Vehicle on the belief that the Vehicle’s brakes would operate
14 properly as warranted.

15 257. Shortly after leasing their Vehicle, Mr. Pishchik and Ms. Nikitina
16 started experiencing the Braking Defect. Specifically, their vehicle would
17 regularly—but erratically—emit a loud, high-pitched squealing and squeaking, as
18 well as a grinding or grating sound of metal-on-metal. Accompanying these other
19 sounds was sometimes the sound of gurgling, or rushing water.

20 258. The Brake Defect has caused significant disruptions to Mr. Pishchik
21 and Ms. Nikitina’s daily lives. For example, Mr. Pishchik has to apply excessive
22 force to the brakes to ensure the Vehicle stops properly, as the screeching and
23 grinding sounds make it seem as though the brakes are not functioning as intended.

24 259. The Vehicle’s proximity alert sensors have also triggered erratically,
25 including when no objects are nearby, startling Ms. Nikitina and causing her to
26 distrust the Vehicle’s safety features. This Proximity Alert Defect began occurring
27 around September 2024 and has persisted intermittently ever since.

28

1 260. The sounds generated by the Brake Defect in Mr. Pishchik and Ms.
2 Nikitina’s Vehicle have caused other drivers on the road and pedestrians to hail
3 Ms. Nikitina while driving, to comment on the Vehicle’s braking issues and advise
4 her to have the brakes replaced.

5 261. Along with the incessant, distracting, and concerning sounds they
6 emit, the brakes on Mr. Pishchik and Ms. Nikitina’s Vehicle also require an
7 unusual amount of force applied to achieve the same braking power, as though
8 they are “squishy.”

9 262. Further, Mr. Pishchik and Ms. Nikitina’s vehicle occasionally triggers
10 the proximity alert without warning, and without any object nearby.

11 263. On October 15, 2022, at 10,388 miles, Ms. Nikitina brought the
12 Vehicle to Bay Ridge Volkswagen, an authorized VW dealership in Brooklyn,
13 New York, to address the Brake Defect. The dealership claimed to inspect the
14 brakes but stated it was “unable to duplicate customer concern.” During this first
15 visit, Volkswagen’s service advisor Andy Girdhari privately acknowledged to Ms.
16 Nikitina that the Brake Defect was a known issue but stated there was nothing that
17 could be done to resolve it. Mr. Girdhari also mentioned that the Brake Defect was
18 common in CrossSport models and suggested that the only way to get any
19 resolution would be to “send a letter to VW’s CEO.”

20 264. Since this initial acknowledgement, however, Volkswagen’s Service
21 Advisors and Service Technicians have repeatedly denied any problems with the
22 brakes, instead providing various far-fetched excuses such as that the Brake Defect
23 issues were the result of a visit to the car-wash, “dust on the brakes,” or even “salt
24 air from living on Long Island.”

25 265. On November 14, 2023, at 21,662 miles, Ms. Nikitina returned to Bay
26 Ridge Volkswagen, again raising concerns about the brakes. However, the repair
27 order does not reflect her complaints, and the dealership performed another
28 deceptive multipoint inspection.

1 266. On October 21, 2024, at 30,495 miles, the repair order again mentions
2 brakes but falsely attributes the noise to “brake dust and cold weather,” further
3 concealing the Brake Defect.

4 267. On April 29, 2025, at 35,113 miles, Ms. Nikitina requested another
5 inspection of the brakes. The repair order notes her request but provides no details
6 about the findings. Instead, the dealership performed another deceptive multipoint
7 inspection, falsely indicating that the “brake liners” were “Green.”

8 268. Mr. Pishchik attempted to contact Volkswagen corporate after the first
9 service visit but was unable to navigate the automated call system and ultimately
10 gave up.

11 269. Neither Volkswagen nor any of its agents, dealers, or representatives
12 informed Mr. Pishchik or Ms. Nikitina of the Brake Defect prior to their purchase
13 of the Vehicle.

14 270. Had Mr. Pishchik or Ms. Nikitina been advised of the Brake Defect at
15 or before the point of sale, they would not have purchased their Vehicle or else
16 would have paid significantly less for the Vehicle.

17 271. Mr. Pishchik and Ms. Nikitina anticipate buying another vehicle in the
18 future, and would even consider purchasing another vehicle from Volkswagen if
19 they were confident that it had not only corrected the Braking Defect and disclosed
20 the Braking Defect to existing consumers, but also warned potential consumers
21 about the possibility of the Braking Defect in any affected vehicles.

22 272. Mr. Pishchik and Ms. Nikitina did not receive the benefit of their
23 bargain.

24 **C. Illinois Plaintiff**

25 **i. Plaintiff Wamidh Jawad**

26 273. Mr. Jawad purchased his 2024 Atlas Cross Sport from City
27 Volkswagen of Evanston in Evanston, Illinois, on or about March 30, 2024.
28

1 274. Mr. Jawad made his decision to purchase a VW Atlas Cross Sport, in
2 part, in reliance on representations communicated through Defendant’s
3 advertisements and marketing campaigns emphasizing the quality, reliability, and
4 safety of Defendant’s Vehicles.

5 275. Mr. Jawad had seen the Vehicle at an auto show held at McCormick
6 Place, where he works, and received a voucher for \$500 toward the purchase of a
7 Volkswagen vehicle. This voucher, along with his observations of the Vehicle at
8 the auto show, contributed to his decision to purchase the Atlas Cross Sport.

9 276. Mr. Jawad’s decision to purchase a VW Atlas Cross Sport was based
10 on his understanding that it could be driven as a typical vehicle is expected to
11 operate, including with brakes that can be engaged without distracting and
12 concerning sounds or sensations, that engage with regular pressure and
13 consistency, and which do not errantly trigger startling, distracting, and worrying
14 alerts while the Vehicle is in motion.

15 277. Mr. Jawad also decided to purchase a VW Atlas Cross Sport based on
16 his understanding—under the terms of the accompanying warranty extended by
17 Volkswagen—that he was the intended beneficiary of Volkswagen’s agreement to
18 cover repairs to address or correct defects, and that this agreement could be
19 effectuated at any Volkswagen dealership, which would operate as an agent of
20 Volkswagen for purposes of fulfilling the warranty.

21 278. At the time of Mr. Jawad’s purchase, on information and belief,
22 Volkswagen knew that the Vehicles suffered from the Brake Defect, but neither
23 Volkswagen, nor Volkswagen’s representatives, disclosed the Defect to Mr. Jawad
24 when advertising or discussing the features, components, and performance of the
25 Vehicle. Volkswagen was not only in a superior position regarding its access to
26 knowledge regarding the function of the Vehicle—including its braking system
27 and components—but also understood that a fundamental consideration for any
28 consumer in purchasing a vehicle is the reliable, unobtrusive, and non-distracting

1 function of the most basic functions in a vehicle, particularly including its ability to
2 slow-down and stop. Despite having this knowledge impacting the fundamental
3 safety of the Vehicle, Volkswagen withheld all information and made no
4 disclosures about the Braking Defect at the time of Mr. Norris’s purchase of his
5 Vehicle. In reliance on these material omissions and misrepresentations, Mr. Jawad
6 purchased and operated the Vehicle on the belief that the Vehicle’s brakes would
7 operate properly as warranted.

8 279. Before purchasing his Vehicle, Mr. Jawad test drove it. At the time of
9 his test drive and purchase, he had no forewarning of the Brake Defect.

10 280. However shortly after purchasing his Vehicle, a loud and high-pitched
11 squealing emitted whenever Mr. Jawad applied the brakes.

12 281. Mr. Jawad raised the issue with City Volkswagen of Evanston within
13 the first year of ownership in an attempt to address the Brake Defect. However,
14 Mr. Jawad was told only that these sounds were common in the Vehicles and
15 offered no resolution or relief.

16 282. Mr. Jawad brought his Vehicle to City Volkswagen of Evanston on
17 multiple occasions to address the Brake Defect, including on or about April 22,
18 2024 (at 779 miles), August 7, 2024 (at 3,844 miles), August 20, 2024 (at 4,038
19 miles), September 3, 2024 (at 4,341 miles), November 5, 2024 (at 5,706 miles),
20 January 13, 2025 (at 7,879 miles), and August 15, 2025 (at 15,463 miles).

21 283. During these visits, Mr. Jawad repeatedly raised concerns about the
22 Vehicle’s brakes, but Volkswagen’s employees consistently dismissed his
23 concerns, claiming that the Vehicle was “operating normally” or that the symptoms
24 were “common” in similar vehicles. For example:

25 A. On April 22, 2024, Mr. Jawad was told that the brakes were “operating
26 normal like same or similar vehicle[s].”
27
28

1 B. On September 3, 2024, the dealership claimed to have “verified concern”
2 and performed a “basic setting of braking function,” but the Brake Defect
3 persisted immediately thereafter.

4 C. On November 5, 2024, the dealership “deglazed” the brakes and claimed
5 there was “no squeak at this time,” but the symptoms returned within
6 days.

7 D. On August 15, 2025, the dealership performed a “Multi-Point Inspection”
8 and claimed that the brakes were in “good shape,” but also suggested that
9 Mr. Jawad drive the Vehicle at high speeds and slam on the brakes to
10 address corrosion.

11 284. Mr. Jawad also spoke with the Service Manager, Bill Dolan, during
12 his visits. Mr. Dolan, along with other service advisors, including Matthew
13 Mikhail, repeatedly assured Mr. Jawad that the Vehicle’s brakes were functioning
14 as intended. However, these statements were false and misleading, and the
15 misrepresentations and active concealments of the Defect were the result of or
16 presumably at the direction of Mr. Dolan.

17 285. Despite Mr. Jawad’s repeated efforts to address the Brake Defect,
18 Volkswagen failed to provide any permanent solution. Instead, Volkswagen’s
19 employees engaged in a pattern of misrepresentation and concealment, including
20 the use of deceptive “Multi-Point Inspections” to falsely indicate that the Vehicle’s
21 brakes were operating within normal parameters.

22 286. The Brake Defect has significantly impacted Mr. Jawad’s ability to
23 use the Vehicle as intended. For example, Mr. Jawad delayed and ultimately
24 avoided a trip to Detroit for a consulate visit due to concerns about the Vehicle’s
25 safety and reliability. This trip was important for personal and professional
26 reasons, and Mr. Jawad’s inability to rely on the Vehicle caused him significant
27 inconvenience and frustration.

28

1 287. Neither Volkswagen nor any of its agents, dealers, or representatives
2 informed Mr. Jawad of the Brake Defect prior to his purchase of the Vehicle.

3 288. Had Mr. Jawad been advised of the Brake Defect at or before the
4 point of sale, he would not have purchased his Vehicle or else would have paid
5 significantly less for the Vehicle.

6 289. Mr. Jawad anticipates buying another vehicle in the future and would
7 even consider purchasing another vehicle from Volkswagen if he was confident
8 that it had not only corrected the Braking Defect and disclosed the Braking Defect
9 to existing consumers, but also warned potential consumers about the possibility of
10 the Braking Defect in any affected vehicles.

11 290. Mr. Jawad did not receive the benefit of his bargain.

12 **D. Putative Class Members**

13 **i. Volkswagen Atlas**

14 **Model Year 2021**

15 291. NHTSA Complaint regarding a 2021 ATLAS, dated 8/1/2022:
16 Brakes are making loud squeaking and grinding noises when brake is applied at
17 low speeds. It feels like the entire braking system is about to fall apart. ***Took the***
18 ***vehicle to the Volkswagen dealership and they said Volkswagen brakes are know***
19 ***to make noise.*** I told them at the dealership, online customer support chat, and
20 phone customer support that this should not be happening on a brand new vehicle.
21 They said there is nothing they can do about it. ***The sounds are very loud even***
22 ***with all the windows up, it's like an old car. I can hear the brakes squeak from a***
23 ***third floor building.*** (ID No. 11483920; emphasis supplied)

24 292. NHTSA Complaint regarding a 2021 ATLAS, dated 9/29/2022:
25 The brakes make loud squealing and grinding noises and don't feel like they are
26 properly functioning when attempting to stop. ***I rolled through a stop sign when***
27 ***they were grinding loudly last week because the brakes would not engage. I***
28

1 *immediately scheduled to have it diganosed again. I have had it diagnosed by*
2 *VW 3 times and also contacted VW corporate and they have all stated to me that*
3 *it is a known issue with the brakes on VW atlas and have had 1000s of complaints*
4 *and will do nothing to repair or resolve the situation. They said they know it is an*
5 *issue and not correct and they will not be doing anything to correct the situation or*
6 *make sure the vehicle is safe.” (ID No. 11487219; emphasis supplied)*

7 293. NHTSA Complaint regarding a 2021 ATLAS, dated 2/15/2022:
8 The front brake rotors on this VW model are faulty and unsafe from the factory
9 and need to be recalled. They warp and squeal, and the issue seems to be starting at
10 about 4 months. The brake rotors warp between 4-6 months and the front brakes
11 start to vibrate when driving at 65 mph or more. The brake pads are fine, however
12 the rotors need to be replaced. The rotors need to be inspected as they appear to be
13 made out of inferior material/metal. The VW dealership refused to replace the
14 rotors under warranty and I had to pay for the replacement. I contacted VW USA,
15 but they were not helpful at all. [XXX] VW Bensenville, IL Based on my
16 research through different VW online forums, there's a lot of people that were
17 having the same issue. INFORMATION Redacted PURSUANT TO THE
18 FREEDOM OF INFORMATION ACT (FOIA), 5 U.S.C. 552(B)(6). (ID No.
19 11491172)

20 294. NHTSA Complaint regarding a 2021 ATLAS, dated 3/27/2023:
21 We just purchased a certified pre-owned vehicle from the dealership. Since we've
22 had the vehicle, it produces a loud squeaking sound when braking. We took it to a
23 brake shop and were advised the rear brakes get so hot and are glazed over and
24 need to replace the rotors. When I look online I see this is a common problem for
25 this vehicle and that the manufacturer has done nothing to get it fixed. (ID No.
26 11514028)

27 295. NHTSA Complaint regarding a 2021 ATLAS, dated 6/28/2023:
28 The brakes make a deep grinding sound every 4000-8000 miles. A typical sound of

1 failing brakes. When I took the vehicle into the dealership they let me know they
2 have a defective brake pad system. When they changed the compound in
3 2019/2020 this has been an issue. The pads are showing in good acceptable range.
4 However *when driving the vehicle you do not know if it is safe or not* unless you
5 take the vehicle in to make sure I. Again every 4000-8000 miles. I do not see how
6 they are able to sell you a car with a known issue and not disclose this. This should
7 be covered or recalled. *It absolutely is a safety issue when you cannot tell if your*
8 *brakes are working properly! They are telling me they see 4-5 people a week*
9 *with the same issue.* How is this not being recalled! (ID No. 11529687; emphasis
10 supplied)

11 296. NHTSA Complaint regarding a 2021 ATLAS, dated 7/8/2023:
12 Within a week of our purchase of a brand new atlas, we started hearing squeaking
13 and grinding noises with the front brakes. I've taken it into multiple dealerships for
14 them to inspect and ensure the safety, and I'll have given me the same spiel, that
15 the brakes are working just fine. *The grinding noise is clearly beyond normal and*
16 *I'm concerned for my family safety.* (ID No. 11531086; emphasis supplied)

17 297. NHTSA Complaint regarding a 2021 ATLAS, dated 10/22/2023:
18 I leased my VW ATLAS in Feb. 2021. Since then the vehicle has been in for
19 service many times because the brakes squeak, grind and gurgle. *They even had to*
20 *replace the whole front end braking system in spring of 2022. Even with the*
21 *replacement, the brakes are yet again squeaking, grinding and gurgling.* The
22 service department at VW has acknowledged that this is a problem with many
23 Atlases and does not seem to care and has told me that they just make that noise
24 and that the brakes are functional and pose no safety risk. This I am weary of. (ID
25 No. 11551226; emphasis supplied)

26 298. NHTSA Complaint regarding a 2021 ATLAS, dated 11/7/2023:
27 When the car is just started a horrible braking/grinding noise when trying to stop
28 The brakes eventually stop grinding and starts making a screeching noise when

1 coming to a stop ***It does feel safe at all Dealer states this is normal*** It is not
2 normal for any car This happens daily (ID No. 11553995; emphasis supplied)

3 299. NHTSA Complaint regarding a 2021 ATLAS, dated 11/29/2023:
4 A few weeks after we purchased the vehicle from the dealership, the brakes started
5 making loud metallic noises and grinding. The vehicle was taken to the dealership
6 where ***they replaced the brakes and then the issue occurred again just a few***
7 ***weeks after that repair.*** We continue to take the car back to the dealership and they
8 now just keep telling us that there are no issues. I called Volkswagen directly and
9 they sided with the dealer. At this point I have a vehicle that keeps having the same
10 persistent issue. I did my own research and found that there are several other Atlas
11 owners that are encountering the same issue in 2021+ models. This is a known
12 issue and Volkswagen refuses to do anything about it. ***I have 2 kids and have do***
13 ***not feel confident in my cars brakes when they are in there.*** (ID No. 11557510;
14 emphasis supplied)

15 300. NHTSA Complaint regarding a 2021 ATLAS, dated 10/21/2023:
16 The breaks are very loud- squeaky and grinding. Have had them checked several
17 times and break pads are in good condition. Additionally after the car is idle for
18 several hours, it'll be a loud gurgle when breaks are applied the first few "stops".
19 Additionally, when driving in cold weather the rear the stability assist light on the
20 dash will engage. It will flash on and off so to be uncertain if the traction control is
21 engaged on possible slippery roads (ID No. 11560572)

22 301. NHTSA Complaint regarding a 2021 ATLAS, dated 10/22/2021:
23 Since purchasing the car new, my brakes squeal and make a grinding noise. They
24 don't stop well and the noise doesn't stop until I drive the car for a while. This
25 happens every time I drive my vehicle. ***I have taken it to VW service and they say***
26 ***that it is normal for those kinds of brakes.*** (ID No. 11561753; emphasis supplied)

27 302. NHTSA Complaint regarding a 2021 ATLAS, dated 1/29/2024:
28 yes when start the car and drive from 0-20 mph from the start you will hear a loud

1 noise when applying the brake and now getting louder and louder everywhere you
2 drive the vehicle. ***took it in the dealer 2-3 time and they are telling me is***
3 ***manufactures design.*** don't have this problem from day one I purchase the vehicle
4 but now after 40k. miles start this problem specially brake, ***its scare me to drive***
5 ***the vehicle..*** please, advise. Thank you.. (ID No. 11576673; emphasis supplied)

6 **Model Year 2022**

7 303. NHTSA Complaint regarding a 2022 ATLAS, dated 10/26/2022:
8 Brakes are very squeaky and sound like grinding metal when in use. ***This happens***
9 ***every day for the past year regardless of weather or moisture.*** Most recently they
10 have started skipping. I can feel the break pedal pulsing as if the brakes are
11 bouncing and the car “skids”. This morning I was coming out of my driveway,
12 around 3 mph, and a vehicle passed by so I pressed the brakes and the car still
13 moved out into the street. ***This is going to cause a crash at some point if the***
14 ***brakes are not stopping the vehicle as intended by the driver.*** (ID No. 11490949;
15 emphasis supplied)

16 304. NHTSA Complaint regarding a 2022 ATLAS, dated 10/3/2022:
17 I have a 2022 Volkswagen atlas with 15k miles on it. My brakes are making a hard
18 sweeping noise when braking. It has been happening for a few weeks now. When I
19 start to push on the breaks no matter the type of weather, it sounds like it is metal
20 on metal. I do not know if it is the calipers sticking or if it is something more. (ID
21 No. 11492483)

22 305. NHTSA Complaint regarding a 2022 ATLAS, dated 1/22/2023:
23 Brakes are always squeaky and making grinding noises for the first 10 minutes of
24 every drive. Brake pedal is also squeaky. ***Was brought to dealership two times***
25 ***and told that it's normal.*** (ID No. 11503013; emphasis supplied)

26 306. NHTSA Complaint regarding a 2022 ATLAS, dated 2/28/2022:
27 Brand new Atlas has the worst brake pads/rotors! Screech & squeal incessantly in
28 reverse and when braking. ***Dealer has said this is "normal" and is not under***

1 **warranty.** Drive to and from work every day and this happens each time within the
2 first 10 minutes of starting the car. (ID No. 11508332; emphasis supplied)

3 307. NHTSA Complaint regarding a 2022 ATLAS, dated 12/1/2022:

4 We purchased this vehicle new in 2022, since the purchase, we have taken the car
5 in for defective brakes and brake noise. **2 different dealerships have resurfaced**
6 **the rotors and brake pads for a total of 3 resurfaces and the noise (grinding like**
7 **metal on metal) still exists.** We have contacted VolkswagenUSA and they are not
8 able to tell us what is causing the noise and want us to pay 10% of the repair costs
9 event thought this issue has been going on during the warranty period. Thank you
10 (ID No. 11515533; emphasis supplied)

11 308. NHTSA Complaint regarding a 2022 ATLAS, dated 5/1/2023:

12 The brakes squeak and grid a lot. During the rain the brakes do not stop fast at the
13 first apply and they don't perform well, because a lot of debris from the brake pads
14 are stuck at brake system. **VW Certified Technician stated that it is manufacturer**
15 **defective brake system and it needs replacement but they refused to replace it**
16 **under warranty.** This issue was stated by me from the first week I bought this
17 vehicle. (ID No. 11520478; emphasis supplied)

18 309. NHTSA Complaint regarding a 2022 ATLAS, dated 8/1/2023:

19 The breaks make a horrible grinding and squeak sound. **Feels unsafe to drive car.**
20 (ID No. 11536622; emphasis supplied)

21 310. NHTSA Complaint regarding a 2022 ATLAS, dated 1/6/2022:

22 The vehicle brakes sound like metal v metal, grinding and squeaking. **The**
23 **dealership says that its a known problem but they have no fix. This concerns me**
24 **when driving.** (ID No. 11544415; emphasis supplied)

25 311. NHTSA Complaint regarding a 2022 ATLAS, dated 7/1/2022:

26 Brakes make a HORRIBLE METAL TO METAL, screeching, sharp noise when
27 breaking. Just knowing the money that was paid for this vehicle and as I drive and
28 brake at my children school it sounds like a cheap made vehicle. Something may

1 be done because the sound the brakes make us truly unacceptable. I can't believe
2 Volkswagen has not come up with a fix. A lot of people are having issues with it.
3 They need to resolve it for all of us Volkswagen Atlas owners. (ID No. 11547447)

4 312. NHTSA Complaint regarding a 2022 ATLAS, dated 10/26/2023:
5 Roughly 60 days after we purchased our Atlas the brakes started squealing,
6 grinding, and when its wet or raining, it is nearly impossible to stop the vehicle
7 without slamming the brakes so hard that the anti-lock braking system engages.
8 This is a safety hazard/concern. We contacted the dealership where we purchased
9 the vehicle (out of state) and they said this was standard and not to worry. This
10 was mentioned at our first service at our local VW dealership and we were again
11 told that this was normal and that the brake pads were wearing just fine. The
12 safety concern was not addressed, nor is this normal. At our second service
13 appointment, we asked that these be checked again and for them to address the
14 difficulty in stopping during wet conditions. Same response, this is normal and
15 brakes are not covered under warranty. We have since contacted the original
16 selling dealership who lined up another service appointment with our local VW
17 dealership, and again, we received the same answer as before. We do have
18 audio/video of the squealing and grinding noises, and again, we have been told this
19 is standard, and its a known problem with the VW Atlas. There are many other
20 complaints similar to this. This should reach the level of a recall before something
21 catastrophic happens and someone loses their life over it. I/we as owners of this
22 type vehicle should not have to spend thousands of dollars replacing brakes shortly
23 after purchasing this type of vehicle. (ID No. 11552287; emphasis supplied)

24 313. NHTSA Complaint regarding a 2022 ATLAS, dated 5/15/2023:
25 1. Dealer has accepted the problem and indicated they are unable to do anything,
26 that all Atlas do the brake screeching and sensors going off with no reason. 2.
27 Brakes- Everytime at starting the car in the morning or around 15 to 30 minutes
28 after use (parked), they screech and it feels as if the pads slide and not truly break.

1 This happens always along with a water-like gargling sound. The screeching also
2 makes the sensors go off. ***The concern is the safety as you can feel the breaks do***
3 ***not respond the same when this happens vs after using three or four stops. You***
4 ***can feel and hear how the pads slide and the car has difficulty breaking.*** 2. The
5 left side sensors of the mirror and side of car go off random and it is annoying to
6 say the least. The safety issue is that when you are driving, reaching a stop and
7 they go off, it can somewhat scare you and you then hit the breaks thinking
8 something is really there being sensed by the sensors. This could cause an accident.
9 I have videos of the sensors problem showing how even though there is nothing
10 around, they go off. I also have videos of the breaks making the noise. (ID No.
11 11558524; emphasis supplied)

12 314. NHTSA Complaint regarding a 2022 ATLAS, dated 12/2/2023:
13 My brakes have been making a weird sound when I break and at times grind as if
14 the brakes need to be changed. I have taken my car to be serviced for this issue and
15 ***they tell me that my brakes are great with no issues. That the Atlas have that***
16 ***issue but it's normal. There are times that it seems my brakes fail. This poses a***
17 ***safety risk for me and my family*** (ID No. 11559066; emphasis supplied)

18 315. NHTSA Complaint regarding a 2022 ATLAS, dated 12/27/2023:
19 brand new car of VW 2022 Atlas Premium, but, with the brake grinding noise
20 issue from starting driving this brand new car. The dealer acknowledged this noise
21 issue, but, stated no safety issue, and asked me to call VW directly. We called VW
22 directly, they said, no safety issue. We questioned we spent about \$60k for this
23 brand new car, why having such extremely brake noise from driving from day #1 ,
24 why the manufacture and dealer did not take care and fix this issue? and ***such***
25 ***grinding noise made my wife not dare to press the brake hardly. Such noise***
26 ***made the driver feel so scared, and this scare potentially cause the safety issue.***
27 (ID No. 11562139; emphasis supplied)

1 316. NHTSA Complaint regarding a 2022 ATLAS, dated 1/1/2024:
2 When I start driving the vehicle after it has been sitting for a little while (anywhere
3 between a couple hours to overnight), the first few times I use the brakes, it sounds
4 and feels like the brakes are grinding. There is a loud metallic grinding noise until I
5 come to a full stop. This will last for several miles, and eventually go away. At the
6 same time it does this, the driver side alert (cameras) start beeping like crazy. I
7 have taken it in once as it started very shortly after I got the car and **they replaced**
8 **the brakes** to appease me even though they said everything looked perfectly fine.
9 They also said the sensors for the camera just needed cleaning off. **All of this**
10 **started happening again about 6 months later.** In addition, I also have issues with
11 the car shutting off whenever it feels like it and requiring a manual restart, In the
12 middle of intersections, etc. (ID No. 11564030; emphasis supplied)

13 317. NHTSA Complaint regarding a 2022 ATLAS, dated 8/13/2013:
14 Very loud grinding noises and squeaking especially in the mornings when you use
15 the brakes. (ID No. 11565101)

16 318. NHTSA Complaint regarding a 2022 ATLAS, dated 1/14/2024:
17 Breaks grind as if they are used up but vehical is new and shouldnt have run
18 through the pad so quickly Breaking becoming harder to stop (ID No. 11565491)

19 319. NHTSA Complaint regarding a 2022 ATLAS, dated 2/8/2024:
20 The brakes make an awful grinding noise that sounds like metal on metal . When
21 braking the collision alert system will go off as if a crash is inevitable like no one
22 is braking. **I have had pedestrians flag me down and tell men that the noise is a**
23 **brake rotor issue and that the pads must be completely gone cause they have**
24 **never heard them sound that bad. The dealer claims they are fine and it is a**
25 **know issue** and safe even if the collision alert system goes off unnecessarily. The
26 **most dangerous thing is the lack of interest they have in investigating the**
27 **problem.** (ID No. 11572822; emphasis supplied)
28

1 320. NHTSA Complaint regarding a 2022 ATLAS, dated 1/19/2024:

2 There needs to be a recall on all 2022 Volkswagen Atlas. There is a major issue
3 with the braking system that if goes unaddressed, will cause accidents. There are
4 many, many people complaining about it and I'm guessing until we start seeing
5 deaths related to it, nothing will get done. The braking system is grinding,
6 squealing and jumping when attempting to brake. This is going to continue to get
7 worse until something gets fixed. (ID No. 11574437)

8 321. NHTSA Complaint regarding a 2022 ATLAS, dated 1/2/2024:

9 vehicle has recurring noise when braking, sounds like a grinding. There is also a
10 gurgling noise when stopping coming from the engine compartment on the driver's
11 side. (ID No. 11575866)

12 322. NHTSA Complaint regarding a 2022 ATLAS, dated 2/20/2024:

13 Leased vehicle in Aug 2022, brand new. Approx. six months later the vehicle
14 exhibited a recurring noise when braking which sounds like a grinding. The noise
15 is also accompanied with a gurgling sound when stopping originating from the
16 engine compartment on the driver's side. **Dealership said it might be break dust,
17 they cleaned the area and test drove the vehicle. It worked fine for less than a
18 day before the noise returned.** Additionally, the car has surged when at a stop and
19 turned off unexpected with Auto Start/Stop off. Dealership diagnosed the issues as
20 related to the battery from the factory but stated it is not yet with in the failure
21 limits to constitute a warranty replacement. Just to be clear, the battery is failing
22 but not at the rate the manufacture would cover the replacement. Told by the dealer
23 to wait until the problem becomes worse so they can replace it under warranty. (ID
24 No. 11577211; emphasis supplied)

25 323. NHTSA Complaint regarding a 2022 ATLAS, dated 8/29/2023:

26 **My sensors continue to beep when there is no obstruction around the vehicle. At**
27 **times, this will also cause the brakes to grind.** When I take it in for inspection,
28 they are unable to find any malfunction because this happens inconsistently. **This**

1 *puts myself and others at risk because it is very distracting to the driver.* The
2 vehicle has been inspected by the service dealer, but they have not been able to
3 reproduce the problem. Other lights have also popped up randomly... the driver
4 seat belt sign, when I did have my seat belt on and the EPC sign while I drove
5 down my street. (ID No. 11541560; emphasis supplied)

6 324. NHTSA Complaint regarding a 2022 ATLAS, dated 2/19/2024:
7 The *collision alert system is activated when we brake and a terrible grinding*
8 *noise occurs.* It seems that the brake issues makes the collision system think the
9 car is not being stopped by the brakes. *The dealer refuses to do anything about*
10 *the issues because there is no nhtsa recall. They claim the issue is humidity.* (ID
11 No. 11572829; emphasis supplied)

12 **Model Year 2023**

13 325. NHTSA Complaint regarding a 2023 ATLAS, dated 5/1/2023:
14 When the vehicle is wet (after car wash or when it rains), the breaks start
15 screeching and the breaking jerks suddenly. *It's a terrible sound and terrible*
16 *feeling because it's unexpected and abnormal* (ID No. 11535286; emphasis
17 supplied)

18 326. NHTSA Complaint regarding a 2023 ATLAS, dated 12/15/2023:
19 The vehicle only has 15K miles and the breaks are already producing a grinding
20 sound. Brought it back to the dealership and they said that the pads and rotors are
21 measuring correct and that it was the humidity. No vehicle that we have ever
22 experiences has had grinding, so new and blamed weather. They are stating that
23 the pads and rotors are made up of higher iron and corrosion is happening quicker.
24 This is unacceptable and put extra wear on the vehicle breaking components
25 ultimately putting breaking at risk. (ID No. 11560294)

26 327. NHTSA Complaint regarding a 2023 ATLAS, dated 5/11/2024:
27 This is my second Volkswagen Atlas, that has the same issues of breaks making
28 loud squealing noise when I hit the brakes. Volkswagen changed the brakes on my

1 2022 Atlas, then allowed me to trade it in for a 2023 Atlas. I been having the same
2 problem with the brakes and all the dealers says is' (Volkswagen is aware of the
3 brake problem and working on a solution)., however it has been a ongoing issue
4 for over a year. Just today in Walmart parking lot located at [XXX] , I hit brakes
5 and the brakes squeal loud, **this is not just an issue because of the noise, this is a**
6 **safety issue**. Now the dealer is telling me the brakes are only under warranty for
7 24,000 miles and my car has 34,000 miles, leaving me having to try to find out
8 what to do on my own. My car note is \$914.10, I love Volkswagen, but I will
9 never buy another one. Imagine paying \$914.10 per month for a vehicle that has a
10 safety issue and the dealer has been working on a solution for over 2 years. The
11 break lights doesn't come on, so the dealer stated it is only a annoying sound not a
12 safety issue, I believed these vehicles need a examination or please examine mines,
13 because if your brakes squeals, something is wrong with the vehicle.

14 INFORMATION REDACTED PURSUANT TO THE FREEDOM OF
15 INFORMATION ACT (FOIA), 5 U.S.C. 552(B)(6) (ID No. 11588261; emphasis
16 added)

17 **ii. Volkswagen Atlas Cross Sport**

18 **Model Year 2021**

19 328. NHTSA Complaint regarding a 2021 ATLAS CROSS SPORT, dated
20 11/22/2021: The contact owns a 2021 Volkswagen Atlas Sport. The contact stated
21 that upon depression of the brake pedal, an abnormal grinding noise would emit
22 from the brakes. She stated that the failure was intermittent and that no warning
23 lights had appeared on the instrument panel. **The contact had called and taken the**
24 **vehicle to several dealers**; Fiesta Volkswagen (8201 Lomas Blvd NE,
25 Albuquerque, NM 87110); University Volkswagen Mazda (5150 Ellison St NE,
26 Albuquerque, NM 87109); Garcia Volkswagen of Santa Fe (2560 Camino Edward
27 Ortiz, Santa Fe, NM 87507) **and each confirmed that they are aware of the**
28 **failure; however, there was no remedy**. The brakes had been inspected by each

1 dealer and none were able to diagnose the failure. *The manufacturer was then*
2 *notified of the failure and was informed that the grinding noise was normal.* No
3 further assistance was provided. The vehicle had yet to be repaired. The failure
4 mileage was approximately 16,000. (ID No. 11448695; emphasis supplied)

5 329. NHTSA Complaint regarding a 2021 ATLAS CROSS SPORT, dated
6 1/14/2022: With 10k miles and barely over a year, my atlas cross sport needs new
7 brakes and rotors! Brought to dealership and opened a case with VW corporate but
8 they won't cover it because I've owned it more than a year. The dealership service
9 manager even said they have had seen this issue with other atlas cross sports. (ID
10 No. 11449185)

11 330. NHTSA Complaint regarding a 2021 ATLAS CROSS SPORT, dated
12 5/1/2021: 1) Brakes grinding and squealing 2) Known defects in the 2021 brakes
13 could reduce potential stopping distance for affected vehicles. 3) Dealer replaced
14 brakes at 10,000 miles with exact same part and now we are currently experience
15 the same problems at 23,000 but now dealer says there are unable to replace
16 because the issue will remain due to there not being a fixed replacement. Dealer
17 also recommend contacting the manufacture customer care. There response
18 acknowledge the issue but there was nothing they could do due to there not being a
19 replacment part. 4) Yes, both by dealer and third party mechanics who also
20 explained there are currently no after market brakes that could replace the defective
21 brakes and they would have to replace with the same part. 5) No warning just
22 constant grinding and noise (ID No. 11493206; emphasis supplied)

23 331. NHTSA Complaint regarding a 2021 ATLAS CROSS SPORT, dated
24 3/1/2021: Brakes are extremely loud and not as good as they should be for such a
25 behemoth of an suv. Leads to a lot of uncertainty especially in wet weather. **Any**
26 **attempt to rectify this issue at the dealer leads to me being without a vehicle**
27 **for HOURS for them to simply state no issue produced. (Also sound of advice**
28 **of slamming on my breaks in drive and revers to get rid of the screech)** which

1 doesn't help unfortunately I gave in and tried it. The TPS system in the ACS is
2 DANGEROUS. Multiple flat tires with not one sign of lost air or change in
3 pressure. Once even on the freeway with my partner and toddler in the car.
4 Reverse camera and screen black outs, infotainment system is frustrating and not
5 dependable. (ID No. 11500627; emphasis supplied)

6 332. NHTSA Complaint regarding a 2021 ATLAS CROSS SPORT, dated
7 8/1/2022: After having the car for less than a year the brakes started grinding metal
8 on metal as well as an extremely loud screeching sound. I've taken it to a brake
9 center and the dealership and there is nothing anyone can do as the brakes still
10 show they are not ready to be replaced. Volkswagen is aware of the issue
11 specifically with new Atlas models and will not do anything about it. (ID No.
12 11509387)

13 333. NHTSA Complaint regarding a 2021 ATLAS CROSS SPORT, dated
14 1/20/2023: I own my car for a 18 months and my brakes make a grinding noise. I
15 have taken in for service and they tell me that's its normal. How can it be normal I
16 have own several new autos and never had I had this problem. (ID No. 11527350)

17 334. NHTSA Complaint regarding a 2021 ATLAS CROSS SPORT, dated
18 1/29/2024: Since I purchased the vehicle the brakes sound like they are bad, yet
19 they are not bad. ***I was told at Volkswagon that they are aware of the issue in***
20 ***these SUV's but the only fix will void out my warranty if I choose to do it.*** If this
21 is a known problem with volswagon cross sports then why is there not a solution to
22 the problem that will not jeopardize our warranty. I'm frustrated, the car sounds
23 ridiculous when the brakes are applied and ***how is one to know when they are***
24 ***actually bad if they always sound that way.*** (ID No. 11568606; emphasis
25 supplied)

26 335. NHTSA Complaint regarding a 2021 ATLAS CROSS SPORT, dated
27 10/4/2021: Car has a harsh loud metal grinding sound when brakes are applied.
28 Steering wheel vibration when brakes are applied at medium/high speeds, more

1 notable in declined (down hill) roads. This has been *reported to dealership since*
2 *we got the car brand new and they do nothing about it except to provide a*
3 *scripted answer stating that the "car is safe" and/or that they cannot reproduce*
4 *the issue.* (ID No. 11572088; emphasis supplied)

5 336. NHTSA Complaint regarding a 2021 ATLAS CROSS SPORT, dated
6 6/2/2021: SUV was purchased in May of 2021 at the Chapman VW dealership in
7 Scottsdale, Arizona. Within several days of owning the Atlas, I noticed a grinding,
8 shrieking noise coming from the brakes every time they were applied. I
9 immediately *notified the dealer and they said that this was a common occurrence*
10 *on the Atlas. They were aware of the issue but VW had not come up with a fix at*
11 *that point in time. I brought the car in and they offered to replace the pads*
12 *which were done. The problem continued.* Most recently, the noise and friction
13 from the brakes has gotten infinitely worse. I contacted *VW executives in the US*
14 and they once again said that they were *aware of the issue but that no*
15 *reimbursement would be given* if I paid for new brakes myself, which I had to do.
16 All participants, including the manager of Chapman VW, agree that this is a
17 problem issue. However, there is no recall as of yet (one person there said one was
18 forthcoming) and that they hear this problem from many Atlas owners. My
19 question is why are they continuing to sell the car with the copper/rotor issue and
20 why are they not fixing it nor reimbursing people like me? Thank you. (ID No.
21 11574497; emphasis supplied)

22 Model Year 2022

23 337. NHTSA Complaint regarding a 2022 ATLAS CROSS SPORT, dated
24 10/22/2022: I leased the vehicle on 2/2022, months later I started having braking
25 problems. The dealer stated the brakes squeals only in the morning, but *the brakes*
26 *squeals throughout the day while I am driving.* A water leaked was fixed,
27 however, the carpet remains in the car and on back order, also the smell effects my
28

1 pregnant wife. *If we were told brakes would be squealing we wouldn't have*
2 *purchased the vehicle.* (ID No. 11497301; emphasis supplied)

3 338. NHTSA Complaint regarding a 2022 ATLAS CROSS SPORT, dated
4 12/28/2022: Upon breaking its a grinding at time with squeaking. I've taken
5 concern 2-3 times now to dealership and they say there's nothing wrong with
6 breaks. They have given me no resolution in fixing. It happens on a daily.
7 Depending how breaking happens. I've never owned a vehicle that had this issue
8 and for a dealership not to fix. (ID No. 11499298; emphasis supplied)

9 339. NHTSA Complaint regarding a 2022 ATLAS CROSS SPORT, dated
10 1/19/2023: The brakes make a grinding and squeaking sound after every start up
11 and continues either for many miles or doesn't go away at all. *It is a safety issue*
12 *because the brakes sound horrible and this is not a normal occurrence for a new*
13 *car, i will not know if there is a more serious issue with my brakes if its*
14 *"normal" for them to make this sound. The dealership has inspected the vehicle*
15 *and says everything is fine and that this is normal... They have had numerous of*
16 *the same vehicle in the shop for the same issue.* This is not normal for a brand
17 new vehicle. No warning lamps are on. (ID No. 11505132; emphasis supplied)

18 340. NHTSA Complaint regarding a 2022 ATLAS CROSS SPORT, dated
19 2/10/2023: I have taken my car to the dealer and had them look at the brakes.
20 *Every time I press on the brakes it makes a grinding sound almost as if the car is*
21 *to heavy for the brakes and skids a little. At Findlay Volkswagen they tell me*
22 *they are aware of the problem, but Volkswagen has not approved any type of fix.*
23 I have also talked to other people with the same car everyone I have spoken with
24 that has this model car has the same issues with the brakes. *To mne this is a safety*
25 *issue if the car is to heavy for the brakes.* (ID No. 11506664; emphasis supplied)

26 341. NHTSA Complaint regarding a 2022 ATLAS CROSS SPORT, dated
27 3/3/2022: The brakes on this new car constantly grind and are extremely noisy.
28 There have been a few occasions where they barely stopped the car before we hit

1 another car. *We have brought the car in for service several times and the dealer is*
2 *unable to repair the vehicle. The service reps tell us this is a known problem with*
3 *this car. Then they tell us they did not find any issues. they have claimed to have*
4 *replaced the brakes but the issues still persist.* Lots of owners of this vehicle have
5 the same concerns or worse. This Atlas Cross Sport should not be allowed on
6 California streets and highways. This really needs to be looked into (ID No.
7 11510003; emphasis supplied)

8 342. NHTSA Complaint regarding a 2022 ATLAS CROSS SPORT, dated
9 10/1/2022: I purchased my car in July 2022 and started having issues with it within
10 3 months. *I've have my car at the dealer 4 times for them to look at the brakes*
11 *(grinding, scraping noise, squeaking that can be fetl in the pedal). I was told*
12 *each time that the rotors and brake pads aren't compatible. VW knows about the*
13 *problem but doesn't have a fix for it.* They say they clean the pads and that the car
14 is safe to drive (really?). ... I only have 7,900 miles on my car and I just want it
15 permanently fixed. (ID No. 11518484; emphasis supplied and edited for relevance)

16 343. NHTSA Complaint regarding a 2022 ATLAS CROSS SPORT, dated
17 10/4/2022: “Car make noises while breaking at times, *does not break at all if you*
18 *dont push the pedal really hard.*” (ID No. 11535512; emphasis supplied)

19 344. NHTSA Complaint regarding a 2022 ATLAS CROSS SPORT, dated
20 10/1/2022: Purchased April 2022, and once the weather got cooler, brakes make a
21 horrendous grinding, squeaky noise, sounds like metal on metal. *Have brought*
22 *into dealership multiple times to no avail until a few months ago, confirmed that*
23 *it is a known issue, but nothing they can do about it.* Said there is a build up of
24 some kind on the brakes that has to warm up before it will go away, which is why
25 it is prominent when weather is cooler. My concern is that typically, grinding,
26 squeaking are usually signs that the brakes make have issues. *Dealer is saying*
27 *brakes or fine, so do I have to wait for brakes to go out, run into something or*
28

1 *someone before they can validate that brakes are not safe and are defective?* (ID
2 No. 11551307; emphasis supplied)

3 345. NHTSA Complaint regarding a 2022 ATLAS CROSS SPORT, dated
4 7/1/2023: The brakes began squealing and grinding about 6 months ago, I had the
5 car a little over a year and didn't understand how the pads could be worn. I noticed
6 that when the grinding occurs it is a little slower to stop when braking. *I*
7 *immediately took it to VW, they heard it, checked them and said they were*
8 *basically brand new. If I wanted to change them it wouldn't be under warranty.*
9 It continued so I took it to Mavis for a second opinion. They told me the pads are
10 like brand new as well but it looked like there was grease all over the pads and they
11 cleaned them up. It didn't make a noise for about 1 week and then back at it and
12 the grinding and slow braking is happening. *This is a concern and I don't like*
13 *driving the car because im nervous I won't be able to brake.* I've looked online to
14 see if there was anyone else experiencing this and there are tons of threads stating
15 the same thing. How has VW not been required to correct this? (ID No. 11553617;
16 emphasis supplied)

17 346. NHTSA Complaint regarding a 2022 ATLAS CROSS SPORT, dated
18 8/1/2023: Brakes are making an awful grinding noise. Dealer says there is nothing
19 they can do about it. That's just "the way they are" (ID No. 11560502; emphasis
20 supplied)

21 347. NHTSA Complaint regarding a 2022 ATLAS CROSS SPORT, dated
22 10/4/2023: JUST PURCHASED MY ATLAS AROUND SEPTEMBER, AFTER
23 DRIVING IT A MONTH WE NOTICED A LOAD SCREACH SOUND WEN
24 COMING TO A STOP, *I HAVE TAKEN IT TO TOO VW DEALERS ONLY TO*
25 *BE TOLD VOLKSWAGON IS AWARE OF THE ISSUE AND THERE IS*
26 *NOTHING THEY CAN DO*, NOW THE BRAKES GRIND AND IM NOT SURE
27 HOW TO ADRESS THIS ISSUE. THANK YOU . (ID No. 11561013; emphasis
28 supplied)

1 348. NHTSA Complaint regarding a 2022 ATLAS CROSS SPORT, dated
2 1/5/2024: Breaks vibrate and squeal when making a slow stop. **Dealership stated**
3 **was just debris, but it continues to do this repeatedly**. Online this appears to be a
4 known issue throughout the Volkswagen brand and dealership give the same
5 reasoning, but the problem continues to persistent for all owners who have reported
6 it. **The dealerships appear to have been instructed to use the same reasoning for**
7 **the issues, but never repair/resolve the issue**. (ID No. 11564057; emphasis
8 supplied)

9 349. NHTSA Complaint regarding a 2022 ATLAS CROSS SPORT, dated
10 11/5/2022: I currently am leasing a 2022 Volkswagon Cross Atlas Sport that
11 currently has 26,000 miles on it. In October, I noticed when I press on the brakes
12 of my car, there is a loud grinding and squealing sound both inside and outside of
13 the car. **It is so bad, that I tend to not push the brakes all the way down**. I brought
14 my car to be serviced to Jack Daniels Volkswagon in Fair Lawn, NJ. They said
15 they checked the brakes and they were in good condition and didn't need to be
16 replaced. I left there and the car continued to squeal and grind when the brakes are
17 pressed. I brought the car back last week to have them checked again and was told
18 that they definitely hear the noise, but the brakes are still fine and they will not
19 repair them. **They are telling me there is nothing they can do and that I have to**
20 **live with the noise and the feeling of the brakes being unsafe. I was upset and**
21 **dissatisfied with their answer so I tried to call Volkswagon corporate and they**
22 **told me the same answer, that I have to live with it. The girl at the repair shop**
23 **told me that other Volkswagon cars are experiencing the same thing** but there is
24 no recall yet. She explained that it might be possible to change the rotors and it
25 may correct the noise. All I would like is for someone from Vokswagon to approve
26 the change of my rotors paid for by them to see if that will eliminate the noise or to
27 rectify the situation. **I feel unsafe whereas I can't even fully press down on my**
28 **brakes without the noise and grinding being heard in and out of the car**. I can't

1 believe that I was told to live with it by the Volkswagon corporation and that
2 noone would try and fix the manufacturers brake error. (ID No. 11565843;
3 emphasis supplied)

4 **Model Year 2023**

5 350. NHTSA Complaint regarding a 2023 ATLAS CROSS SPORT, dated
6 1/2/2024: Brakes on brand new vehicle are exhibiting behavior that is not normal
7 for a car of this size and relatively young age (miles). Measurably loud brake noise
8 based on manufactures choice of materials in components leave concern on overall
9 safety of brake system based on generally considered (except by dealer /
10 manufacturer of course) unexpected behavior of vehicle braking system. (ID No.
11 11563187)

12 351. NHTSA Complaint regarding a 2023 ATLAS CROSS SPORT, dated
13 5/22/2024: MY CAR SHUTS OFF WHILE DRIVING. ALSO I HAVE HAD
14 BRAKE ISSUES. GRINDING NOISE AND LOUD NOISE. **THEY RELACED**
15 **THE BRAKE PADS THAT I HAD TO PAY FOR BECAUSE MANUFACTUR**
16 **PADS WOULD HAVE CAUSE THE SAME ISSUE. NOW MY CAR IS**
17 **SHAKING WHILE I BRAKE. THEY SAID I NEED NEW ROTORS.** WITH
18 THE CAR SHUTTING OFF WHILE DRIVING IS MY MAIN CONCERN. IT
19 HAS SHUT OFF A TOTAL OF 8 TIME SINCE I HAVE OWNED IT. SHUT
20 OFF RADOMLY ON STREET, PARKING LOTS AND FREEWAY GOING
21 65MPH. I HAVE MY GRAND CHILDREN IN MY CAR A LOT. SO
22 THERFORE, THIS IS A HIGH RISK SAFETY CONCERN OF MINE.. (ID No.
23 11590253)

24 **VI. COMMON CLASS ALLEGATIONS**

25 352. Throughout the relevant period, Defendant has designed,
26 manufactured, distributed, imported, warranted, marketed, advertised, serviced,
27 sold, and leased the Class Vehicles. Upon information and belief, Defendant has
28

1 sold, directly or indirectly through dealers and other retail outlets, thousands of
2 Class Vehicles in California, New York, Illinois, and nationwide.

3 353. Upon information and belief, Defendant knew or should have known
4 that the Vehicles are defective and are not fit for their intended purpose of
5 providing consumers with safe and reliable transportation. Nevertheless, Defendant
6 failed to disclose the Brake Defect to Plaintiffs and the Class Members at the time
7 of purchase or lease and thereafter.

8 354. Under the Transportation Recall Enhancement, Accountability and
9 Documentation Act (“TREAD Act”), 49 U.S.C. §§ 30101-30170, and its
10 accompanying regulations, when a manufacturer learns that a vehicle contains a
11 safety defect, the manufacturer must promptly disclose the defect. 49 U.S.C. §§
12 30118(c)(1) & (2). If it is determined that the vehicle is defective, the manufacturer
13 must notify vehicle owners, purchasers, and dealers of the defect and must remedy
14 the defect. 49 U.S.C. §§ 30118(b)(2)(A) & (B). Upon information and belief,
15 Defendant also violated the TREAD Act by failing to timely inform NHTSA of the
16 Brake Defect and allowed the Vehicles to remain on the road with these defects.
17 These same acts and omissions also violated various state consumer protection
18 laws as detailed below.

19 355. Defendant has long known that the Class Vehicles have a defective
20 braking system. Defendant has exclusive access to information about the defects
21 through its dealerships, pre-release testing data, warranty data, customer complaint
22 data, and replacement part sales data, among other sources of aggregate
23 information about the problem. In contrast, the Brake Defect was not known or
24 reasonably discoverable by Plaintiffs and Class Members prior to purchase and
25 without experiencing the Brake Defect firsthand.

26 356. Defendant owes a duty to disclose the Brake Defect to Plaintiffs and
27 Class Members because Defendant has exclusive knowledge or access to material
28 facts about the Vehicles that are not known or reasonably discoverable by

1 Plaintiffs and Class Members until the Defect has manifested; and because
2 Defendant has actively concealed the Brake Defect from its customers. Improperly
3 operating brakes on any vehicle are per se a safety defect.

4 357. Whether the Vehicles’ brakes fail to reliably apply consistent braking
5 force (because they are, e.g., too “squishy” or “grabby”), make surprising and
6 distracting squealing and grinding sounds, or erroneously activate the proximity
7 alert—and particularly when they intermittently present more than one of these
8 concerns—they introduce serious safety risks.

9 358. Not only the Vehicle’s driver is put at risk by the Brake Defect (as are
10 any passengers in the Vehicle), but so are other drivers, passengers, and even
11 pedestrians near enough to the Vehicles to be startled and distracted by the sounds
12 – not to mention the increased possibility of the Vehicle braking too quickly or
13 slowly, and causing an impact.

14 359. Moreover, the failure of the Vehicles to reliably apply braking force,
15 as well as their proclivity to emit squealing and grinding sounds, and to trigger
16 false-positive proximity alerts, is at direct odds with the ordinary expectations of
17 Plaintiffs, and all reasonable consumers, regarding how an automobile’s brakes
18 function.

19 360. In order to effectuate advertising, distribution, and sales of the
20 Vehicles by Volkswagen to consumers, Volkswagen maintains both written
21 contracts and general operating relationships with its certified dealerships.

22 361. These contracts and relationships render the Volkswagen certified
23 dealerships agents of Volkswagen for purposes of advertising and selling
24 Volkswagen-manufactured vehicles.

25 362. Volkswagen also maintains written contracts and operating
26 relationships with its certified dealerships by which the dealerships must perform
27 service and repairs on Volkswagen vehicles which are covered by the warranty
28 extended by Volkswagen. Such warranty-related service and repair has to be

1 conducted according to processes, protocols, instructions, and limitations dictated
2 by Volkswagen. These protocols require, *inter alia*, that employees performing
3 service or repairs be certified by Volkswagen, how much time an employee may
4 spend on a specific repair or service, and the order in which an employee might
5 attempt repairs.

6 363. These contracts and relationships render the Volkswagen certified
7 dealerships agents of Volkswagen for purposes of performing warranty service and
8 repairs on the Vehicles.

9 364. Volkswagen's contracts and operating relationships with its certified
10 dealerships also demonstrate that Plaintiffs, and other consumers, are the intended
11 recipients and beneficiaries of any advertising, terms of sale, and warranties
12 extended in connection with the Vehicles.

13 365. The Vehicles come with a New Vehicle Limited Warranty ("NVLW")
14 which states that Volkswagen will cover any repairs to correct a manufacturer's
15 defect in material or workmanship for 4 years or 50,000 miles, whichever occurs
16 first.

17 366. The NVLW "covers any repair to correct a defect in manufacturer's
18 material or workmanship (i.e., mechanical defects) ... Repairs under this limited
19 warranty are free of charge. Your Volkswagen dealer will repair the defective part
20 or replace it with a new or remanufactured Genuine Volkswagen Part."

21 367. Volkswagen's NVLW claims to limit coverage for "Brake
22 pads/shoes" to "1 year or 12,000 miles." But, even if such a limitation is otherwise
23 valid, it does not apply to Plaintiffs' claims as the Brake Defect involves
24 components in the Vehicles' brake systems beyond merely the "Brake pads and
25 shoes," such as the brake rotors, brake calipers, brake carriers, brake pad retaining
26 plates, brake pad springs, guide pins, guide pin caps, and lithium grease, as well as
27 implicating issues with the brake master cylinder, brake booster, and brake lines.
28

1 368. Additionally, Volkswagen has attempted to repair or resolve the Brake
2 Defect under warranty, including outside of the 1-year limitation on “Brake pads
3 and shoes,” demonstrating that it acknowledges the Brake Defect to be covered by
4 the NVLW and other applicable warranties.

5 369. But, as demonstrated by Plaintiffs’ experiences and those of other
6 Vehicle owners, Volkswagen is unwilling and/or unable to repair or correct the
7 Brake Defect.

8 370. Where repairs have been attempted with respect to the Brake Defect
9 they have been unsuccessful at permanently resolving the concerns, at least those
10 which simply “repair the defective part or replace it with a new or remanufactured
11 Genuine Volkswagen Part.”

12 371. Volkswagen employees at various levels, at both the dealership and
13 corporate levels, have acknowledged awareness of the ongoing Brake Defect while
14 admitting that no repair is available or offered.

15 372. Volkswagen employees have even admitted that they have been
16 directed to respond to consumer complaints regarding the Brake Defect in such a
17 way as to avoid addressing, delay diagnosing, prevent recording, or otherwise
18 obstruct resolution of their concerns.

19 373. If a Class Member sought to correct the Brake Defect by upgrading
20 their braking system with non-“Genuine Volkswagen Parts” which would
21 permanently resolve their issues, they put their Vehicle’s NVLW in jeopardy and
22 would thereby lose its coverage.

23 374. Had Defendant informed Plaintiffs and the Class about the Brake
24 Defect, Plaintiffs and the Class would not have purchased the Vehicles from
25 Defendant, but rather would have purchased different vehicles. Defendant
26 knowingly sold a defective product to Plaintiffs and the Class, without disclosing
27 such defect, and now refuse to provide an adequate long-term remedy, repair, or
28 restitution for their actions.

1 375. Defendant’s conduct described herein constitutes an omission of
2 material fact and a deceptive business practice in violation of statutory and
3 common law, including those of California, New York, and Illinois.

4 **A. Tolling of the Statute of Limitations**

5 **i. Discovery Rule Tolling**

6 **376.** Plaintiffs and Class Members could not have discovered through the
7 exercise of reasonable diligence that their Class Vehicles were defective within the
8 time period of any applicable statutes of limitation.

9 **377.** Among other things, neither Plaintiffs nor the other Class Members
10 knew or could have known that the Class Vehicles are equipped with braking
11 systems which are subject to the Brake Defect.

12 **378.** Further, Plaintiffs and Class Members had no knowledge of the Brake
13 Defect, and it occurred in a part of the vehicle that was not visible to consumers.
14 Volkswagen attempted to squelch public recognition of the Brake Defect by
15 propagating the falsehood that the Squealing, Grinding, Proximity Alert, and
16 Erratic Function Defects (*see, supra*, ¶¶ 4-10) that drivers of Class Vehicles were
17 experiencing was “normal.” Accordingly, any applicable statute of limitation is
18 tolled.

19 **ii. Fraudulent Concealment Tolling**

20 **379.** Throughout the time period relevant to this action, Volkswagen
21 concealed from and failed to disclose to Plaintiffs and the other Class Members
22 vital information about the Brake Defect described herein.

23 **380.** Volkswagen kept Plaintiffs and the other Class Members ignorant of
24 vital information essential to the pursuit of their claims. As a result, neither
25 Plaintiffs nor the other Class Members could have discovered the Defect, even
26 upon reasonable exercise of diligence.
27
28

1 **381.** Throughout the Class Period, Volkswagen has been aware that the
2 braking system it designed, manufactured, and installed in the Class Vehicles
3 contained the Brake Defect, resulting in loud, distracting, and startling sounds, as
4 well as unreliable and deficient function, when the brakes were put to regular and
5 expected use, placing Plaintiffs and other drivers in unsafe situations.

6 **382.** Despite its knowledge of the Brake Defect, Volkswagen failed to
7 disclose and concealed, and continues to conceal, this critical information from
8 Plaintiffs and the other Class Members, even though, at any point in time, it could
9 have disclosed the Brake Defect through individual correspondence, media release,
10 a recall, or by other means.

11 **383.** Plaintiffs and the other Class Members justifiably relied on
12 Volkswagen to disclose the Brake Defect in the Class Vehicles that they purchased
13 or leased, because the Brake Defect was hidden and not discoverable through
14 reasonable efforts by Plaintiffs and the other Class Members.

15 **384.** Thus, the running of all applicable statutes of limitation have been
16 suspended with respect to any claims that Plaintiffs and the other Class Members
17 have sustained as a result of the Brake Defect, by virtue of the fraudulent
18 concealment doctrine.

19 **iii. Estoppel**

20 **385.** Volkswagen was under a continuous duty to disclose to Plaintiffs and
21 the other Class Members the true character, quality, and nature of the unsafe and
22 defective braking systems.

23 **386.** Volkswagen knowingly concealed the true nature, quality, and
24 character of the defective braking systems from consumers.

25 **387.** Based on the foregoing, Volkswagen is estopped from relying on any
26 statutes of limitations in defense of this action.
27
28

1 **B. CLASS ACTION ALLEGATIONS**

2 **388.** Plaintiffs bring this lawsuit individually and as a class action on
3 behalf of all others similarly situated pursuant to Federal Rules of Civil Procedure
4 23(a), (b)(2), (b)(3). This action satisfies the numerosity, commonality, typicality,
5 adequacy, predominance, and superiority requirements of Rule 23.

6 **i. Class Definitions**

7 **389.** The Class is defined as:

8 All persons in the United States and its territories who
9 formerly or currently own(ed) or lease(d) one or more
10 Class Vehicles.²

11 **390.** The California Subclass is defined as:

12 All current and former owners of Class Vehicles who
13 reside, and/or purchased/leased a Class Vehicle, in
14 California.

15 **391.** The New York Subclass is defined as:

16 All current and former owners of Class Vehicles who
17 reside, and/or purchased/leased a Class Vehicle, in New
18 York.

19 **392.** The Illinois Subclass is defined as:

20 All current and former owners of Class Vehicles who
21 reside, and/or purchased/leased a Class Vehicle, in
22 Illinois.

23 **393.** Excluded from the Class and Subclasses are Defendant and its
24 subsidiaries and affiliates, Defendant's executives, board members, legal counsel,
25 the judges and all other court personnel to whom this case is assigned, their
26

27 _____
28 ² Plaintiffs reserve the right to amend or modify their Class and Subclass definitions to include additional model years of Vehicles.

1 immediate families, and those who purchased Class Vehicles for the purpose of
2 resale.

3 394. Plaintiffs reserve the right to amend or modify the Class and Subclass
4 definitions.

5 **ii. FRCP 23 Allegations**

6 **395. Numerosity:** Fed. R. Civ. P. 23(a)(1). The Class is so numerous that
7 the joinder of all members is impracticable. While the precise number of Class
8 Members has yet to be determined, thousands of Class Vehicles have been
9 purchased or leased nationwide and in each of California, New York, and Illinois.

10 **396. Commonality:** Fed. R. Civ. P. 23(a)(2) and (b)(3). There are questions
11 of law and fact common to the Class. These common questions of law and fact
12 include, without limitation:

- 13 A. Whether the Vehicles and their braking systems are defectively designed;
14 B. Whether the Vehicles and their braking systems are defectively
15 manufactured;
16 C. Whether the Vehicles and their braking systems are suitable for their
17 intended use;
18 D. Whether the Vehicles' propensity to emit loud and high-pitched sounds
19 (e.g. squeal, squeak, screech) would be considered material to a
20 reasonable consumer;
21 E. Whether the Vehicles' propensity to emit loud sounds of metal-on-metal
22 grinding or scraping would be considered material to a reasonable
23 consumer;
24 F. Whether the Vehicles' propensity to trigger the proximity alert sensors,
25 even to the point of engaging the automatic emergency brake to avoid an
26 imminent impact, despite no object being nearby, would be considered
27 material to a reasonable consumer;
28

- 1 G. Whether the Vehicles’ propensity to suffer from inconsistent, decreased,
2 or harsh braking function (e.g. slipping, “squishy,” “spongy,” or
3 “grabby” braking) would be considered material to a reasonable
4 consumer;
- 5 H. Whether, as a result of Volkswagen’s concealment or failure to disclose
6 material facts, Plaintiffs and Class Members acted to their detriment by
7 purchasing Class Vehicles manufactured by Volkswagen;
- 8 I. Whether Volkswagen was aware of the Brake Defect;
- 9 J. When Volkswagen became aware of the Vehicles’ propensity to emit
10 loud and distracting sounds, suffer from diminished braking function, or
11 otherwise experience symptoms related to the Brake Defect;
- 12 K. Whether the Brake Defect constitutes an unreasonable safety risk;
- 13 L. Whether Volkswagen breached express and/or implied warranties with
14 respect to the Class Vehicles;
- 15 M. Whether Volkswagen violated consumer protection laws in connection
16 with its design, manufacturing, advertising, sale, or other activities
17 related to the Vehicles and their braking system;
- 18 N. Whether Volkswagen engaged in unfair, unlawful, or deceptive practices
19 by advertising and selling Vehicles;
- 20 O. Whether Plaintiffs and Class Members are entitled to actual damages as a
21 result of Volkswagen’s wrongful conduct;
- 22 P. Whether Plaintiffs and Class Members are entitled to restitution as a
23 result of Volkswagen’s wrongful conduct;
- 24 Q. Whether Volkswagen has a duty to disclose the Brake Defect to Plaintiffs
25 and Class Members;
- 26 R. When Volkswagen’s duty to disclose the Brake Defect to Plaintiffs and
27 Class Members arose; and
28

1 S. Whether Plaintiffs and Class Members are entitled to equitable relief,
2 including but not limited to a preliminary and/or permanent injunction.

3 397. Predominance: Fed. R. Civ. P. 23(b)(3). These common questions
4 predominate over any individual questions that might arise, including questions
5 regarding entitlement to and amount of damages. Even if individual questions are
6 required, answers to the above common questions will advance the litigation for all
7 parties.

8 398. Typicality: Fed. R. Civ. P. 23(a)(3). Plaintiffs' claims are typical of
9 those of other Class Members because all purchased or leased Class Vehicles.

10 399. Policies Generally Applicable to the Class: This class action is also
11 appropriate for certification because Volkswagen has acted or refused to act on
12 grounds generally applicable to the Class, thereby requiring the Court's imposition
13 of uniform relief to ensure compatible standards of conduct toward the Class
14 Members and making final injunctive relief appropriate with respect to the Class as
15 a whole. Defendant's policies challenged herein apply to and affect Class Members
16 uniformly and Plaintiffs' challenge of these policies hinges on Defendant's
17 conduct with respect to the Class as a whole, not on facts or law applicable only to
18 Plaintiffs.

19 400. Adequate Representation: Fed. R. Civ. P. 23(a)(4). Plaintiffs will
20 fairly and adequately protect the interests of Class Members. Plaintiffs have
21 retained attorneys experienced in the prosecution of class actions, including
22 consumer and product defect class actions, and Plaintiffs intend to prosecute this
23 action vigorously.

24 401. Superiority: Fed. R. Civ. P. 23(b)(3). Plaintiffs and Class Members
25 have all suffered and will continue to suffer harm and damages as a result of
26 Volkswagen's unlawful and wrongful conduct. A class action is superior to other
27 available methods for the fair and efficient adjudication of the controversy. Absent
28 a class action, Class Members would likely find the cost of litigating their claims

1 prohibitively high and would therefore have no effective remedy at law. Because
2 of the relatively small size of Class Members' individual claims, it is likely that
3 few Class Members could afford to seek legal redress for Volkswagen's
4 misconduct. Absent a class action, Class Members will continue to incur damages,
5 and Volkswagen's misconduct will continue without remedy. Class treatment of
6 common questions of law and fact would also be a superior method to multiple
7 individual actions or piecemeal litigation in that class treatment will conserve the
8 resources of the courts and the litigants and will promote consistency and
9 efficiency of adjudication.

10 402. Volkswagen has acted or refused to act on grounds generally
11 applicable to the Class and, accordingly, final injunctive or corresponding
12 declaratory relief with regard to the Class Members as a whole is appropriate under
13 Rule 23(b)(2) of the Federal Rules of Civil Procedure.

14 403. Likewise, particular issues under Rule 23(c)(4) are appropriate for
15 certification because such claims present only particular, common issues, the
16 resolution of which would advance the disposition of this matter and the parties'
17 interests therein. Such particular issues include, but are not limited to:

- 18 A. Whether the Vehicles and their braking systems are defectively designed;
- 19 B. Whether the Vehicles and their braking systems are defectively
20 manufactured;
- 21 C. Whether the Vehicles and their braking systems are suitable for their
22 intended use;
- 23 D. Whether the Vehicles' propensity to emit loud and high-pitched sounds
24 (e.g. squeal, squeak, screech) would be considered material to a
25 reasonable consumer;
- 26 E. Whether the Vehicles' propensity to emit loud sounds of metal-on-metal
27 grinding or scraping would be considered material to a reasonable
28 consumer;

- 1 F. Whether the Vehicles’ propensity to suffer from inconsistent, decreased,
2 or harsh braking function (e.g. slipping, “squishy,” “spongy,” or
3 “grabby” braking) would be considered material to a reasonable
4 consumer;
- 5 G. Whether, as a result of Volkswagen’s concealment or failure to disclose
6 material facts, Plaintiffs and Class Members acted to their detriment by
7 purchasing Class Vehicles manufactured by Volkswagen;
- 8 H. Whether Volkswagen was aware of the Brake Defect;
- 9 I. When Volkswagen became aware of the Vehicles’ propensity to emit
10 loud and distracting Squealing and/or Grinding noises, triggering the
11 Proximity Alert sensors, as well as Erratic Function when the Vehicles’
12 brakes are applied, or otherwise experience symptoms related to the
13 Brake Defect (*see, supra*, ¶¶ 4-10);
- 14 J. Whether the Brake Defect constitutes an unreasonable safety risk;
- 15 K. Whether Volkswagen breached express and/or implied warranties with
16 respect to the Class Vehicles;
- 17 L. Whether Volkswagen violated consumer protection laws in connection
18 with its design, manufacturing, advertising, sale, or other activities
19 related to the Class Vehicles;
- 20 M. Whether Volkswagen engaged in unfair, unlawful, or deceptive practices
21 by advertising and selling Class Vehicles;
- 22 N. Whether Plaintiffs and Class Members are entitled to actual damages as a
23 result of Volkswagen’s wrongful conduct;
- 24 O. Whether Plaintiffs and Class Members are entitled to restitution as a
25 result of Volkswagen’s wrongful conduct;
- 26 P. Whether Volkswagen has a duty to disclose the Brake Defect to Plaintiffs
27 and Class Members;
- 28

1 Q. When Volkswagen’s duty to disclose the Brake Defect to Plaintiffs and
2 Class Members arose; and

3 R. Whether Plaintiffs and Class Members are entitled to equitable relief,
4 including but not limited to a preliminary and/or permanent injunction.

5 **CAUSES OF ACTION**

6 **I. BREACH OF EXPRESS WARRANTY**

7 *U.C.C. § 2-313*

8 *(Cal. Com. Code § 2313; N.Y. UCC § 2-313; 810 Ill. Comp. Stat. 5/2-313)*

9 *(Plaintiffs, individually, and on behalf of the Class and their respective*
10 *Subclasses)*

11 **404.** Plaintiffs incorporate by reference and re-allege the preceding
12 paragraphs as if fully set forth herein.

13 **405.** Plaintiffs bring this cause of action individually and on behalf of their
14 respective Subclasses.

15 **406.** California, New York, and Illinois have each adopted the Uniform
16 Commercial Code, including U.C.C. § 2-313, which covers express warranties.
17 Cal. Com. Code § 2313; N.Y. UCC § 2-313; 810 Ill. Comp. Stat. 5/2-313. That
18 section provides that “any affirmation of fact or promise made by the seller to the
19 buyer which relates to the goods and becomes part of the basis of the bargain
20 creates an express warranty that the goods shall conform to the affirmation or
21 promise.” U.C.C. § 2-313(1)(a). Further, “[a]ny description of the goods which is
22 made part of the basis of the bargain creates an express warranty that the good
23 shall conform to the description.” *Id.* § 2-313(1)(b).

24 **407.** The class vehicles alleged herein are each a “consumer product”
25 governed by the Federal Magnuson-Moss Warranty Federal Trade Commission
26 Improvement Act, 15 U.S.C. §§ 2301 *et seq.* The class vehicles are tangible
27 personal property which is distributed in commerce and normally used for
28 personal, family, or household purposes. 16 C.F.R. § 702.1(b).

1 408. Further, in a consumer transaction such as those alleged herein, a
2 “*Written warranty*” includes: “(1) Any written affirmation of fact or written
3 promise made in connection with the sale of a consumer product by a supplier to a
4 buyer which relates to the nature of the material or workmanship and affirms or
5 promises that such material or workmanship is defect free or will meet a specified
6 level of performance over a specified period of time, or (2) Any undertaking in
7 writing in connection with the sale by a supplier of a consumer product to refund,
8 repair, replace or take other remedial action with respect to such product in the
9 event that such product fails to meet the specifications set forth in the undertaking,
10 which written affirmation, promise, or undertaking becomes part of the basis of the
11 bargain between a supplier and a buyer for purposes other than resale of such
12 product.” 16 C.F.R. § 702.1(c).

13 409. With all regards alleged in herein, Defendant was the “Warrantor” of
14 the class vehicles.” It gave and offered to give a written warranty as to each vehicle
15 to each class member. 16 C.F.R. §702.1(d).

16 410. In advertising and selling the class vehicles advertised and represented
17 that the class vehicles were sold with a warranty for four years or 50,000 miles,
18 whichever occurs first.

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1 411. For example, and typical to all sales of class vehicles, Volkswagen
2 made available to prospective buyers such as class members the following
3 statement of its written warranty:



10
11

Coverage

12 **New Vehicle Limited Warranty 4yrs. or 50,000 miles - Peace of mind when you need it**

13 Ownership is easy with a 4-year or 50,000-mile (whichever occurs first) bumper-to-bumper limited warranty.³

14
15 <https://www.vw.com/en/owners-and-services/ownership-benefits/carefree-coverage.html> (last visited May 16, 2025)

16
17 412. At no time during the Class Period did Volkswagen make available to
18 prospective purchasers or even just curious shopping consumers detailed
19 information about exclusions or limitations on its written express warranties
20 beyond these terms above.

21 413. In order to view a specific warranty guide—the document with all
22 restrictions and exclusions to be later asserted by Volkswagen—a consumer would
23 have to separately request a copy by specific VIN or other vehicle details, or
24 alternately order a copy of the guide.

25 414. Any limitations which Volkswagen asserts to limit or disclaim the 4-
26 year/50,000-mile warranty coverage offered with the Vehicles, were not disclosed,
27 advertised or presented to consumers, including Plaintiffs and class members, prior
28 to sale.

1 415. For all purposes in this case, Defendant was a “Seller” of the class
2 vehicles. 16 C.F.R. § 702.1(e). It offered the class vehicles for sale through its
3 restricted dealer network. Both the buying consumer and Defendant understood
4 that Volkswagen was selling the vehicle. The class vehicles were not being resold
5 and were being titled directly from Volkswagen to the buyer.

6 416. Defendant was also a “Supplier” as engaged in the business of making
7 the class vehicles directly or indirectly available to consumers. 16 C.F.R. §
8 702.1(f).

9 417. Defendant was a “Manufacturer” as well as it in fact made each class
10 vehicle. 16 C.F.R. § 702.1(g).

11 418. By federal law, Volkswagen’s attempts to impose restrictions or
12 exclusions of its express written warranty are legally ineffective where, as here, the
13 terms of restriction or exclusion within the written warranty were not made
14 available to the consumer (or prospective consumer) prior to sale of the vehicle at
15 the location of the sale to the consumer. *See e.g.* 15 U.S.C. § 2302.

16 419. Volkswagen did not itself or through its authorized dealers make the
17 text of its written warranty readily available for examination by the prospective
18 buyer, including Plaintiffs and each Class Member. It did not provide the warranty
19 guide or other warranty text to the Plaintiffs or other Class Members for request
20 and/or place signs reasonably calculated to elicit the prospective buyer’s attention
21 in prominent locations in the dealerships, in its marketing materials or on its
22 website advising such prospective buyers of the availability of warranties upon
23 request. 16 C.F.R. § 700.3(a).

24 420. Further, Volkswagen did not provide its dealers with warranty
25 materials necessary for such dealers to comply with the requirements set forth in
26 the preceding paragraph. Volkswagen did not provide “a tag, sign, sticker, label,
27 decal or other attachment to the” class vehicles “which contains the full text of the
28

1 written warranty.” Volkswagen also did not provide its dealers “a notice, sign, or
2 poster disclosing the text of” its express written warranty. 16 C.F.R. § 700.3(b).

3 421. Volkswagen did not provide the express written warranty terms in an
4 accessible digital format on its Internet Web site, and as well did not provide
5 information to Plaintiffs, Class Members and other consumers informing them
6 before purchase.

7 422. As evidenced by Volkswagen’s efforts to address and resolve the
8 Brake Defect, Volkswagen acknowledges that it is covered by an express written
9 warranty.

10 423. Volkswagen breached its express warranties to repair defects in
11 materials and workmanship of any part supplied by Volkswagen. Volkswagen has
12 not repaired, and has been unwilling to reasonably repair, the Brake Defect.

13 424. Furthermore, the express warranties to repair defective parts fail in
14 their essential purpose because the contractual remedy is insufficient to make
15 Plaintiffs and Class Members whole and because Volkswagen has failed and/or has
16 refused to adequately provide the promised remedies within a reasonable time.

17 425. Accordingly, recovery by Plaintiffs and the Class is not limited to the
18 express warranties of repair to parts defective in materials or workmanship, and
19 Plaintiffs seek all remedies as allowed by law.

20 426. Volkswagen was provided with notice of these issues by numerous
21 customer complaints regarding the Brake Defect before or within a reasonable
22 amount of time after the allegations of the Brake Defect became public.

23 427. In addition, the Plaintiffs named in this complaint have provided
24 Volkswagen with notice of claims they make on behalf of themselves and similarly
25 situated consumers. Although Volkswagen responded to the notice letter, it
26 suggested only a possibility of individual resolution rather than Class-wide relief.
27 Volkswagen’s response makes clear that Plaintiffs’ efforts for early resolution
28 were futile.

1 428. Plaintiffs were not required to notify Volkswagen of its breach and/or
2 were not required to do so because affording Volkswagen a reasonable opportunity
3 to cure any breach of written warranty would have been futile. Volkswagen was
4 also on notice of the Brake Defect from the complaints and service requests it
5 received from Class Members, from repairs and/or replacements of the Vehicles'
6 brakes or a component thereof, and through other internal sources.

7 429. Plaintiffs and other Class Members are entitled to statutory damages
8 and other legal and equitable relief including, at their election, the purchase price
9 of or a buyback of their Volkswagen vehicles, or the overpayment or diminution in
10 value of their Class Vehicles.

11 430. Plaintiffs and Class Members are also entitled to costs and reasonable
12 attorneys' fees.

13 **II. BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY**

14 *U.C.C. § 2-314*

15 *(Cal. Com. Code § 2314; N.Y. UCC Sec. 2-314; 810 Ill. Comp. Stat. 5/2-314)*

16 *(Plaintiffs, individually, and on behalf of the Class and their respective*
17 *Subclasses)*

18 431. Plaintiffs incorporate by reference and realleges the preceding
19 paragraphs as if fully set forth herein.

20 432. Plaintiffs bring this cause of action individually and on behalf of their
21 respective Subclasses.

22 433. Volkswagen is and was at all relevant times a merchant with respect
23 to the Class Vehicles.

24 434. A warranty that the Class Vehicles were in merchantable condition
25 was implied by law in Class Vehicle transactions.

26 435. The Class Vehicles, when sold and at all times thereafter, were not
27 merchantable or fit for the ordinary purpose for which cars are used. Specifically,
28

1 they are inherently defective and dangerous due to the existence of the Brake
2 Defect.

3 **436.** Volkswagen was and/or is in actual or constructive privity with
4 Plaintiffs and all Class Members.

5 437. Plaintiffs had and continue to have sufficient direct dealings with
6 Volkswagen and/or its authorized dealers, franchisees, representatives, and agents
7 to establish any required privity of contract. Volkswagen's authorized dealers,
8 franchisees, representatives, and agents were not intended to be the ultimate
9 consumers of the Class Vehicles and have no rights under the warranty agreements
10 provided with the Class Vehicles. The warranty agreements were designed for and
11 intended to benefit only the ultimate purchasers and lessees of the Class Vehicles,
12 *i.e.*, Plaintiffs and Class Members.

13 438. Privity is not required to assert this claim because Plaintiffs and the
14 Class Members are intended third-party beneficiaries of contracts between
15 Volkswagen and its dealers, franchisees, representatives, and agents.

16 439. By extending express written warranties to end-user purchasers and
17 lessees, brought itself into privity with Plaintiffs and all Class Members.

18 **440.** Pursuant to each respective statute, the Class Vehicles owned or
19 leased by Plaintiffs Class Members were defectively designed and manufactured
20 and posed a serious and immediate safety risk to consumers and the public. The
21 Class Vehicles were subject to an implied warranty of merchantability, did not
22 comply with the warranty in that they were defective at the time of sale, and as a
23 proximate result of the Brake Defect the Plaintiffs and Class Members sustained
24 damages.

25 **441.** The Class Vehicles left Volkswagen's facilities and control with a
26 Defect caused by defective design incorporated into the manufacture of the Class
27 Vehicles. The Defect puts the consumers at a safety risk upon driving the Class
28 Vehicles. At all times relevant hereto, there was a duty imposed by law which

1 requires that a manufacturer or seller's product be reasonably fit for the ordinary
2 purposes for which such products are used, and that the product be acceptable in
3 trade for the product description. This implied warranty of merchantability is part
4 of the basis of the bargain between Volkswagen, on the one hand, and Plaintiffs
5 and Class Members, on the other.

6 **442.** Notwithstanding its duty, at the time of delivery Volkswagen
7 breached the implied warranty of merchantability in that the Class Vehicles
8 braking systems were defective and posed a serious safety risk at the time of sale,
9 would not pass without objection, are not fit for the ordinary purposes for which
10 such goods are used, and failed to conform to the standard performance of like
11 products used in the trade.

12 **443.** Volkswagen has not validly disclaimed, excluded, or modified the
13 implied warranties or duties described above, and any attempted disclaimer or
14 exclusion of the implied warranties was and is ineffectual.

15 **444.** Volkswagen knew, or should have known, that the Class Vehicles
16 posed a safety risk and contained the Brake Defect, and knew, or should have
17 known, of these breaches of implied warranties prior to sale or lease of the Class
18 Vehicles to Plaintiffs and Class Members.

19 **445.** As a direct and proximate result of Volkswagen's breaches of its
20 implied warranties, Plaintiffs and Class Members bought the Class Vehicles
21 without knowledge of the Brake Defect or their serious safety risks and purchased
22 unsafe products which could not be used for their intended use.

23 **446.** Plaintiffs and Class Members used the Class Vehicles in a manner
24 consistent with their intended use and performed each and every duty required
25 under the terms of the warranties, except as may have been excused or prevented
26 by the conduct of Volkswagen or by operation of law in light of Volkswagen's
27 unconscionable conduct.

28

1 **447.** Volkswagen had actual knowledge of, and received timely notice
2 regarding, the Brake Defect at issue in this litigation and, notwithstanding such
3 notice, failed and refused to offer an effective remedy.

4 **448.** In addition, Volkswagen received, on information and belief,
5 numerous consumer complaints and other notices from customers advising of the
6 Brake Defect associated with the braking systems equipped in the Class Vehicles.

7 **449.** By virtue of the conduct described herein and through this Complaint,
8 Volkswagen breached the implied warranty of merchantability.

9 **450.** As a direct and proximate result of Volkswagen's breaches of its
10 implied warranties, Plaintiffs and Subclass Members bought the Class Vehicles
11 without knowledge of the Brake Defect or their serious safety risks and purchased
12 unsafe products which could not be used for their intended use.

13 **451.** As a direct and proximate result of Volkswagen's breach of its
14 implied warranties, Plaintiffs and Subclass Members have suffered economic
15 damages, including loss attributable to the diminished value of their Class
16 Vehicles, loss of use of their Class Vehicles and other tangible property, as well as
17 the monies spent and to be spent to repair and/or replace their brake pads, brake
18 rotors, or other components of their Vehicles' braking system. Volkswagen was
19 unjustly enriched by keeping the profits for its unsafe products while never having
20 to incur the cost of repair, replacement or a recall.

21 **III. VIOLATION OF THE SONG-BEVERLY CONSUMER WARRANTY**
22 **ACT FOR BREACH OF EXPRESS WARRANTIES**

23 *(Cal. Civ. Code §§ 1791.2 & 1793.2)*

24 *(Plaintiffs Wright and Plaintiff Segarini, individually, and on behalf of the*
25 *California Subclass)*

26 **452.** Plaintiffs incorporate by reference and re-allege the preceding
27 paragraphs as if fully set forth herein.
28

1 453. Plaintiffs Wright and Plaintiff Segarini bring this cause of action
2 individually and on behalf of the California Subclass.

3 454. Plaintiffs and Class Members are “buyers” within the meaning of the
4 Song-Beverly Consumer Warranty Act (“SBCWA”). Cal. Civ. Code § 1791(b).

5 455. The Class Vehicles are “consumer goods” within the meaning of Cal.
6 Civ. Code § 1791(a).

7 456. Volkswagen is a “manufacturer” within the meaning of Cal. Civ.
8 Code § 1791(j).

9 457. Plaintiffs and Class Members bought or leased Volkswagen Class
10 Vehicles equipped with Volkswagen’s defective braking system.

11 458. Volkswagen made express warranties to Plaintiffs and Class Members
12 within the meaning of Cal. Civ. Code §§ 1791.2 and 1793.2 as set forth herein.

13 459. Specifically, in the course of selling and leasing the Class Vehicles,
14 Volkswagen expressly warranted in writing that the vehicles were covered by
15 certain warranties in Volkswagen’s “New Vehicle Limited Warranty” as described
16 herein. This express warranty states that it “covers any repair to correct a defect in
17 manufacturer’s material or workmanship (i.e., mechanical defects) ... Repairs
18 under this limited warranty are free of charge. Your Volkswagen dealer will repair
19 the defective part or replace it with a new or remanufactured Genuine Volkswagen
20 Part.”

21 460. As set forth herein in detail, the Class Vehicles are inherently
22 defective because they are equipped with Volkswagen’s defective braking system
23 which emits loud and distracting Squealing and/or Grinding sounds, triggers the
24 Proximity Alert sensors, as well as Erratic Function , when the Vehicles’ brakes
25 are applied (*see, supra*, ¶¶ 4-10).

26 461. The Brake Defect jeopardizes the safety of drivers and passengers of
27 Class Vehicles, and other drivers on the road, and substantially impairs the use,
28

1 value, and safety of the Class Vehicles to reasonable consumers like Plaintiffs and
2 Class Members.

3 462. Plaintiffs delivered the Class Vehicle to Volkswagen or its authorized
4 repair facility to repair the Brake Defect but Volkswagen failed and continues to
5 fail to make repairs to Plaintiffs' Class Vehicles under its Warranty.

6 463. The braking system equipped in the Class Vehicles is covered by
7 Volkswagen's New Vehicle Limited Warranty.

8 464. The New Vehicle Limited Warranty as described was made part of the
9 basis of the bargain when Plaintiffs and Class Members bought or leased the Class
10 Vehicles.

11 465. Volkswagen breached its express warranties to repair defects in
12 materials and workmanship of any part supplied by Volkswagen. Volkswagen has
13 not repaired, and has been unwilling to reasonably repair, the Brake Defect.

14 466. Furthermore, the express warranties to repair defective parts fail in
15 their essential purpose because the contractual remedy is insufficient to make
16 Plaintiffs and Class Members whole and because Volkswagen has failed and/or has
17 refused to adequately provide the promised remedies within a reasonable time.

18 467. Accordingly, recovery by Plaintiffs and the Class is not limited to the
19 express warranties of repair to parts defective in materials or workmanship, and
20 Plaintiffs seek all remedies as allowed by law.

21 468. As a direct and proximate result of Volkswagen's breach of its express
22 warranties, Plaintiffs and Class Members received goods containing a dangerous
23 condition that substantially impairs the value of the goods sold to Plaintiffs and
24 Class Members, and have been damaged in an amount to be determined at trial.

25 469. Pursuant to Cal. Civ. Code. §§ 1793.2 & 1794, Plaintiffs and other
26 Class Members are entitled to damages and other legal and equitable relief
27 including, at their election, the purchase price of or a buyback of their Volkswagen
28 vehicles, or the overpayment or diminution in value of their Class Vehicles.

1 470. Pursuant to Cal. Civ. Code § 1794, Plaintiffs and Class Members are
2 also entitled to costs and reasonable attorneys' fees.

3 **IV. VIOLATION OF THE SONG-BEVERLY CONSUMER WARRANTY**
4 **ACT FOR BREACH OF IMPLIED WARRANTIES**

5 *(Cal. Civ. Code §§ 1791.1 & 1792)*

6 *(Plaintiffs Wright and Plaintiff Segarini individually, and on behalf of the*
7 *California Subclass)*

8 471. Plaintiffs incorporate by reference and re-allege the preceding
9 paragraphs as if fully set forth herein.

10 472. Plaintiffs Wright and Plaintiff Segarini bring this cause of action
11 individually and on behalf of the California Subclass.

12 473. Plaintiffs and California Subclass members are “buyers” within the
13 meaning of the SBCWA. *See* Cal. Civ. Code § 1791(b).

14 474. The Class Vehicles are “consumer goods” within the meaning of Cal.
15 Civ. Code § 1791(a).

16 475. Volkswagen is a “manufacturer” within the meaning of Cal. Civ.
17 Code § 1791(j).

18 476. Volkswagen impliedly warranted to Plaintiffs and the other Class
19 Members that its Class Vehicles were “merchantable” within the meaning of Cal.
20 Civ. Code §§ 1791.1(a) & 1792.

21 477. In reality, the Class Vehicles do not possess those qualities that a
22 buyer would reasonably expect.

23 478. Cal. Civ. Code § 1791.1(a) states: “Implied warranty of
24 merchantability” or “implied warranty that goods are merchantable” means that the
25 consumer goods meet each of the following: (1) Pass without objection in the trade
26 under the contract description. (2) Are fit for the ordinary purposes for which such
27 goods are used. (3) Are adequately contained, packaged, and labeled. (4) Conform
28 to the promises or affirmations of fact made on the container or label.

1 479. The Class Vehicles are not suitable for the market, and would not pass
2 without objection in the automotive industry and market because they are equipped
3 with Volkswagen's defective braking system which emits loud and distracting
4 Squealing and/or Grinding sounds, triggering the Proximity Alert sensors, as well
5 as Erratic Function, when the Vehicles' brakes are applied (*see, supra*, ¶¶ 4-10).

6 480. Volkswagen's defective braking system makes the Class Vehicles
7 unsuitable for safe driving. The Class Vehicles are not in merchantable condition,
8 and are therefore, not fit for their ordinary purposes.

9 481. Furthermore, Class Vehicles are not adequately labeled because the
10 labeling fails to disclose the Brake Defect.

11 482. Volkswagen breached the implied warranty of merchantability by
12 manufacturing and selling Class Vehicles equipped with Volkswagen's defective
13 braking system. Furthermore, the Brake Defect has caused Plaintiffs and other
14 Class Members to not receive the benefit of their bargain and have caused Class
15 Vehicles to depreciate in value.

16 483. The braking systems installed in the Class Vehicles were defective at
17 the time they left the possession of Volkswagen, as set forth above. The Class
18 Vehicles, when sold or leased and at all times thereafter, were not in merchantable
19 condition and not fit for their ordinary purpose of providing safe and reliable
20 transportation. The Class Vehicles contain an inherent defect in their braking
21 system and present an undisclosed safety risk to drivers, occupants, and others.
22 Thus, Volkswagen breached its implied duty of merchantability.

23 484. Defendant cannot disclaim its implied warranties as it knowingly sold
24 or leased a defective product.

25 485. Volkswagen knew, or should have known, that the Class Vehicles
26 posed a safety risk and were defective and knew, or should have known, of these
27 breaches of implied warranties prior to sale or lease of the Class Vehicles to
28 Plaintiffs and Class Members.

1 486. Plaintiffs and the other Class Members have had sufficient direct
2 dealings with Volkswagen and/or its authorized dealers, franchisees,
3 representatives, and agents to establish privity of contract between Volkswagen
4 and Plaintiffs and each of the other Class Members. Volkswagen's authorized
5 dealers, franchisees, representatives, and agents were not intended to be the
6 ultimate consumers of the Class Vehicles and have no rights under the warranty
7 agreements provided with the Class Vehicles. The warranty agreements were
8 designed for and intended to benefit only the ultimate purchasers and lessees of the
9 Class Vehicles, i.e., Plaintiffs and Class Members.

10 487. Nonetheless, privity is not required here because Plaintiffs and each of
11 the other Class Members are intended third-party beneficiaries of contracts
12 between Volkswagen and its dealers, and specifically, of Volkswagen's implied
13 warranties. The dealers were not intended to be the ultimate consumers of the
14 Class Vehicles and have no rights under the warranty agreements provided with
15 the Class Vehicles; the warranty agreements were designed for and intended to
16 benefit the consumers only.

17 488. In addition, by extending express written warranties to end-user
18 purchasers and lessees, Volkswagen brought itself into privity with Plaintiffs and
19 all Class Members.

20 489. Volkswagen has not validly disclaimed, excluded, or modified the
21 implied warranties or duties described above, and any attempted disclaimer or
22 exclusion of the implied warranties was and is ineffectual.

23 490. Plaintiffs and Class Members used the Class Vehicles, its braking
24 systems, in a manner consistent with their intended use and performed each and
25 every duty required under the terms of the warranties, except as may have been
26 excused or prevented by the conduct of Volkswagen or by operation of law in light
27 of Volkswagen's unconscionable conduct.

28

1 491. Volkswagen had actual knowledge of and received timely notice of
2 the Brake Defect at issue in this litigation and, notwithstanding such notice, failed
3 and refused to offer an effective remedy.

4 492. In addition, Volkswagen received, on information and belief,
5 numerous consumer complaints and other notices from customers advising of the
6 Brake Defect associated with the braking systems installed in the Class Vehicles.

7 493. As a direct and proximate result of Volkswagen's breach of the
8 implied warranty of merchantability, Plaintiffs and the other Class Members
9 received goods whose defective condition substantially renders them unsafe for
10 their intended purpose and impairs their value to Plaintiffs and the other Class
11 Members; Plaintiffs and Class Members have suffered damages and Volkswagen
12 was unjustly enriched by keeping the profits for its unsafe products while never
13 having to incur the cost of repair, replacement or a recall.

14 494. Pursuant to Cal. Civ. Code §§ 1791.1(d) and 1794, Plaintiffs and
15 Class Members are entitled to damages and other legal and equitable relief,
16 including, at their election, the purchase price of or a buyback of their Class
17 Vehicles, or the overpayment or diminution in value of their Class Vehicles.

18 495. Pursuant to Cal. Civ. Code § 1794, Plaintiffs and Class Members are
19 also entitled to costs and reasonable attorneys' fees.

20 **V. VIOLATIONS OF THE CONSUMER LEGAL REMEDIES ACT**

21 *(Cal. Civ. Code § 1750, et seq.)*

22 *(California Plaintiffs individually, and on behalf of the California Subclass)*

23 496. Plaintiffs incorporate by reference and re-allege the preceding
24 paragraphs as if fully set forth herein.

25 497. California Plaintiffs bring this cause of action individually and on
26 behalf of the California Subclass.
27
28

1 498. Volkswagen’s actions, representations and conduct violated the
2 CLRA because they extend to transactions that were intended to result and which
3 have resulted, in the sale or lease of goods to Plaintiffs and Class Members. Cal.
4 Civ. Code § 1770.

5 499. Defendant is a “person” as defined by Cal. Civ. Code § 1761(c).

6 500. Plaintiffs and California Subclass Members are “consumers” as
7 defined by Cal. Civ. Code § 1761(d).

8 501. The Class Vehicles are “goods” within the meaning of Cal. Civ. Code
9 § 1761(a).

10 502. Volkswagen made numerous representations concerning the Class
11 Vehicles’ specifications that were misleading, including marketing and advertising
12 the workmanship of Class Vehicles and the nature and extent of Volkswagen’s
13 Warranty.

14 503. Volkswagen also omitted material facts about the Class Vehicles,
15 namely the Brake Defect.

16 504. In purchasing or leasing Class Vehicles, Plaintiffs and Class Members
17 were deceived by Volkswagen’s failure to disclose that the Class Vehicles contain
18 the Brake Defect, resulting in expensive damage for which Volkswagen will not
19 provide coverage under its express or implied warranties.

20 505. Volkswagen violated the CLRA in at least the following respects:

21 A. in violation of § 1770(a)(5), Volkswagen represented that the Class

22 Vehicles have approval, characteristics, and uses or benefits which they
23 do not have;

24 B. in violation of § 1770(a)(7), Volkswagen represented that the Class

25 Vehicles are of a particular standard, quality or grade, when they are of
26 another;

27 C. in violation of Section 1770(a)(9), Volkswagen has advertised the Class

28 Vehicles as safe with the intent not to sell them as advertised; and

1 D. in violation of § 1770(a)(16), Volkswagen represented that the goods
2 have been supplied in accordance with previous representations, when
3 they were not.

4 506. Volkswagen violated the CLRA by representing the Class Vehicles
5 were safe and free of defects when they were not and Defendant knew, or should
6 have known, that the representations and advertisements were false and
7 misleading.

8 507. Volkswagen had a duty to disclose the Brake Defect because
9 Volkswagen had exclusive knowledge of the Brake Defect prior to making sales
10 and leases of Class Vehicles and because Volkswagen made partial representations
11 about the quality of Class Vehicles but failed to fully disclose that the Brake
12 Defect plagues Class Vehicles.

13 508. Specifically, Volkswagen was under a duty to Plaintiffs and Class
14 Members to disclose the defective nature of the Class Vehicles because:

15 A. Volkswagen was in a superior position to know the true state of facts
16 about the Brake Defect—a defect that can pose a safety risk—and
17 associated repair costs in the Class Vehicles;

18 B. Plaintiffs and Class Members could not reasonably have been expected to
19 learn or discover that the Class Vehicles have a defect that affects
20 operability of Class Vehicles and creates safety concerns until
21 manifestation of the Brake Defect;

22 C. Volkswagen knew that Plaintiffs and the Class Members could not
23 reasonably have been expected to learn or discover the Brake Defect until
24 manifestation of the Brake Defect; and

25 D. Volkswagen made incomplete representations about the safety and
26 reliability of Class Vehicles generally, while withholding material facts
27 from Plaintiffs and Class Members that contradicted these
28 representations.

1 509. The facts concealed or not disclosed by Volkswagen to Plaintiffs and
2 Class Members are material in that a reasonable consumer would have considered
3 them to be important in deciding whether to purchase or lease Class Vehicles or
4 pay a lesser price.

5 510. Had Plaintiffs and Class Members known about the defective nature
6 of the Class Vehicles, they would not have purchased or leased the Class Vehicles,
7 or they would have paid less.

8 511. A vehicle made by a reputable manufacturer of safe vehicles is worth
9 more than a comparable vehicle made by a disreputable manufacturer of unsafe
10 vehicles that conceals defects rather than promptly remedies them.

11 512. Volkswagen has known of the defective braking system since at least
12 when it began selling Class Vehicles which generated numerous consumer
13 complaints made to the NHTSA. However, Volkswagen continued to allow
14 unsuspecting new and used consumers to buy or lease the Class Vehicles and
15 allowed them to continue driving dangerous vehicles.

16 513. Defendant intended that Plaintiffs and Class Members would, in the
17 course of their decision to expend monies in purchasing, leasing and/or repairing
18 Class Vehicles, reasonably rely upon the misrepresentations, misleading
19 characterizations, warranties and material omissions concerning the quality of the
20 Class Vehicles and its braking system with respect to materials, workmanship,
21 design and/or manufacture.

22 514. Plaintiffs and Class Members reasonably relied on Volkswagen's
23 misrepresentations and omissions in purchasing or leasing Class Vehicles.

24 515. Plaintiffs and Class Members have been damaged as a proximate
25 result of Defendant's violations of the CLRA and have suffered actual damages as
26 a direct and proximate result of purchasing or leasing defective Class Vehicles.

27 516. Prior to filing this Complaint, Plaintiffs served notice letters on
28 Volkswagen, notifying Volkswagen of Plaintiffs' damages and the Brake Defect in

1 their Class Vehicles, in compliance with Cal. Civ. Code §1782(a). Plaintiffs have
2 made pre-suit attempts to remedy the Brake Defect in their Class Vehicles, to no
3 avail.

4 517. Under Cal. Civ. Code § 1780(a), Plaintiffs and Class Members seek
5 actual damages, an order enjoining Volkswagen from further engaging in the
6 unfair and deceptive acts and practices alleged herein, restitution, attorney’s fees
7 and costs.

8 518. Under Cal. Civ. Code § 1780(b), Plaintiffs and Class Members seek
9 an additional award against Volkswagen of up to \$5,000 for each Class Member
10 who qualifies as a “senior citizen” or “disabled person” under the CLRA.
11 Volkswagen knew or should have known that its conduct was directed to one or
12 more Class Members who are senior citizens or disabled persons. Volkswagen's
13 conduct caused one or more of these senior citizens or disabled persons to suffer a
14 substantial loss of property set aside for retirement or for personal or family care
15 and maintenance, or assets essential to the health or welfare of the senior citizen or
16 disabled person. One or more Class Members who are senior citizens or disabled
17 persons are substantially more vulnerable to Volkswagen's conduct because of age,
18 poor health or infirmity, impaired understanding, restricted mobility, or disability,
19 and each of them suffered substantial physical, emotional, or economic damage
20 resulting from Volkswagen’s conduct.

21 519. Pursuant to Cal. Civ. Code § 3345, Plaintiffs and Class Members seek
22 an award of trebled damages on behalf of all senior citizens and disabled persons
23 comprising the Class as a result of Volkswagen's conduct alleged herein.

24 520. Pursuant to CLRA Section 1780(a)(4), Plaintiffs and Class Members
25 also seek punitive damages against Volkswagen because it carried out
26 reprehensible conduct with willful and conscious disregard of the rights and safety
27 of others, subjecting Plaintiffs and Class Members to potential cruel and unjust
28 hardship as a result. *See* Cal. Civ. Code § 1780(a)(4). Volkswagen intentionally

1 and willfully deceived Plaintiffs on life-or-death matters, and concealed material
2 facts that only Volkswagen knew. Volkswagen’s unlawful conduct likewise
3 constitutes malice, oppression, and fraud warranting exemplary damages under
4 Cal. Civ. Code § 3294.

5 521. Plaintiffs further seek any other just and proper relief available under
6 the CLRA.

7 **VI. VIOLATIONS OF CALIFORNIA’S UNFAIR COMPETITION LAW**

8 *(Cal. Bus. Prof. Code §§ 17200, et seq.)*

9 *(California Plaintiffs individually, and on behalf of the California Subclass)*

10 522. Plaintiffs repeat and re-allege the allegations above as if fully set forth
11 herein.

12 523. California Plaintiffs bring this claim on behalf of themselves and the
13 California Subclass.

14 524. California’s Unfair Competition Law, Cal. Bus. Prof. Code §§ 17200,
15 *et seq.* (“UCL”) broadly prohibits acts of “unfair competition,” including any
16 “unlawful, unfair or fraudulent business act or practice” and “unfair, deceptive,
17 untrue or misleading advertising.” Cal. Bus. & Prof. Code § 17200.

18 525. A business act or practice is “unfair” under the UCL if the reasons,
19 justifications and motives of the alleged wrongdoer are outweighed by the gravity
20 of the harm to the alleged victims.

21 526. Volkswagen has engaged in “unfair” business practices and/or acts by
22 falsely representing the qualities of its express and implied warranties for Class
23 Vehicles; by misrepresenting the workmanship of its Class Vehicles; by failing to
24 disclose the Brake Defect to consumers; and by refusing to provide warranty
25 coverage for the Brake Defect.

26 527. The acts and practices alleged herein are unfair because they caused
27 Plaintiffs and Class Members, and reasonable consumers like them, to believe that
28

1 Volkswagen was offering something of value that did not, in fact, exist.
2 Volkswagen intended for Plaintiffs and Class Members to rely on its
3 representations. As a result, purchasers and lessees, including Plaintiffs, reasonably
4 perceived that they were receiving Class Vehicles with certain benefits. This
5 perception induced reasonable purchasers to purchase or lease Class Vehicles,
6 which they would not otherwise have done had they known the truth.

7 528. The gravity of the harm to Plaintiffs and Class Members resulting
8 from these unfair acts and practices outweighs any conceivable reasons,
9 justifications and/or motives of Volkswagen for engaging in such deceptive acts
10 and practices. By committing the acts and practices alleged above, Volkswagen
11 engaged in unfair business practices within the meaning of the UCL.

12 529. A business act or practice is also “fraudulent” under the UCL if it is
13 likely to deceive members of the consuming public. Volkswagen engaged in a
14 uniform course of conduct which was intended to, and did in fact, deceive
15 Plaintiffs and Class Members and induced them into buying Class Vehicles.
16 Volkswagen’s course of conduct and marketing practices were fraudulent within
17 the meaning of the UCL because they deceived Plaintiffs, and were likely to
18 deceive members of the Class, into believing that they were entitled to a benefit
19 that did not, in fact, exist. Volkswagen’s misrepresentations are likely to deceive
20 and have deceived the public.

21 530. A business act or practice is also “unlawful” under the UCL if it
22 violates any other law or regulation. Volkswagen has violated the CLRA, and other
23 laws as set forth herein.

24 531. Volkswagen has engaged in unfair competition and unfair, unlawful
25 and fraudulent business practices by the conduct, statements, and omissions
26 described above, and by knowingly and intentionally concealing from Plaintiffs
27 and Class Members that the Class Vehicles suffer from the Brake Defect (and the
28 costs, risks, and diminished value of the Vehicles as a result of this problem).

1 532. Volkswagen should have disclosed the Brake Defect and this
2 information because Volkswagen was in a superior position to know the true facts
3 related to the Brake Defect, and Plaintiffs and Class Members could not reasonably
4 be expected to learn or discover the true facts related to the Brake Defect. Plaintiffs
5 and Class Members relied upon Volkswagen’s express representations and
6 promises, as well as omissions, regarding the workmanship of and the warranties
7 for the Class Vehicles, believed them to be true, and would not have agreed to
8 purchase or lease Class Vehicles had they known the truth about the Brake Defect.

9 533. Therefore, the omissions and acts of concealment, fraud, and deceit by
10 Volkswagen pertained to information that was material to Plaintiffs and the Class
11 Members, as it would have been to all reasonable consumers.

12 534. Volkswagen had a duty to disclose the Brake Defect because
13 Volkswagen had exclusive knowledge of the Brake Defect prior to making sales
14 and leases of Class Vehicles and because Volkswagen made partial representations
15 about the quality of Class Vehicles, but failed to fully disclose that the Brake
16 Defect plagues Class Vehicles.

17 535. In failing to disclose that Class Vehicles contain the Brake Defect, the
18 true nature of the quality and workmanship of Class Vehicles, and suppressing
19 other material facts from Plaintiffs and Class Members, Volkswagen breached its
20 duties to disclose these facts, violated the UCL, and caused injuries to Plaintiffs
21 and Class Members.

22 536. Plaintiffs and Class Members acted reasonably when they relied on
23 Volkswagen’s misrepresentations and omissions in purchasing or leasing Class
24 Vehicles—reasonably believing these were true and lawful.

25 537. The injuries suffered by Plaintiffs and the Class Members greatly
26 outweigh any potential countervailing benefit to consumers or to competition, nor
27 are they injuries that Plaintiffs and the Class Members should have reasonably
28 avoided.

1 538. Through its fraudulent, unfair, and unlawful acts and practices,
2 Volkswagen has improperly obtained money from Plaintiffs and the Class.

3 539. Plaintiffs seek to enjoin further unlawful, unfair and/or fraudulent acts
4 or practices by Volkswagen relating to the Brake Defect in Class Vehicles and
5 from violating the UCL in the future by selling Class Vehicles with the Brake
6 Defect.

7 540. Plaintiffs and Class Members also seek to obtain restitutionary
8 disgorgement of all monies and revenues generated as a result of such practices,
9 require notice of this dangerous condition be given to the Class, and all other relief
10 allowed under Cal. Bus. & Prof. Code § 17200.

11 **VII. VIOLATIONS OF CALIFORNIA'S UNFAIR BUSINESS**
12 **PRACTICES ACT, SECRET WARRANTY LAW**

13 *(California Civil Code §§ 1795.90, et seq.)*

14 *(California Plaintiffs, individually, and on behalf of the California Subclass)*

15 541. Plaintiffs hereby incorporate by reference all the allegations contained
16 in the preceding paragraphs of this complaint.

17 542. The California Plaintiffs bring this cause of action on behalf of
18 themselves and on behalf of the California Subclass members.

19 543. By committing the acts and practices alleged, Defendant violated the
20 Secret Warranty Law, and by doing so, has engaged in deceptive, unfair, and
21 unlawful business practices in violation of the Unfair Competition Law, Bus. &
22 Prof. Code §§ 17200, et seq.

23 544. Defendant's violation of the Secret Warranty Law continues to this
24 day. As a direct and proximate result of Defendant's violations of the Secret
25 Warranty Law, certain Plaintiffs and Class Members paid to conduct repairs for the
26 Brake Defect.

27 545. Pursuant to § 17203 of the UCL, Plaintiffs and Class Members seek
28 an order of this court requiring defendant to comply with the terms of the

1 California Secret Warranty Law by (a) notifying Class Members of the secret
2 brake repair and/or replacement and any related damage program as alleged herein;
3 (b) providing free brake repair or replacement to all Class Members as required by
4 the Secret Warranty Law; (c) identifying and reimbursing all Class Members who
5 have paid for brake repair or reimbursement as required by the Secret Warranty
6 law; (d) notifying California dealers of the facts underlying the Brake Defect and
7 the terms of its secret brake repair or replacement as required by the Secret
8 Warranty Law; (e) notifying the California New Motor Vehicle Board of the secret
9 brake repair or replacement, as well as its related damage repair reimbursement
10 program as required by the Secret Warranty Law.

11 546. Plaintiffs and Class Members also seek an order: (a) enjoining
12 Defendant from failing and refusing to make full restitution of all monies
13 wrongfully obtained as a result of its violations of the California Secret Warranty
14 Law; and (b) disgorging to Plaintiffs and Class Members all ill-gotten revenues
15 and, or profits earned as a result of Defendant's violation of the California Secret
16 Warranty Law, plus an award of attorneys' fees and costs. This is because
17 Defendant profited from its sale of replacement brake system and related parts to
18 mechanics and dealers because they ultimately replaced or repaired defective brake
19 pads and related parts for certain Plaintiffs and Class Members.

20 **VIII. VIOLATIONS OF NEW YORK GENERAL BUSINESS LAW § 349**

21 *(N.Y. Gen. Bus. Law § 349)*

22 *(New York Plaintiffs, individually, and on behalf of the New York Subclass)*

23 547. Plaintiffs incorporate by reference and re-alleges the preceding
24 paragraphs as if fully set forth herein.

25 548. New York Plaintiffs bring this cause of action individually and on
26 behalf of the New York Subclass.
27
28

1 549. New York’s General Business Law § 349 makes unlawful
2 “[d]eceptive acts or practices in the conduct of any business, trade or commerce.”

3 550. By failing to disclose and actively concealing the dangers and risks
4 posed by the Class Vehicles and/or the defective braking system installed in them,
5 Defendants engaged in deceptive acts or practices prohibited by the New York
6 General Business Law § 349, including: (i) representing that its vehicles and their
7 braking system had characteristics, uses, or benefits which they do not have; (ii)
8 advertising its goods with intent not to sell them as advertised; (iii) representing
9 that its vehicles and braking system are of a particular standard, quality, or grade
10 when they are not; (iv) representing that a transaction conferred or involved rights,
11 remedies, or obligations which they do not; and (v) representing that its goods have
12 been supplied in accordance with a previous representation when they have not.

13 551. Defendant’s actions as set forth above occurred in the conduct of trade
14 or commerce.

15 552. In the course of their business, Defendant failed to disclose and
16 actively concealed the dangers and risks posed by the Class Vehicles and/or the
17 defective braking system installed in them as described herein and otherwise
18 engaged in activities with a tendency or capacity to deceive.

19 553. Defendant also engaged in unlawful trade practices by employing
20 deception, deceptive acts or practices, fraud, misrepresentations, or concealment,
21 suppression or omission of any material fact with intent that others rely upon such
22 concealment, suppression or omission, in connection with the sale of the Class
23 Vehicles and/or the defective braking system installed in them.

24 554. Complaints to the NHTSA, which Volkswagen monitors with respect
25 to its vehicles, show that drivers were reporting the problem with the Vehicles’
26 braking systems as early as 2021. Further Volkswagen uses a variety of other
27 means to track data about how its vehicles are performing after they are sold,
28

1 including through tracking complaints, warranty claims, replacement parts data,
2 and other aggregated data sources.

3 555. Defendant's unfair or deceptive acts or practices, including these
4 concealments, and omissions of material facts, had a tendency or capacity to
5 mislead, tended to create a false impression in consumers, were likely to and did in
6 fact deceive reasonable consumers, including Plaintiff, about the true safety and
7 reliability of Class Vehicles and/or the defective braking system installed in them,
8 and the true value of the Class Vehicles.

9 556. Defendant intentionally and knowingly misrepresented material facts
10 regarding the Class Vehicles and/or the defective braking system installed in them
11 with an intent to mislead Plaintiffs and Class Members.

12 557. To protect their profits and to avoid remediation costs and a public
13 relations nightmare, Defendant concealed the dangers and risks posed by the
14 defective braking system installed in the Class Vehicles, and allowed unsuspecting
15 new and used car purchasers to continue to buy/lease the Class Vehicles, and
16 allowed them to continue driving dangerous vehicles.

17 558. Defendant owed Plaintiffs and the Class Members a duty to disclose
18 the true safety and reliability of the Class Vehicles and/or the defective braking
19 system installed in them because Defendant: (a) possessed exclusive knowledge of
20 the dangers and risks posed by the foregoing; (b) intentionally concealed the
21 foregoing from Plaintiffs; and/or (c) made incomplete representations about the
22 safety and reliability of the foregoing generally, while withholding material facts
23 from Plaintiffs and Class Members that contradicted these representations.

24 559. Defendant's failure to disclose and active concealment of the dangers
25 and risks posed by the defective braking system in Class Vehicles were material to
26 Plaintiffs and Class Members. A vehicle made by a reputable manufacturer of safe
27 vehicles is worth more than an otherwise comparable vehicle made by a
28

1 disreputable manufacturer of unsafe vehicles that conceals defects rather than
2 promptly remedies them.

3 560. Plaintiffs and the Class Members suffered ascertainable loss caused
4 by Defendant’s misrepresentations and its failure to disclose material information.
5 Had they been aware of the defective braking system installed in the Class
6 Vehicles, Plaintiffs and the Class Members either would have paid less for their
7 vehicles or would not have purchased or leased them at all. Plaintiffs and the Class
8 Members did not receive the benefit of their bargain as a result of Defendant’s
9 misconduct.

10 561. Defendant’s violations present a continuing risk to Plaintiffs, the Class
11 Members, as well as to the general public. Defendant’s unlawful acts and practices
12 complained of herein affect the public interest.

13 562. Plaintiffs and the other Class Members were injured as a result of
14 Defendant’s conduct in that Plaintiffs and the other Class Members overpaid for
15 their Class Vehicles and did not receive the benefit of their bargain, and their Class
16 Vehicles have suffered a diminution in value. These injuries are the direct and
17 natural consequence of Volkswagen’s misrepresentations and omissions.

18 **IX. VIOLATIONS OF NEW YORK GENERAL BUSINESS LAW § 350**

19 *(N.Y. Gen. Bus. Law § 350)*

20 *(New York Plaintiffs, individually, and on behalf of the New York Subclass)*

21 563. Plaintiffs reference and reallege the paragraphs above as if fully set
22 forth herein.

23 564. New York Plaintiffs bring this cause of action individually and on
24 behalf of the New York Subclass.

25 565. New York’s General Business Law § 350 makes unlawful “[f]alse
26 advertising in the conduct of any business, trade or commerce[.]” False advertising
27 includes “advertising, including labeling, of a commodity ... if such advertising is
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1 misleading in a material respect,” taking into account “the extent to which the
2 advertising fails to reveal facts material in the light of ...representations [made]
3 with respect to the commodity....” N.Y. Gen. Bus. Law § 350-a.

4 566. Volkswagen caused to be made or disseminated through New York,
5 through advertising, marketing, and other publications, statements that were untrue
6 or misleading, and which were known, or which by the exercise of reasonable care
7 should have been known to Volkswagen, to be untrue and misleading to
8 consumers, including Plaintiffs and the other Class Members.

9 567. Volkswagen has violated N.Y. Gen. Bus. Law § 350 because the
10 misrepresentations and omissions regarding the Class Vehicles and/or the defective
11 braking system installed in them, as described above, which was material and
12 likely to deceive a reasonable consumer.

13 568. Plaintiffs and the other Class Members have suffered injury, including
14 the loss of money or property, as a result of Volkswagen’s false advertising. In
15 purchasing or leasing their Class Vehicles, Plaintiffs and the other Class Members
16 relied on the misrepresentations and/or omissions of Volkswagen with respect to
17 the safety, quality, functionality, and reliability of the Class Vehicles and/or the
18 defective braking system installed in them. Volkswagen’s representations turned
19 out to be untrue because the defects described within renders the Class Vehicles
20 and/or the panoramic braking system installed in them to spontaneously shatter, as
21 described hereinabove. Had Plaintiffs and the other Class Members known this,
22 they would not have purchased or leased their Class Vehicles and/or paid as much
23 for them.

24 569. Accordingly, Plaintiffs and the other Class Members overpaid for
25 their Class Vehicles and did not receive the benefit of the bargain for their Class
26 Vehicles, which have also suffered diminution in value.

27 570. Plaintiffs, individually and on behalf of the other Class Members,
28 request that this Court enter such orders or judgments as may be necessary to

1 enjoin Volkswagen from continuing their unfair, unlawful and/or deceptive
2 practices. Plaintiffs and the other Class Members are also entitled to recover their
3 actual damages or \$500, whichever is greater. Because Volkswagen acted willfully
4 or knowingly, Plaintiffs and the other Class Members are entitled to recover three
5 times actual damages, up to \$10,000.

6 **X. VIOLATIONS OF ILLINOIS CONSUMER FRAUD & DECEPTIVE**
7 **PRACTICES ACT**

8 *(815 Ill. Comp. Stat. 505/1, et seq.)*

9 *(Illinois Plaintiff, individually, and on behalf of the Illinois Subclass)*

10 **571.** Plaintiffs incorporate by reference and realleges the preceding
11 paragraphs as if fully set forth herein.

12 **572.** Illinois Plaintiffs bring this cause of action individually and on behalf
13 of the Illinois Subclass.

14 **573.** Plaintiffs assert a claim under Illinois’s Consumer Fraud and
15 Deceptive Business Practices Act (“CFDBPA”), which makes it unlawful to
16 engage in “[u]nfair methods of competition and unfair or deceptive acts or
17 practices, including but not limited to the use or employment of any deception
18 fraud, false pretense, false promise, misrepresentation or the concealment,
19 suppression or omission of any material fact, with intent that others rely upon the
20 concealment, suppression or omission of such material fact, or the use or
21 employment of any practice described in Section 2 of the ‘Uniform Deceptive
22 Trade Practices Act’ ... in the conduct of any trade or commerce ... whether any
23 person has in fact been misled, deceived or damaged thereby.” 815 ILCS 505/2.³
24

25 ³ Illinois’s CFDBPA states, in relevant part, that “[a] person engages in a deceptive
26 trade practice when, in the course of his or her business, vocation, or occupation,
the person: ...

27 (2) causes likelihood of confusion or of misunderstanding as to the ...
28 certification of goods ...;

1 **574.** Volkswagen developed, manufactured, marketed and sold the
2 defective Class Vehicles containing the Brake Defective braking systems as
3 alleged herein. Volkswagen developed, manufactured, marketed and sold the Class
4 Vehicles despite knowledge of the Brake Defect and that the Class Vehicles posed
5 a serious safety risk to consumers like Plaintiffs and Subclass members.

6 **575.** Volkswagen’s actions and omissions in selling and leasing its Class
7 Vehicles as safe for the road despite knowing that the Class Vehicles posed a
8 serious safety risk to consumers, failing to disclose the Brake Defect and safety
9 risks known to Volkswagen but hidden from the consumer, and Volkswagen’s
10 knowing concealment of the defective Class Vehicles’ unreasonable safety risks,
11 constitute “deception fraud, false pretense, false promise, [and] misrepresentation”
12 as well as “concealment, suppression [and] omission of a[] material fact, with
13 intent that [Plaintiffs and Class Members] rely upon the concealment, suppression
14 or omission of such material fact” in violation of the CFDBPA. 815 ILCS 505/2.
15 Volkswagen’s unfair and deceptive practices alleged herein also constitute several
16 practices prohibited by the Uniform Deceptive Trade Practices Act, including
17 subparts (2), (5), (7), (9), and (12). 815 ILCS 510/2. Volkswagen’s practices are
18 illegal, unfair or deceptive acts or practices in the conduct of trade or commerce
19 and are inherently deceptive. Volkswagen’s practices alleged herein offend public
20 policy and are immoral, unethical, oppressive, and unscrupulous.

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22
23 (5) represents that goods ... have ... characteristics ... uses, [or] benefits ...
24 that they do not have...;
25 (7) represents that goods ... are of a particular standard, quality, or grade ...
26 if they are of another; ...
27 (9) advertises goods or services with intent not to sell them as advertised; ...
28 [or]
 (12) engages in any other conduct which similarly creates a likelihood of
 confusion or misunderstanding.”
815 ILCS 510/2(a).

1 **576.** Volkswagen violated the CFDBPA not only when it sold the Class
2 Vehicles as safe for use by consumers, but also when it failed to disclose to
3 Plaintiffs and Subclass members that the Class Vehicles had a Defect that posed a
4 serious safety risk to consumers and the public, despite Volkswagen’s knowledge
5 that the Class Vehicles posed such a risk to Plaintiffs and Subclass members.

6 **577.** Volkswagen engaged in deceptive trade practices, in violation of the
7 CFDBPA, including by creating a likelihood of confusion or misunderstanding as
8 to the characteristics, quality, uses, benefits, approval, or certification of the Class
9 Vehicles, using deceptive representations in connection with the Class Vehicles,
10 representing that the Class Vehicles have approval, characteristics, uses, benefits,
11 or qualities that they do not have, representing that Class Vehicles meet a
12 particular standard, quality, or grade when they are not, advertising Class Vehicles
13 as having certain qualities, uses, and benefits even though Volkswagen intended to
14 sell them other than as advertise, knowingly making false or misleading statements
15 of fact concerning the need for parts, replacement, or repair service regarding the
16 Brake Defect and defective braking systems, and by selling new Class Vehicles
17 without disclosing the Brake Defect which constitutes material damage to a motor
18 vehicle.

19 **578.** Volkswagen’s deceptive trade practices were designed to induce
20 Plaintiffs and Subclass members to purchase the Class Vehicles containing the
21 Brake Defect and to avoid the cost of replacing, repairing or recalling the Class
22 Vehicles already in use across the United States. Volkswagen’s violations of the
23 CFDBPA were designed to conceal, and Volkswagen failed to disclose, material
24 facts about the Brake Defect and unreasonable safety risks in the Class Vehicles in
25 order to induce Plaintiffs and Subclass members to purchase the Class Vehicles
26 and in order to avoid the business cost of replacing, repairing and/or recalling the
27 Class Vehicles.
28

1 **579.** By engaging in the unfair and deceptive conduct described herein,
2 Volkswagen actively concealed and failed to disclose material facts about the
3 defective Class Vehicles.

4 **580.** The omissions set forth above regarding the Class Vehicles are
5 omissions of material facts that a reasonable person would have considered
6 important in deciding whether or not to purchase a Class Vehicle. Indeed, no
7 reasonable consumer would have knowingly bought or leased a Class Vehicle for
8 use on the road, or otherwise, if that consumer had known that the product had a
9 serious Defect that posed a safety risk and that the Brake Defect caused the Class
10 Vehicles to lose power in the normal course of use.

11 **581.** Volkswagen's acts were intended to be deceptive and/or fraudulent,
12 namely to market, distribute and sell the Class Vehicles and to avoid the expense
13 of replacing, repairing and/or recalling Class Vehicles across the United States.

14 **582.** Plaintiffs and Subclass members suffered injury in-fact as a direct
15 result of Volkswagen's violations of the CFDBPA in that they have paid a
16 premium for Class Vehicles that are equipped with Volkswagen's defective
17 braking system and that pose an immediate safety risk to consumers and the public.
18 Plaintiffs and Illinois Subclass members did not receive the benefit of the bargain
19 they made when purchasing or leasing their Class Vehicles.

20 **583.** Plaintiffs and Illinois Subclass members have also been denied the use
21 of their Class Vehicles, expended money on replacement and repairs, and suffered
22 unreasonable diminution in value of their Class Vehicles as a result of
23 Volkswagen's conduct alleged herein.

24 **584.** Had Volkswagen disclosed the true quality, nature and defects of the
25 Class Vehicles, Plaintiffs and Subclass members would not have purchased the
26 Class Vehicles or would have paid less.

27 **585.** To this day, Volkswagen continues to violate the CFDBPA by
28 concealing the defective nature of the Class Vehicles in failing to notify customers,

1 in failing to issue a recall, and in collecting the profits from costly repairs and
2 replacements.

3 **586.** Volkswagen owed Plaintiffs and Subclass Members a duty to disclose
4 the true safety and reliability of the Class Vehicles and/or the defective braking
5 system installed in them because Volkswagen: (a) possessed exclusive knowledge
6 of the dangers and risks posed by the foregoing; (b) intentionally concealed the
7 foregoing from Plaintiffs and Subclass Members; and/or (c) made incomplete
8 representations about the safety and reliability of the foregoing generally, while
9 withholding material facts from Plaintiff and Subclass Members that contradicted
10 these representations.

11 **587.** Plaintiffs and Subclass Members reasonably relied on Volkswagen's
12 misrepresentations and omissions, and expected that the Class Vehicles would not
13 be equipped with a defective braking system, such that it would render the Class
14 Vehicles unsafe and not fit for their ordinary use. Further, Plaintiff and Subclass
15 Members reasonably expected Volkswagen would honor its warranty obligations,
16 as represented to them at the time they purchased or leased their Class Vehicles.

17 **588.** Prior to filing this Complaint, on June 4, 2024, Plaintiffs served
18 demand letters on Volkswagen, notifying Volkswagen of Plaintiffs' damages and
19 the Brake Defect in their Class Vehicles and demanding relief, in compliance with
20 815 ILCS 505/10a.

21 **589.** Plaintiffs and Subclass Members have been damaged by these
22 violations of the CFDBPA. The damages should be trebled, and Plaintiffs and
23 Subclass members should be allowed to recover attorneys' fees pursuant to 815
24 ILCS 505/10a.

1 **XI. FRAUD/FRAUDULENT CONCEALMENT**

2 *(Plaintiffs, individually, and on behalf of the Class)*

3 **590.** Plaintiffs incorporate by reference and realleges the preceding
4 paragraphs as if fully set forth herein.

5 **591.** This claim is brought by Plaintiffs individually and on behalf of Class
6 Members.

7 **592.** Volkswagen concealed and suppressed material facts concerning the
8 performance and quality of the Class Vehicles—namely, the Brake Defect—and
9 the quality of the Volkswagen brand. Specifically, Volkswagen knew (or should
10 have known) of the Brake Defect but failed to disclose it prior to or at the time it
11 sold or leased Class Vehicles to consumers. Volkswagen did so to boost sales and
12 leases of Class Vehicles.

13 **593.** Plaintiffs and Class Members had no way of knowing that
14 Volkswagen’s representations were false and gravely misleading, or that
15 Volkswagen had omitted imperative details. Plaintiffs and Class Members did not,
16 and could not, unravel Volkswagen’s deception on their own.

17 **594.** Volkswagen had a duty to disclose the true performance of Class
18 Vehicles and the Brake Defect because knowledge thereof and the details related
19 thereto were known and/or accessible only to Volkswagen; Volkswagen had
20 superior knowledge and access to the facts; and knew the facts were not known to,
21 or reasonably discoverable, by Plaintiffs and the Class. Volkswagen also had a
22 duty to disclose because they made many general affirmative representations about
23 the qualities of the Class Vehicles.

24 **595.** On information and belief, Volkswagen still has not made full and
25 adequate disclosures, and continues to defraud consumers by concealing material
26 information regarding the Brake Defect and the performance and quality of Class
27 Vehicles.
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1 **596.** Plaintiffs and the Class were unaware of these omitted material facts
2 and would not have acted as they did if they had known of the concealed and/or
3 suppressed facts, in that they would not have purchased or leased the Class
4 Vehicles. The actions of Plaintiffs and Class Members were justified. Volkswagen
5 was in exclusive control of the material facts and such facts were not known to the
6 public, Plaintiff, or Class Members.

7 **597.** Plaintiffs and Class Members relied upon Volkswagen’s
8 representations and omissions regarding the quality of Class Vehicles and the
9 Brake Defect in deciding to purchase or lease Class Vehicles.

10 **598.** Because of the concealment and/or suppression of the facts, Plaintiffs
11 and the Class sustained damage because they did not receive the value of the price
12 paid for their Class Vehicles. Plaintiffs and Class Members would have paid less
13 for Class Vehicles had they known about the Brake Defect, or they would not have
14 purchased or leased Class Vehicles at all.

15 **599.** Accordingly, Volkswagen is liable to Plaintiffs and Class Members
16 for damages in an amount to be proven at trial.

17 **600.** Volkswagen’s actions and omissions were done maliciously,
18 oppressively, deliberately, with intent to defraud, and in reckless disregard of
19 Plaintiffs’ and the Class’s rights and well-being, to enrich Volkswagen.
20 Defendant’s conduct warrants an assessment of punitive damages in an amount
21 sufficient to deter such conduct in the future, which amount is to be determined
22 according to proof.

23 **601.** Furthermore, as the intended and expected result of its fraud and
24 conscious wrongdoing, Volkswagen has profited and benefited from Plaintiffs’ and
25 Class Members’ purchase of Class Vehicles containing the Brake Defect.
26 Volkswagen has voluntarily accepted and retained these profits and benefits with
27 full knowledge and awareness that, as a result of Volkswagen’s misconduct alleged
28 herein, Plaintiffs and Class Members were not receiving Vehicles of the quality,

1 nature, fitness, or value that had been represented by Volkswagen, and that a
2 reasonable consumer would expect.

3 **602.** Volkswagen has been unjustly enriched by its fraudulent, deceptive,
4 and otherwise unlawful conduct in connection with the sale and lease of Class
5 Vehicles and by withholding benefits from Plaintiffs and Class Members at the
6 expense of these parties. Equity and good conscience militate against permitting
7 Volkswagen to retain these profits and benefits, and Volkswagen should be
8 required to make restitution of its ill-gotten gains resulting from the conduct
9 alleged herein.

10 **REQUESTS FOR RELIEF**

11 **603.** WHEREFORE, Plaintiffs, individually and on behalf of the other
12 members of the Class and Subclasses proposed in this Complaint, respectfully
13 request that the Court enter judgment in their favor and against Volkswagen, as
14 follows:

- 15 A. Declaring that this action is a proper class action, certifying the Class as
16 requested herein, designating Plaintiffs as Class and Subclass
17 Representatives and appointing the undersigned counsel as Class
18 Counsel;
- 19 B. Ordering Volkswagen to pay actual damages (and no less than the
20 statutory minimum damages) and equitable monetary relief to Plaintiffs
21 and the other members of the Class and Subclasses;
- 22 C. Ordering Volkswagen to pay punitive damages, as allowable by law, to
23 Plaintiffs and the other members of the Class and Subclasses;
- 24 D. Ordering Volkswagen to pay statutory damages, as allowable by the
25 statutes asserted herein, to Plaintiffs and the other members of the Class
26 and Subclass;
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- 1 E. Awarding injunctive relief as permitted by law or equity, including
2 enjoining Volkswagen from continuing the unlawful practices as set forth
3 herein, and ordering Defendant to engage in a corrective recall campaign;
4 F. Ordering Volkswagen to pay attorneys' fees and litigation costs incurred
5 by Plaintiffs for the benefit of the Class and Subclasses;
6 G. Ordering Volkswagen to pay both pre- and post-judgement interest on
7 any amounts awarded; and
8 H. Ordering such other and further relief as may be just and proper.

9 **DEMAND FOR JURY TRIAL**

10 **604.** Plaintiffs, individually and all others similarly situated, hereby
11 demand a trial by jury as to all matters so triable.
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1 Dated: May 16, 2025

Respectfully submitted,

2 **MILBERG COLEMAN BRYSON**
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