

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA**

CASTLE CAR COMPANY, individually	:	
and on behalf of all similarly situated,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Case No.
	:	
FIAT CHRYSLER AUTOMOBILE M.V.	:	
and FCAUS, LLC	:	JURY TRIAL DEMANDED
	:	
Defendants.	:	

CLASS ACTION COMPLAINT

Plaintiff, Castle Car Company, by and through their undersigned counsel, individually and on behalf of all similarly situated persons alleges the following against Defendants, Fiat Chrysler Automobile M.V. and FCAUS, LLC (collectively “Defendants”).

I. INTRODUCTION

1. This class action concerns the installation of defective devices on hundreds of thousands of diesel Dodge and Jeep vehicles sold in the United States since 2014.

2. Defendants installed a defective device in the following diesel models of its vehicles: Model Year (“MY”) 2014 – 2016 Ram 1500 and MY 2014 – 2016 Jeep Ram Cherokee (“Vehicles”).

3. The defective device installed on the above Vehicles did not provide superior fuel economy coupled with low emissions as Defendants advised, represented and promised to purchasers. Instead, this device was installed to only make it appear that the device met emissions standards while the Vehicles were operating during normal driving conditions and use in reality, when the Vehicles were undergoing periodic emissions testing, this device allowed the Vehicles

to meet the standards, however, when the Vehicles were operating during normal use and driving conditions, it would not meet the emissions standards. Therefore, while the Vehicles met emissions standards during testing they did not meet emissions standards during normal use and driving conditions and allowed emissions into the environment not allowed under the Clean Air Act and state regulations.

4. These above violations are explained more fully in a Notice of Violation that the EPA issued to Defendants attached hereto as Exhibit “A” and which are incorporated as if set forth herein.

II. PARTIES

5. Plaintiff, Castle Car Company (“Plaintiff”) is a company doing business in the Commonwealth of Pennsylvania with their principle place of business located at 2914 Wilmington Road, New Castle, Pennsylvania 16105.

6. Fiat Chrysler Automobile M.V. (“FCA M.V.”) is a Dutch corporation headquartered in the United Kingdom and is an international automotive group engaged in designing, engineering, manufacturing, distributing and selling vehicle components and production systems.

7. FCA M.V. sells Vehicles in the United States through its subsidiary FCAUS, LLC.

8. FCAUS, LLC is a corporation doing business in every state in the United States and the District of Columbia and is organized under the laws of Delaware with its principle place of business located at 1000 Chrysler Drive, Auburn Hills, Michigan 48326. FCAUS, LLC is therefore a citizen of Delaware and Michigan. 28 U.S.C. § 1332(d)(10).

III. JURISDICTION AND VENUE

9. This Court has jurisdiction over this action pursuant to the Class Action Fairness Act (“CAFA”), 28 U.S.C. § 1332(d) because at least one member of the class is a diverse citizenship from one Defendant, there are more than 100 class members and the aggregate amount in controversy exceeds 5 million exclusive of interests and costs.

10. This Court has jurisdiction over Defendants because they conduct business in Pennsylvania and have sufficient contacts with Pennsylvania.

11. Venue is proper in this district under 28 U.S.C. § 1391(b) because a substantial part of the events or admissions giving rise to these claims occurred and emanated from this district and because Defendants have caused harm to class members residing in this district.

IV. FACTS

12. In 2015, Plaintiff purchased a 2014 Ram 1500 3.0 liter eco diesel. VIN 1CGRR7VM5ES428344.

13. Plaintiff and the Class were harmed by the actions of Defendants set forth more fully below.

14. Defendants designed Vehicles with the intent to mislead consumers, the public, purchasers of the Vehicles and state and federal regulators with regards to the emissions the Vehicles produced. Defendants marketed, represented and touted the Vehicles as fuel efficient, eco-friendly and meeting the emission standards. However, the Vehicles did not live up to defendants’ representations and promises nor did they meet the required emission standards. As such, Defendants sold Vehicles that deceived consumers and federal regulators that it met emissions standards but it did not. Defendants knew that they were misleading the consumers and federal and state regulators but concealed this fact from purchasers, the public and regulators.

15. Defendants represented, marketed and sold Vehicles as producing low emissions, fuel efficient vehicles. This marketing effort was at the core of its advertising and sales campaign.

16. Defendants sold Vehicles based, in large part, because the cars were represented as clean and environmentally friendly vehicles to consumers who valued this information.

17. Selling clean and environmentally conscious Vehicles also artificially raised the price of its Vehicles when, in fact, these Vehicles were of far less value because they did not meet state and federal regulations and were not environmentally conscious.

18. Relying on Defendants' marketing and sales campaign consumers purchased the Vehicles with the understanding that they were purchasing environmentally friendly, fuel efficient Vehicles when it was not true. The truth is the consumers purchased Vehicles that did not meet state and federal regulations and were not environmentally friendly and fuel efficient as advertised.

19. Defendants concealed from consumers, the public, purchasers and regulators that its Vehicles did not meet state and federal regulations and were not environmentally friendly.

20. On January 12, 2017, the EPA issued a Notice of Violation ("NOV"). The NOV explains that Defendants installed sophisticated software in the Vehicles that reduces the effectiveness of the Vehicles' emissions control systems that exist to comply with the Clean Air Act emissions standard.

21. According to the EPA, Defendants failed to disclose eight Auxiliary Emission Control Device ("AECs" or "Defeat Devices") in approximately 103,828 Vehicles. Due to the undisclosed AECs, the Vehicles did not conform to the vehicle specifications described in the applications for respective vehicle Certificates for Conformity ("COCs"). Therefore, Defendants violated Section 203(a)(1) of the Clean Air Act, 42 U.S.C. § 7522(a)(1).

22. The EPA determined that the AECDs resulted in combination or individually in emissions that met the state and federal regulations. However, the Defendants did not disclose to the EPA that the AECDs were installed in the Vehicles or that under normal driving conditions, these Vehicles did not meet EPA standards.

23. The NOV states that, to date, it was disclosed that the AECDs were installed to defeat one more elements designed and installed to comply with emissions standards under the Clean Air Act.

24. Had Plaintiff and members of the class known that the AECD was installed in the Vehicles, it would not have purchased or leased those Vehicles and/or would have paid substantially less for the Vehicles than they did. Moreover, when and if Defendants recall the Vehicles and degrade the EcoDiesel engine performance in order to make the Vehicles compliant with EPA standard, Plaintiff and members of the class will be required to spend more money and will not benefit from the performance qualities of their Vehicles as advertised. Moreover, the Vehicles will be worth less in the used marketplace because of their decrease in performance and efficiency which means that owners of these Vehicles will not be able to recoup nearly as much value in the future when they sell the Vehicles.

25. Defendants' deliberative strategy devalues the Vehicles, harms the environment and has caused serious harm to the consumers and class members nationwide.

V. TOLLING OF WARRANTY PERIOD

26. The warranty period of Plaintiff and Class members' express and implied warranty claims is tolled pursuant to defendant's conduct under Pennsylvania law.

VI. CLASS ACTION ALLEGATIONS

25. Plaintiffs bring this action on behalf of themselves and all others similarly situated as a class action pursuant to Rule 23(b)(3) of the Federal Rules of Civil Procedure.

26. The Classes which Plaintiffs seek to represent are defined as follows:

PENNSYLVANIA CLASS

All persons or entities in the Commonwealth of Pennsylvania who are current or former owners and/or lessees of a Vehicle. Vehicles include, without limitation: MY 2014 – 2016 Ram 1500 and MY 2014 – 2016 Jeep Ram Cherokee.

NATIONWIDE CLASS

All persons or entities in the United States who are current or former owners and/or lessees of a Vehicle. Vehicles include, MY 2014 – 2016 Ram 1500 and MY 2014 – 2016 Jeep Ram Cherokee.

27. Excluded from the Classes are (i) Defendant, any entity in which Defendant has a controlling interest or which has a controlling interest in Defendant, and Defendant's legal representatives, predecessors, successors and assigns; (ii) governmental entities; (iii) Defendant's employees, officers, directors, agents, and representatives and their family members; and (iv) the Judge and staff to whom this case is assigned, and any member of the Judge's immediate family.

28. Plaintiff reserves the right to amend the Class definition if discovery and further investigation reveal the Class should be expanded or otherwise modified.

29. This action has been brought and may properly be maintained as a class action, pursuant to Federal Rule of Civil Procedure 23(b)(3), because there is a well-defined community of interest in the litigation in which common issues predominate and the proposed class is easily ascertainable:

A. Numerosity. Defendants sold over 103,828 Vehicles throughout the United States. Each class is so numerous that joinder is impracticable.

B. Common Issues Predominate. Common questions of law and fact exist as to all members of the Class and predominate over any questions which affect only individual members of the Class. The engines are all the same and do not differ in any manner that is relevant to Plaintiff's allegations, and the damage and harm caused thereby. Plaintiff allege herein that the Vehicles all contain Defeat Devices. There is a well-defined community of interest in the questions of law and fact involved and that affect consumers who purchased the Vehicles, and they all suffer from inherent and common defects. These questions of law and fact predominate over questions that affect only individual Class members. The common questions of law and fact include, without limitation:

- i. Whether the Vehicles contain Defeat Devices;
- ii. Whether the Vehicles are unmerchantable;
- iii. Whether Defendants knew and/or recklessly disregarded the fact that the Vehicles contained Defeat Devices;
- iv. Whether Defendants concealed and failed to disclose material facts in its communications and disclosures to Plaintiff and Class members regarding the Defeat Devices;
- v. Whether Defendants has engaged in unfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in connection with the sale and warranting of the Vehicles;
- vi. Whether consumers were likely to be deceived by Defendants' conduct;
- vii. Whether Defendants breached its express warranties;
- viii. Whether, as a result of Defendants' conduct, Plaintiff and Class members have suffered damages, and if so, the appropriate amount thereof; and
- ix. Whether, as a result of Defendants' misconduct, Plaintiff and Class members are entitled to equitable relief and/or other relief, and, if so, the nature of such relief.

C. Typicality. Plaintiff's claims are typical of the claims of the Class members in that Plaintiff and the Class members have the same Vehicles, which share the same Defeat Device, emission system control software, design, parts, materials, workmanship and manufacture and about which Defendant repeatedly made the same, or nearly identical, uniform omissions. Therefore, the claims of Plaintiff are and will be typical of Class members.

D. The Class is Ascertainable. Plaintiff has adequately and objectively defined the Class, as detailed above, so the Court and Class members will be able to use the definition to determine Class membership.

E. Adequacy. Plaintiff will fairly and adequately represent the interests of all Class members. Plaintiff has purchased a Vehicle and is an adequate representative of the Class as it has no interests which are adverse to the interests of absent Class members. Plaintiff has retained counsel with substantial experience and ability to prosecute this complex defective product and consumer class action litigation.

F. Superiority. A class action is superior to other available means for the fair and efficient adjudication of this controversy. Class action treatment will permit a large number of similarly situated persons to prosecute their common claims in a single forum simultaneously, efficiently and without the unnecessary duplication of effort and expense that numerous individual actions would engender. The disposition of their claims in this case and as part of a single class action lawsuit, rather than hundreds of individual lawsuits, will benefit the parties and greatly reduce the aggregate judicial resources that would be spent if this matter were handled as hundreds of separate lawsuits. Furthermore, given the extraordinary expenses and burden in conducting the discovery and presentation of evidence about the inherent defects in the Vehicles, the burden of individual litigation would make it extremely difficult, if not impossible for individual members of the Class to redress the wrongs asserted herein, while an important public interest will be served by addressing the matter as a class action. Moreover, separate prosecution by thousands of individual members of the Class would likely establish inconsistent standards of conduct for the Defendant and result in the impairment of and potential harm to, Class members' rights and the

disposition of their interests through actions to which they were not parties. Plaintiff is informed and believes that a great amount of time and expense will be saved by conducting the discovery and presentation of evidence about the inherent defects in the Vehicles in a single class action lawsuit, in contrast to the repeated discovery and presentation of evidence in hundreds or thousands of separate lawsuits brought on the common questions presented by the allegations of this complaint. Plaintiffs know of no difficulty that will be encountered in the management of this litigation which would preclude its maintenance as a class action.

FIRST CAUSE OF ACTION
(Breach of Express Warranty)
(Pennsylvania Sub-Class)

30. Plaintiff repeats and re-alleges all prior paragraphs and incorporates them as if fully set forth herein.

31. Plaintiff seeks recovery for itself and the Class for Defendants' breach of express warranty under the laws of the Commonwealth of Pennsylvania.

32. Defendants also made affirmations and promises that created express warranties that the Vehicles would provide the performance described in fuel efficiency statements and the low emissions advertised in Defendants' advertising campaign.

33. Defendants are obligated under the terms of its written warranty to repair the Vehicles sold to Plaintiff and Class members, and/or to make the Vehicles conform to the express warranties and the emission standards.

34. Defendants breached their express warranty by selling and supplying the Vehicles with Defeat Devices and by failing to repair the Vehicles so that they conform to the warranties and the emission standards.

35. To the extent any notice is deemed required, Defendants received sufficient and timely notice of the breaches of warranties alleged herein.

36. In addition, Defendants had notice from the EPA regarding the breaches of warranties and emission standards.

37. Plaintiff has complied with their obligations under the Written Warranty and the law and has given Defendants a reasonable opportunity to cure the breaches of its Warranties and Defendants failed to do so.

38. Defendants' affirmations and promises became part of the "basis of the bargains" between Plaintiff and the Class members, on the one hand, and Defendants, on the other hand. Plaintiff and Class members would not have purchased the Vehicles had Defendants not warranted the Vehicles as it did.

39. As a direct and proximate result of Defendants' breach express warranties, Plaintiff and Class members have sustained damages and other losses in an amount to be determined at trial.

SECOND CAUSE OF ACTION
(Breach of Implied Warranty of Merchantability)
(Pennsylvania Sub-Class)

40. Plaintiff repeats and re-alleges all prior paragraphs and incorporates them as if fully set forth herein.

41. Every sale of consumer goods is accompanied by both a manufacturer's and retailer's implied warranty that the goods are merchantable and fit for their ordinary purposes and use. Therefore, consumers need not be in privity with the manufacturer to bring an implied warranty claim.

42. Plaintiff bought the Vehicle at retail in the Commonwealth of Pennsylvania.

43. At the time of sale, and currently, Defendants are in the business of manufacturing, marketing, and selling Vehicles.

44. By operation of law, Defendants impliedly warranted to Plaintiff and Class members that the Vehicles were of merchantable quality and fit for the ordinary purposes for which they are used.

45. The Vehicles contain illegal Defeat Devices as alleged herein that cause them to emit the allowable amount of emissions when tested, but, elevated levels of emissions above the standards when the vehicles are operated for their ordinary purposes and use.

46. Defendants breached the implied warranty at the time of sale by selling the Vehicles with Defeat Devices that allow the Vehicles to produce elevated emissions while operated for their ordinary purposes and use.

47. Plaintiff's and Class members' Vehicles do not pass without objection in the trade as they do not meet the federal emission standards.

48. Plaintiff's and Class members' Vehicles are unfit for their ordinary purpose of operation and driving.

49. Plaintiff's and Class members' Vehicles were not adequately contained, packaged, or labeled.

50. Plaintiff's and Class members' Vehicles do not conform to the promises or affirmations of fact regarding emissions and mileage.

51. Plaintiff and Class members were the intended third-party beneficiaries of the contracts for sale of the Vehicles from Defendants to the dealers who ultimately sold the Vehicles to Plaintiff and Class members.

52. As a direct and proximate result of Defendants' breach of implied warranty, Plaintiff and Class members have sustained damages and other losses in an amount to be determined at trial. Plaintiff and Class members are entitled to recover damages and attorneys' fees as provided by statute, as well as costs, and other relief the Court deems appropriate.

THIRD CAUSE OF ACTION

**(Violations of the Magnuson-Moss Warranty Act (15 U.S.C. §§ 2301 *et seq.*) –
Breach of Express Written Warranty and Breach Implied Warranty of Merchantability)
(Nationwide Class)**

53. Plaintiff repeats and re-alleges preceding paragraphs as if fully set forth herein.

54. This claims is brought on behalf of the Nationwide Class.

55. The Vehicles are “consumer products” as that term is defined under 15 U.S.C. §2301(1).

56. Plaintiffs and Class members are “consumers” as that term is defined by 15 U.S.C. § 2301(3), and utilized the Vehicles for personal and household use and not for resale or commercial purposes.

57. Defendants are a “warrantor” and “supplier” as those terms are defined by 15 U.S.C. § 2301(4) and (5).

58. Defendants provided Plaintiff and Class members with “written warranties” as that term is defined by 15 U.S.C. § 2301(6).

59. The Vehicles have defects in materials and workmanship relating to the emission control systems as alleged herein.

60. Defendants provided Plaintiff and Class members with “implied warranties” as that term is defined by 15 U.S.C. § 2301(7).

61. In its capacity as a warrantor, and by the conduct described herein, any attempt by Defendants to limit the express warranties in a manner that would exclude coverage for the Defeat Devices in the Vehicles is unconscionable and any such effort to disclaim, or otherwise limit, liability for its Defeat Devices is null and void as alleged above.

62. This Court has jurisdiction over this cause of action under 28 U.S.C. 1332.

63. Defendants have failed to comply with its obligations under its express and implied warranties. By failing to repair the Vehicles, Defendants breached its express and implied warranties.

64. Plaintiff fulfilled its obligations under the warranties.

65. As a direct and proximate result of Defendants' breach of express and implied warranties, Plaintiffs and Class members have suffered injury in that their Vehicles are worth less than what they paid for them and Plaintiff and Class members are entitled to damages, equitable relief, attorneys' fees and costs pursuant to 15 U.S.C. § 2310.

FOURTH CAUSE OF ACTION
CONSTRUCTIVE FRAUD
(Nationwide Class)

66. Plaintiff repeats and re-alleges preceding paragraphs as if fully set forth herein.

67. This claim is brought on behalf of the Nationwide Class and the Pennsylvania subclass in the alternative.

68. Defendants intentionally concealed and suppressed material facts concerning the quality of the Affected Vehicles. As alleged in this Complaint, notwithstanding references in the very model names of the subject Vehicles as clean, or engaged in a secret scheme to evade federal and state vehicle emissions standards by installing software designed to conceal its Vehicles' emissions which contributes to the creation of ozone and smog. The software installed on the Vehicles at issue was designed nefariously to kick-in during emissions certification testing, such that the Vehicles would show far lower emissions than when actually operating on the road. The result was what Defendants intended: Vehicles passed emissions certifications by way of deliberately induced false readings. Reportedly, Defendant's deliberate, secret scheme resulted in noxious emissions from these Vehicles at 40 times applicable standards.

69. Plaintiff and Class members reasonably relied upon Defendant's false and misleading representations. They had no way of knowing that Defendants' representations were false and gravely misleading. As alleged herein, Defendants employed extremely sophisticated

methods of deception. Plaintiff and Class members did not, and could not, unravel Defendant's deception on their own.

70. Defendants concealed and suppressed material facts concerning what is evidently the true culture of Defendants – one characterized by an emphasis on profits and sales above compliance with federal and state clean air law, and emissions regulations that are meant to protect the public and consumers. It also emphasized profits and sales about the trust that Plaintiff and Class members placed in its representations.

71. Defendants also took steps to ensure that its employees did not reveal the details of its scheme to regulators or consumers, including Plaintiff and Class members. Defendants did so in order to boost the reputations of its Vehicles and to falsely assure purchasers and lessors of its Vehicles, including certified previously owned Vehicles, that Defendants are a reputable manufacturer that complies with applicable law, including federal and state clean air law and emissions regulations, and that its Vehicles likewise comply with applicable law and regulations. Defendants' false representations were material to consumers, both because they concerned the quality of the affected Vehicles, including their compliance with applicable federal and state law and regulations regarding clean air and emissions, and also because the representations played a significant role in the value of the Vehicles. As Defendants well knew, its customers, including Plaintiffs and Class members, highly valued that the Vehicles they were purchasing or leasing were clean diesel cars, and they paid accordingly.

72. Defendants had a duty to disclose the emissions scheme it engaged in with respect to the Vehicles at issue because knowledge of the scheme and its details were known and/or accessible only to Defendant, because Defendants had exclusive knowledge as to implementation and maintenance of its scheme, and because Defendants knew the facts were not known to or reasonably discoverable by Plaintiff or Class members. Defendants also had a duty to disclose because it made general affirmative representations about the qualities of its Vehicles with respect to emissions standards, starting with references to them as clean diesel cars, or cars with clean diesel engines, which were misleading, deceptive, and incomplete without the disclosure of the

additional facts set forth herein regarding its emissions scheme, the actual emissions of its Vehicles, its actual philosophy with respect to compliance with federal and state clean air law and emissions regulations, and its actual practices with respect to the Vehicles at issue. Having volunteered to provide information to Plaintiff, Defendants had the duty to disclose not just the partial truth, but the entire truth. These omitted and concealed facts were material because they directly impact the value of the Affected Vehicles purchased or leased by Plaintiff and Class members. Whether a manufacturer's products comply with federal and state clean air law and emissions regulations, and whether that manufacturer tells the truth with respect to such compliance or noncompliance, are material concerns to a consumer, including with respect to the emissions certifications testing their Vehicles must pass. Defendant represented to Plaintiffs and Class members that they were purchasing clean diesel Vehicles, and certification testing appeared to confirm this – except that, secretly, Defendants had subverted the testing process thoroughly.

73. Defendants had a duty to offer Vehicles that complied with federal emissions standards and with Defendants advertised emissions and performance standards and to disclose its emissions scheme. Defendants' duties set forth herein arise out of its confidential relationship with Plaintiffs and Class members. Defendants voluntarily held itself out as an environmentally concerned company thereby identifying with and establishing a moral and social relationship with Plaintiff and Class members in order to sell Vehicles. Defendants voluntarily and purposefully undertook the above described duties and established the moral and social relationships.

74. Defendants actively concealed and/or suppressed these material facts, in whole or in part, to pad and protect its profits and to avoid the perception that its Vehicles did not or could not comply with federal and state laws governing clean air and emissions, which perception would hurt the brand's image and cost Defendants money, and it did so at the expense of Plaintiff and Class members.

75. On information and belief, Defendants has still not made full and adequate disclosures, and continues to defraud Plaintiffs and Class members by concealing material information regarding the emission qualities of its referenced Vehicles and its emissions scheme.

76. Plaintiff and Class members were unaware of the omitted material facts referenced herein, and they would not have acted as they did if they had known of the concealed and/or suppressed facts, in that they would not have purchased purportedly “clean” diesel cars manufactured by Defendants, and/or would not have continued to drive their heavily polluting Vehicles, or would have taken other affirmative steps in light of the information concealed from them. Plaintiffs and Class Members’ actions were justified. Defendants was in exclusive control of the material facts, and such facts were not known to the public, Plaintiffs or Class members.

77. Because of the concealment and/or suppression of the facts, Plaintiffs and Class members have sustained damage because they own Vehicles that are diminished in value as a result of Defendants’ concealment of the true quality and quantity of those Vehicles’ emissions and Defendants’ failure to timely disclose the actual emission qualities and quantities of hundreds of thousands of Defendants - and Dodge- and Chrysler-branded Vehicles and the serious issues engendered by Defendants’ corporate policies. Had Plaintiff and Class members been aware of Defendants’ emissions schemes with regard to the Vehicles at issue, and the company’s callous Defendants for compliance with applicable federal and state law and regulations, Plaintiffs and Class members who purchased or leased new or certified previously owned Vehicles would have paid less for their Vehicles or would not have purchased or leased them at all.

78. The value of Plaintiffs’ and Class Members’ Vehicles has diminished as a result of Defendant’s fraudulent concealment of its emissions scheme, which has greatly tarnished the Defendants and Dodge and Chrysler brand names attached to Plaintiffs and Class members’ Vehicles and made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay what otherwise would have been fair market value for the Vehicles.

79. Defendants are liable to Plaintiff and Class members for damages in an amount to be proven at trial.

80. Defendants’ acts were done wantonly, maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiffs and Class members’ rights and the representations that Defendants made to them, in order to enrich Defendant. To the extent

permitted under applicable law Defendants' conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

81. Plaintiff pleads this count pursuant to the law of Pennsylvania on behalf of all members of the Nationwide and Pennsylvania subclass.

Negligent Misrepresentation

82. Plaintiffs incorporate by reference each of the allegations contained in the preceding paragraphs of this Complaint.

83. Defendant had a duty to disclose to Plaintiffs and the Class the actual fuel efficiency, eco-friendliness, mileage rating(s) and efficiency, emission ratings and whether the Vehicles meet the emission standards.

84. During the Class Period, Defendant negligently represented, omitted, and concealed from consumers' material facts relating to the actual fuel efficiency, eco-friendliness, mileage rating(s) and efficiency, emission ratings and whether the Vehicles meet the emission standards.

85. Defendant made such false and misleading statements and omissions on its website, in its product literature, advertisements, and warranties, with the intention of inducing Plaintiffs and Class Members to purchase the Vehicles.

86. Defendant was careless in ascertaining the truth of its representations.

87. Plaintiffs and the Class Members were unaware of the falsity of Defendant's misrepresentations and omissions and justifiably relied on them in deciding to purchase the Vehicles. Had Plaintiffs and Class Members been made aware that the Vehicles contained the Defeat Device and were not fuel efficient, eco-friendly and met the emission standards as represented and marketed by Defendants, they would not have purchased the Vehicles at a

premium, but, instead, would have paid substantially less for the Vehicles or not purchased the Vehicles at all.

88. As a direct and proximate result of these misrepresentations and omissions of material facts by Defendant, Plaintiff and Class Members have suffered and will continue to suffer damages and losses as alleged herein in an amount to be determined at trial.

Unjust Enrichment

89. Plaintiffs incorporate by reference each of the allegations contained in the preceding paragraphs of this Complaint.

90. Plaintiffs conferred a tangible economic benefit upon Defendants by purchasing the Vehicles. Plaintiffs would have expected remuneration from Defendants at the time this benefit was conferred had they known that the Vehicles were not as promised.

91. As a result of Defendant's deceptive, fraudulent, and misleading packaging advertising, marketing, and sales of its Vehicles, Defendants were enriched, at the expense of the Plaintiff and Class Members through the payment of the purchase price for the Vehicles.

92. Under the circumstances, it would be against equity and good conscious to permit defendants to retain the ill-gotten benefits that it received from Plaintiff and Class Members in light of the fact that the vehicles purchased by Plaintiff and Class Members were not as Defendants purported them to be, as set forth more fully above.

93. It would be unjust or inequitable for Defendants to retain the benefits without restitution or disgorgement of monies paid to Defendants for the Vehicles, or such other appropriate equitable remedy to Plaintiffs and Class Members.

(Fraudulent Concealment)
(Nationwide Class)

94. Plaintiff repeats and re-allege preceding paragraphs as if fully set forth herein.

95. This claim is brought on behalf of the Nationwide Class.

96. Defendants intentionally concealed and suppressed material facts that the Vehicles contain Defeat Devices as alleged herein.

97. Plaintiff and Class members relied on Defendants' deceptive and fraudulent business acts and practices to their detriment in that they would not have purchased the Vehicles had Defendants disclosed that they contain Defeat Devices.

98. Defendants' deceptive and fraudulent concealment directly and proximately caused Plaintiff and Class members' injuries in that but for Defendant's failure to disclose that the Vehicles had Defeat Devices, Plaintiff and Class members would have paid less for the Vehicles, would not have purchased the Vehicles, and/or the Vehicles are worth less because of the presence of the Defeat Devices.

99. Defendants were obliged to disclose the material facts because: a) Defendants had exclusive knowledge of the material facts not known to Plaintiff and Class members; and b) Defendants actively concealed and suppressed the material facts from Plaintiff and Class members by not disclosing the presence of the Defeat Devices at the time of purchase and by performing recall and/or repair work with while not removing the Defeat Devices; and (c) Defendants made partial representations about the Vehicles low-emissions and fuel efficiency through a long-term advertising campaign while withholding the material fact that the Vehicles have Defeat Devices that cause illegal levels of emissions to be emitted into the environment and that the mileage estimates are unachievable without the defeat devices.

100. Defendants' omissions and misrepresentations have a tendency to deceive a significant portion of the consuming public and/or of targeted consumers and/or purchasers of Vehicles.

101. Plaintiff and Class members have suffered injury in fact and have lost money as a result of Defendants' deceptive and fraudulent conduct in that they have overpaid for the Vehicles and/or by that fact that their Vehicles are worth less than they paid for them because of Defeat Devices and by the prospective increased cost of ownership upon removal of the Defeat Devices.

102. Plaintiff and Class members seek an order of this Court awarding damages, restitution, and/or injunctive relief plus interest, attorneys' fees, and costs.

FIFTH CAUSE OF ACTION

**Violation of the Pennsylvania Unfair Trade Practices And Consumer Protection Law
(Pennsylvania Sub- Class)**

103. Plaintiff repeats and re-alleges all preceding paragraphs and incorporates them as if fully set forth herein.

104. Pennsylvania's Unfair Trade Practices and Consumer Protection Law, 73 Pa. Cons. Stat. Ann. §§201-1 *et seq.* (the "UTPCPL") makes unlawful "unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce."

105. Defendants are a manufacturer, marketer, seller, and/or distributor of Vehicles.

106. Defendant markets, and sells Vehicles with written express warranties and warranties and made affirmations and promises that created express warranties that the Vehicles would provide the performance described in fuel efficiency statements and the low emissions advertised in Defendants' advertising campaign.

107. Plaintiff and Pennsylvania Subclass Members purchased Vehicles for personal, household, or family use.

108. The conduct described above and throughout this Complaint took place within the Commonwealth of Pennsylvania and constitutes unfair methods of competition or unfair or deceptive acts or practices pursuant to §§201-2(4)(v), (vii), and (xxi) of the UTCPL.

109. The UTCPL applies to the claims of all of the Pennsylvania Subclass Members because the conduct which constitutes violation of the UTCPL by Defendant occurred within the Commonwealth of Pennsylvania.

110. In violation of the UTCPL, Defendant omitted and/or concealed material facts from Plaintiff and the Pennsylvania Subclass regarding the Vehicles fuel efficiency, eco-friendliness and meeting emission standards.

111. The omissions described herein were likely to deceive consumers into purchasing Vehicles.

112. Defendants knew or reasonably should have known that its representations about Vehicles' fuel efficiency, eco-friendliness and meeting emission standards were false, and otherwise were not as warranted and represented by Defendants.

113. Defendants knew or should have known, at the time Vehicles left its control that they were not fuel efficient, eco-friendly and did not meet the emission standards as represented by the Defendants.

114. Defendants deceived and continues to deceive consumers. This conduct constitutes unfair or deceptive acts or practices within the meaning of the UTCPL. This illegal conduct by Defendant is continuing, with no indication that it will cease.

115. Defendants' actions in connection with the manufacture and sale of Vehicles, as set forth herein, evidence a lack of good faith, honesty in fact, and observance of fair dealing so as to constitute unconscionable commercial practices, in violation of the UTCPL.

116. Defendants acted willfully, knowingly, intentionally, unconscionably, and with reckless indifference when it committed these acts of consumer fraud.

117. Defendants intended that Plaintiff and the Pennsylvania Subclass Members rely on the acts of concealment, omissions and misrepresentations regarding the nature of the Vehicles so that Plaintiff and the Pennsylvania Subclass Members would purchase the Vehicles.

118. Plaintiff and the Pennsylvania Subclass Members relied on the acts of concealment, omissions, and misrepresentations regarding the nature of the Vehicles.

119. Plaintiff and the Pennsylvania Subclass Members, had Defendants disclosed to them all material information regarding the Vehicles, would have considered the omitted information material to their decision to purchase the Vehicles at the price they paid.

120. As a direct and proximate cause of the UTCPL violations described above, Plaintiff and the Pennsylvania Subclass have been injured in that they have purchased the Vehicles based on the nondisclosure material facts and material misrepresentations alleged above.

121. The foregoing acts, misrepresentations, omissions and unconscionable commercial practices cause Plaintiff and the Pennsylvania Subclass Members to suffer an ascertainable loss in the form of monies paid to Defendants for the Vehicles that, contrary to Defendants representations, do meet the emission standards, and are not fuel efficient and eco-friendly as represented and advertised. Plaintiff and the Pennsylvania Subclass Members are entitled to recover actual compensatory and/or statutory damages, as well as attorneys' fees and costs of suit, to the fullest extent permitted.

SIXTH CAUSE OF ACTION
INJUNCTIVE DECLARATORY RELIEF
(Nationwide Class)

122. Plaintiff repeats and re-alleges preceding paragraphs as if fully set forth herein.

123. Defendants have acted or used to act on grounds generally applicable to Plaintiff and class members thereby making final injunctive or declaratory relief appropriate.

124. Defendants' conduct, both in the past and through the present, has demonstrated willful disregard for material facts in a clear attempt to market and sell their Vehicles with defective devices installed to provide low emissions during tests but, in reality, during normal drive to emit emissions above state and federal limits.

125. Defendants persist in their defective and unfair marketing practices regarding its Vehicles.

126. If Defendants are allowed to continue with these practices, Plaintiff and class members will be irreparably harmed.

127. Plaintiff and class members are, therefore, entitled to injunctive relief and declaratory judgment declaring Defendants' practices as unlawful.

128. Plaintiff and class members seek an Order from this Court requiring Defendants to:

- a. Discontinue with marketing its Vehicles in the above manner;
- b. Undertake an immediate public information campaign to inform Plaintiff and members of the class of their deceptive acts; and
- c. Take all directive action to inform all class members.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants for the following:

1. An order certifying Plaintiff's claims as a class action, appointing Castle Car Company as representative Plaintiff and appointing their counsel, Levin Sedran & Berman to be counsel for the Class;

2. A constructive trust on and restitution of all amounts obtained by Defendants as a result of its misconduct, together with interest thereon from the date of payment, to the victims of such violations;

3. All recoverable compensatory, punitive and other various damages sustained by Plaintiff and Class members;

4. Actual and/or statutory damages for injuries suffered by Plaintiff and Class members in the maximum amount permitted by applicable law;

5. An order (1) enjoining Defendants' wrongful, unlawful, fraudulent, deceptive, and unfair conduct as set forth above; (2) directing Defendant to engage in a corrective notice campaign; and (3) directing Defendants to repair or replace the Vehicles or pay full restitution to Plaintiff and Class members;

6. Statutory pre-judgment and post-judgment interest on any amounts;

7. Payment of reasonable attorneys' fees and costs as may be allowable under applicable law; and

8. Such other relief as the Court may deem just and proper.

Plaintiff individually and on behalf of all others similarly situated, hereby demands a trial by jury on all issues so triable.

Respectfully submitted:

Date: May 2, 2017

/s/ D. Aaron Rihn
Aaron Rihn, Esquire
ROBERT PEIRCE & ASSOCIATES, P.C.
707 Grant Street
Suite 2500
Pittsburgh, PA 15219-1918
412-281-7229

Daniel C. Levin, Esquire
Charles E. Schaffer, Esquire
LEVIN SEDRAN & BERMAN
510 Walnut Street
Suite 500
Philadelphia, PA 19106
215-592-1500

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
Castle Car Company
(b) County of Residence of First Listed Plaintiff Lawrence
(c) Attorneys (Firm Name, Address, and Telephone Number)
Robert Peirce & Associates, P.C.
707 Grant Street, Suite 2500
Pittsburgh, PA 15219 (412) 281-7229

DEFENDANTS
Fiat Chrysler Automobile M.V. and FCAUS, LLC
County of Residence of First Listed Defendant
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
PTF DEF
1 1
2 2
3 3
4 4
5 5
6 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like Insurance, Personal Injury, Real Estate, etc.

V. ORIGIN (Place an "X" in One Box Only)
1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District
6 Multidistrict Litigation - Transfer
8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. Section 1332(d)
Brief description of cause:
Consumer Warranty

VII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.
DEMAND \$ 5,000,001.00
CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY
(See instructions):
JUDGE
DOCKET NUMBER

DATE 05/02/2017
SIGNATURE OF ATTORNEY OF RECORD /s/D. Aaron Rihn, Esquire

FOR OFFICE USE ONLY
RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

JS 44A REVISED June, 2009
IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA
THIS CASE DESIGNATION SHEET MUST BE COMPLETED

PART A

This case belongs on the (Erie Johnstown Pittsburgh) calendar.

1. **ERIE CALENDAR** - If cause of action arose in the counties of Crawford, Elk, Erie, Forest, McKean, Venang or Warren, OR any plaintiff or defendant resides in one of said counties.
2. **JOHNSTOWN CALENDAR** - If cause of action arose in the counties of Bedford, Blair, Cambria, Clearfield or Somerset OR any plaintiff or defendant resides in one of said counties.
3. Complete if on **ERIE CALENDAR**: I certify that the cause of action arose in _____ County and that the _____ resides in _____ County.
4. Complete if on **JOHNSTOWN CALENDAR**: I certify that the cause of action arose in _____ County and that the _____ resides in _____ County.

PART B (You are to check ONE of the following)

1. This case is related to Number _____ . Short Caption _____
2. This case is not related to a pending or terminated case.

DEFINITIONS OF RELATED CASES:

CIVIL: Civil cases are deemed related when a case filed relates to property included in another suit or involves the same issues of fact or it grows out of the same transactions as another suit or involves the validity or infringement of a patent involved in another suit

EMINENT DOMAIN: Cases in contiguous closely located groups and in common ownership groups which will lend themselves to consolidation for trial shall be deemed related.

HABEAS CORPUS & CIVIL RIGHTS: All habeas corpus petitions filed by the same individual shall be deemed related. All pro se Civil Rights actions by the same individual shall be deemed related.

PART C

I. CIVIL CATEGORY (Select the applicable category).

1. Antitrust and Securities Act Cases
2. Labor-Management Relations
3. Habeas corpus
4. Civil Rights
5. Patent, Copyright, and Trademark
6. Eminent Domain
7. All other federal question cases
8. All personal and property damage tort cases, including maritime, FELA, Jones Act, Motor vehicle, products liability, assault, defamation, malicious prosecution, and false arrest
9. Insurance indemnity, contract and other diversity cases.
10. Government Collection Cases (shall include HEW Student Loans (Education), V A Overpayment, Overpayment of Social Security, Enlistment Overpayment (Army, Navy, etc.), HUD Loans, GAO Loans (Misc. Types), Mortgage Foreclosures, SBA Loans, Civil Penalties and Coal Mine Penalty and Reclamation Fees.)

I certify that to the best of my knowledge the entries on this Case Designation Sheet are true and correct

/s/D. Aaron Rihn, Esquire

Date: 05/02/2017

ATTORNEY AT LAW

NOTE: ALL SECTIONS OF BOTH ÔŠPRU MUST BE COMPLETED BEFORE CASE CAN BE PROCESSED.

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Fiat Chrysler Rammed with Lawsuit Over 'Defeat Devices'](#)
