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14 **UNITED STATES DISTRICT COURT**  
15 **CENTRAL DISTRICT OF CALIFORNIA**

16 DOMINIQUE PARRISH, EVAN  
WOOD, LUDWIG COMBRINCK,  
17 and TRINE E. UTNE individually,  
and on behalf of a class of similarly  
18 situated individuals,

19 Plaintiffs,

20 v.

21 VOLKSWAGEN GROUP OF  
AMERICA, INC. a Delaware  
22 limited liability company,

23 Defendant.

Case No.: 8:19-cv-01148-AG-KES

24 **SECOND AMENDED CLASS ACTION**  
25 **COMPLAINT FOR:**

- 26 (1) Violations of California’s Consumers  
Legal Remedies Act
- 27 (2) Violations of Unfair Competition Law
- 28 (3) Breach of Implied Warranty pursuant  
to Song-Beverly Consumer Warranty  
Act
- (4) Breach of Express Warranty
- (5) Breach of Implied Warranty under the  
Magnuson-Moss Warranty Act
- (6) Violation of the Pennsylvania Unfair  
Trade Practices and Consumer  
Protection Law
- (7) Breach of Pennsylvania Express  
Warranty
- (8) Breach of Pennsylvania Implied  
Warranty
- (9) Violations of Utah Consumer Sales  
Practices Act
- (10) Breach of Utah Implied Warranty
- (11) Unjust Enrichment

**DEMAND FOR JURY TRIAL**

1           1. Plaintiffs Dominique Parrish (“Parrish”), Evan Wood (“Wood”),  
2 Ludwig Combrinck (“Combrinck”) and Trine E. Utne (“Utne”) (collectively  
3 “Plaintiffs”) bring this action for themselves and on behalf of all persons in the  
4 United States who purchased or leased any 2019-present Volkswagen Jetta or  
5 2018 to present Volkswagen Tiguan equipped with an Aisin AWF8F35 8-Speed  
6 Automatic Transmission (“Class Vehicles”) designed, manufactured, marketed,  
7 distributed, sold, warranted, and/or serviced by Volkswagen Group of America,  
8 Inc. (“VWGoA” or “Defendant”). Plaintiffs allege as follows:

### 9                                   **INTRODUCTION**

10           2. This is a consumer class action concerning a failure to disclose  
11 material facts and a safety concern to consumers.

12           3. Volkswagen Group of America, Inc. manufactured, marketed,  
13 distributed, and sold the Class Vehicles without disclosing that the Class  
14 Vehicles’ Aisin AWF8F35 8-Speed Automatic Transmission (“Transmission”)  
15 was defective.

16           4. The all-new 2019 Volkswagen Jetta made its global debut at the  
17 2018 North American International Auto Show in Detroit Michigan. VWGoA  
18 CEO of North American Region touted that it “expect[ed] that this all-new car  
19 will continue to resonate with buyers in the compact sedan class. With its  
20 combination of great technology, fuel-efficient drivetrains, sporty styling,  
21 upscale interior and amenities, and fun-to-drive nature, we expect the Jetta will  
22 make a huge splash in the compact sedan market when it goes on sale.”<sup>1</sup> While  
23 the Jetta has made a splash, the splash is caused by the Transmission leaking oil.

24           5. Prior to that, and in late 2017, VWGoA introduced the all-new 2018  
25 Volkswagen Tiguan and introduced the AWF8F35 to North American  
26

27                               <sup>1</sup> “All-New 2019 Volkswagen Jetta Makes Global Debut at the North  
28 American International Auto Show,” Volkswagen Press Release,  
<https://media.vw.com/en-us/releases/973>.

1 customers. The vehicle was “[e]ngineered specifically to meet the needs of  
2 American customers....” Hinrich J. Woebcken, CEO of the North American  
3 Region, Volkswagen, stated that the ““new Tiguan demonstrates how [VWGoA]  
4 plan[s] to give American customers the usability and versatility they demand  
5 without sacrificing style or Volkswagen’s trademark driving dynamics.”” He  
6 went on to state that ““[e]very detail of the Tiguan has been thoughtfully  
7 engineered for our U.S. customers to maximize space and convenience, while  
8 retaining its performance, agility and value.””<sup>2</sup>

9 6. Dr. Matthias Erb, Volkswagen Chief Engineering Officer, North  
10 American Region, said that VWGoA “knew [] buyers demand good value, and  
11 our innovations will prove their value in everyday use.” One of those innovations  
12 was the Transmission, which Defendant said was a “major boost.... which  
13 provides a wide band of drive ratios that allow more efficient running at higher  
14 speeds.”<sup>3</sup> However, in everyday use, the Class Vehicles have proven to be  
15 unreliable, far from an efficiently running vehicle, and a safety hazard to its  
16 drivers and others.

17 7. Indeed, the Transmission is defective in that it grates, scuffs,  
18 scrapes, grinds, and ultimately suffers broken seals and oil leaks, resulting in  
19 catastrophic failure (the “Transmission Defect.”) On information and belief, the  
20 Transmission Defect arises from the torque converter.

21 8. The Transmission Defect is inherent in each Class Vehicle and was  
22 present at the time of sale.

23 9. VWGoA undertook affirmative measures to conceal the  
24 Transmission Defect and other malfunctions through, among other things,

25 <sup>2</sup> “Volkswagen Reveals the All-New 2018 Long-Wheelbase Tiguan at the  
26 North American International Auto Show.” Volkswagen Press Release,  
<https://media.vw.com/en-us/releases/825>.

27 <sup>3</sup> “All-New 2019 Volkswagen Jetta Uses Advanced, Affordable  
28 Technology to Improve Fuel Economy,” Volkswagen Press Release,  
<https://media.vw.com/en-us/releases/994>.

1 “Technical Tips” issued to its authorized repair facilities. These Technical Tips,  
2 similar to Technical Service Bulletins that VWGoA and other vehicle  
3 manufacturers issue to their authorized repair facilities and dealers, confirmed  
4 VWGoA’s knowledge of the Transmission Defect, but disregarded its  
5 importance and cited it as “normal operating characteristics”.

6 10. Although VWGoA was sufficiently aware of the Transmission  
7 Defect from pre-production testing, design failure mode analysis, calls to its  
8 customer service hotline, and customer complaints made to dealers. However,  
9 this knowledge and information was exclusively in the possession of VWGoA  
10 and its network of dealers and, therefore, unavailable to consumers.

11 11. The Transmission Defect is material because it poses a serious  
12 safety concern. As attested by Class Members in scores of complaints to the  
13 National Highway Traffic Safety Administration (“NHTSA”), and other online  
14 forums, the Transmission Defect can impair any driver’s ability to control his or  
15 her vehicle and greatly increase the risk of collision.

16 12. The Transmission Defect is also material because consumers incur  
17 significant and unexpected repair costs. VWGoA’s failure to disclose, at the time  
18 of purchase, the Transmission’s marked tendency to fail is material because no  
19 reasonable consumer expects to spend hundreds, if not thousands, of dollars to  
20 repair or replace essential transmission components.

21 13. Had VWGoA disclosed the Transmission Defect, Plaintiffs and  
22 Class Members would not have purchased the Class Vehicles or would have paid  
23 less for them.

24 **THE PARTIES**

25 **Plaintiff Dominique Parrish**

26 14. Plaintiff Parrish is a California citizen who resides in Irvine,  
27 California.

28 15. On or around May 18, 2018, Plaintiff Parrish purchased a new 2019

1 Volkswagen Jetta equipped with the Transmission from Norm Reeves  
2 Volkswagen Superstore, an authorized VWGoA dealer in Irvine, California.

3 16. Plaintiff Parrish purchased his vehicle primarily for personal,  
4 family, or household use.

5 17. Passenger safety and reliability were important factors in Plaintiff  
6 Parrish’s decision to purchase his vehicle. Before making his purchase, Plaintiff  
7 Parrish did an online search for the vehicle, including on “Google” and  
8 “Youtube” videos, watched television ads, visited Defendant’s website to  
9 research the 2019 Jetta, and test drove his vehicle with a dealership salesperson  
10 who made no reference to the Transmission Defect. Plaintiff Parrish believed  
11 that the Jetta would be a safe and reliable vehicle. Plaintiff Parrish also reviewed  
12 the vehicle’s Monroney Sticker or “window sticker” which listed official  
13 information about the vehicle, which also made no reference to the Transmission  
14 Defect.

15 18. VWGoA’s omissions were material to Plaintiff Parrish. Had  
16 VWGoA disclosed its knowledge of the Transmission Defect before he  
17 purchased his vehicle, Plaintiff Parrish would have seen and been aware of the  
18 disclosures. Furthermore, had he known of the Transmission Defect, Plaintiff  
19 Parrish would not have purchased his vehicle, or would have paid less for it.

20 19. Specifically, on or around August 15, 2018, with approximately  
21 2,418 miles on the odometer of his VW Jetta, Plaintiff Parrish delivered his  
22 vehicle to Norm Reeves Volkswagen complaining of “coffee grinder noise from  
23 engine or transmission....” The technician test drove the vehicle and determined  
24 that it was “normal as designed due to transmission in lower gear no correction”  
25 and returned the vehicle to Plaintiff Parrish without performing or attempting to  
26 perform any transmission repairs.

27 20. Accordingly, Plaintiff Parrish vehicle continues to exhibit the  
28 Transmission Defect, continues to grind and has never been repaired by

1 Defendant.

2 21. At all times, Plaintiff Parrish, like all Class Members, has driven his  
3 vehicle in a manner both foreseeable and in which it was intended to be used.

4 **Plaintiff Evan Wood**

5 22. Plaintiff Wood is a Pennsylvania resident who resides in Allentown,  
6 Pennsylvania.

7 23. On or around January 1, 2019, Plaintiff Wood purchased a new  
8 2019 Volkswagen Jetta equipped with the Transmission from Young  
9 Volkswagen, Inc., an authorized VWGoA dealer in Easton, California.

10 24. Plaintiff Wood purchased his vehicle primarily for personal, family,  
11 or household use.

12 25. Passenger safety and reliability were important factors in Plaintiff  
13 Wood's decision to purchase his vehicle. Before making his purchase, Plaintiff  
14 Wood watched television ads, visited Defendant's website to research the 2019  
15 Jetta, and test drove his vehicle with a dealership salesperson who made no  
16 reference to the Transmission Defect. Plaintiff Wood believed that the Jetta  
17 would be a safe and reliable vehicle and even spoke with the service manager of  
18 Young Volkswagen, Inc. who recommended the vehicle to Plaintiff Wood.  
19 Plaintiff Wood also reviewed the vehicle's Monroney Sticker or "window  
20 sticker" which listed official information about the vehicle, which also made no  
21 reference to the Transmission Defect.

22 26. VWGoA's omissions were material to Plaintiff Wood. Had VWGoA  
23 disclosed its knowledge of the Transmission Defect before he purchased his  
24 vehicle, Plaintiff Wood would have seen and been aware of the disclosures.  
25 Furthermore, had he known of the Transmission Defect, Plaintiff Wood would  
26 not have purchased his vehicle, or would have paid less for it.

27 27. Specifically, on April 20, 2019 and with 4,049 miles on the  
28 odometer, Plaintiff Wood delivered his vehicle to Ciocca Volkswagen of

1 Allentown complaining that “there is a growl noise heard when driving less than  
2 25 MPH, around 200 RPMS in 4th gear upshifting to 5th gear make (sip) the  
3 noise, see TSB 32-18-01TT customer found.”<sup>4</sup> The assigned technician  
4 “confirmed noise, called tech line about eh noise. no faults found in system. tech  
5 line referred to noise as torque cover. noise is normal in the vehicle. no repair  
6 needed at this time.” The vehicle was returned to Plaintiff Wood with no repairs  
7 performed.

8 28. Unsatisfied, Plaintiff Wood delivered his vehicle to Young  
9 Volkswagen, Inc. two days later on May 2, 2019 and with 4,110 miles on the  
10 odometer. Plaintiff Wood complained that “Customer states noise coming from  
11 trans Growl/rumble/scrape.” The assigned technician determined the “cause”  
12 was “normal operation as per tech tip 32-018-01TT” and that “NO  
13 CORRECTION WORKING AS PER DESIGNED AND SAME AS ALL 2019  
14 JETTA.” The vehicle was thereafter again returned to Plaintiff Wood with no  
15 repairs performed.

16 29. Plaintiff Wood would deliver his vehicle to North Penn Volkswagen  
17 on May 7, 2019 and with 4,250 miles on the odometer, continuing to complain of  
18 the Transmission Defect. Plaintiff Wood complained that “Customer states there  
19 is a grinding noise around 25 MPH when holding speed. Customer has also  
20 experienced the transmission up shifting into too high of a gear and you have to  
21 put he foot to the floor to make the car accelerate.” The assigned technician  
22 found the cause to be “vehicle found to be operating normally when compared to  
23 same or similar type vehicle.” The vehicle was returned to Plaintiff Wood a third  
24 time without any repairs being performed and continuing the exhibit the

25  
26 <sup>4</sup> Although the repair order refers to VWGoA’s Technical Tip No. 32-  
27 18-01TT as a “TSB”, the Technical Tip No. 32-18-01TT states that it is “not a  
28 technical bulletin[.]” See Technical Tip dated October 26, 2018 at  
<https://static.nhtsa.gov/odi/tsbs/2018/MC-10149898-9999.pdf> (last accessed  
September 4, 2019). The Technical Tip is described more fully below in  
paragraph 77.

1 Transmission Defect.

2 30. Accordingly, Plaintiff Wood vehicle continues to exhibit the  
3 Transmission Defect, continues to grind and has never been repaired by  
4 Defendant.

5 31. At all times, Plaintiff Wood, like all Class Members, has driven his  
6 vehicle in a manner both foreseeable and in which it was intended to be used.

7 **Plaintiff Ludwig Combrinck**

8 32. Plaintiff Combrinck is a California citizen who resides in  
9 Livermore, California.

10 33. In or around May 30, 2018, Plaintiff Combrinck leased a new 2018  
11 Volkswagen Tiguan equipped with the Transmission from Wynn Volkswagen,  
12 an authorized VWGoA dealer in Newark, California.

13 34. Plaintiff Combrinck purchased his vehicle primarily for personal,  
14 family, or household use.

15 35. Passenger safety and reliability were important factors in Plaintiff  
16 Combrinck decision to purchase his vehicle. Before making his purchase,  
17 Plaintiff Combrinck did an online search for the vehicle, including seeing ads for  
18 the vehicle, reviewing brochures, and test drove his vehicle with a dealership  
19 salesperson who made no reference to the Transmission Defect. Plaintiff  
20 Combrinck believed that the Tiguan would be a safe and reliable vehicle.  
21 Plaintiff Combrinck also reviewed the vehicle's Monroney Sticker or "window  
22 sticker" which listed official information about the vehicle, which also made no  
23 reference to the Transmission Defect.

24 36. VWGoA's omissions were material to Plaintiff Combrinck. Had  
25 VWGoA disclosed its knowledge of the Transmission Defect before he  
26 purchased his vehicle, Plaintiff Combrinck would have seen and been aware of  
27 the disclosures. Furthermore, had he known of the Transmission Defect, Plaintiff  
28 Combrinck would not have leased his vehicle, or would have paid less for it.



1            37. Specifically, on or around August 08, 2019, with approximately  
2 20,316 miles on the odometer of his VW Tiguan, Plaintiff Combrinck delivered  
3 his vehicle to Dublin Volkswagen complaining of “Category 3 Oil Leak Between  
4 the Engine and the Transmission,” as well as “a hard shift from 1-2” and “a  
5 clunk noise.” The Technician was unable to verify the abnormal shifting or  
6 noises, and found that the vehicle “was operating normally when compared to  
7 same or similar type vehicle.” However, the category 3 oil leak was verified at  
8 the bell housing. To correct it the technician “removed air box, battery, battery  
9 tray, turbo intake pipe, starter and subframe. Disconnected propeller shaft,  
10 removed transmission and drive plate. Found oil is leaking from Driv plate bolts.  
11 Replaced drive plate bolts, reassembled and roadtested.”

12            38. Accordingly, Plaintiff Combrinck vehicle continues to exhibit the  
13 Transmission Defect, continues to jerk from gears 1-2 and 2-1, feels like its  
14 being rear ended, and has never been repaired by Defendant.

15            39. At all times, Plaintiff Combrinck, like all Class Members, has driven  
16 his vehicle in a manner both foreseeable and in which it was intended to be used.

17 **Plaintiff Trine E. Utne**

18            40. Plaintiff Utne is a Utah citizen who resides in Salt Lake City, Utah.

19            41. In or around February 23, 2019, Plaintiff Utne leased a new 2019  
20 Volkswagen Tiguan equipped with the Transmission from Volkswagen  
21 Southtowne, Inc., an authorized VWGoA dealer in South Jordan, Utah.

22            42. Plaintiff Utne purchased her vehicle primarily for personal, family,  
23 or household use.

24            43. Passenger safety and reliability were important factors in Plaintiff  
25 Utne decision to purchase her vehicle. Before making her purchase, Plaintiff  
26 Utne did an online search for the vehicle, including seeing ads for the vehicle,  
27 online searches, including google and visiting VWGoA and the dealership  
28 website, reviewing brochures, and test drove his vehicle with a dealership

1 salesperson who made no reference to the Transmission Defect. Plaintiff Utne  
2 believed that the Tiguan would be a safe and reliable vehicle. Plaintiff Utne also  
3 reviewed the vehicle’s Monroney Sticker or “window sticker” which listed  
4 official information about the vehicle, which also made no reference to the  
5 Transmission Defect.

6 44. VWGoA’s omissions were material to Plaintiff Utne. Had VWGoA  
7 disclosed its knowledge of the Transmission Defect before she leased her  
8 vehicle, Plaintiff Utne would have seen and been aware of the disclosures.  
9 Furthermore, had she known of the Transmission Defect, Plaintiff Utne would  
10 not have purchased his vehicle, or would have paid less for it.

11 45. Specifically, on July 30, 2019, Plaintiff Utne delivered her vehicle  
12 to Volkswagen Southtowne, Inc. for an oil change. During her visit, Plaintiff  
13 Utne complained that her transmission was having “issues.” Dealership  
14 personnel took Plaintiff Utne on a test drive, and informed her that the  
15 transmission malfunctions may be from using the improper fuel in her vehicle.  
16 Plaintiff Utne protested that she uses only the recommended fuel. Her vehicle  
17 was returned to her with no repair performed.

18 46. Thereafter, on August 14, 2019, Plaintiff Utne again delivered her  
19 vehicle to Volkswagen Southtowne, Inc. with complaints related to the  
20 transmission. Specifically, Plaintiff Utne complained that “when at a redlight or  
21 stop sign and you hit the pedal it has a one or to second delay before it  
22 accelerates. Happens more when it is hotter outside.” In response, the dealership  
23 performed an ECM Software Update 26M1. The vehicle was then returned to  
24 Plaintiff Utne.

25 47. Accordingly, Plaintiff Utne vehicle continues to exhibit the  
26 Transmission Defect, including delay in shifting, hesitation, and has never been  
27 repaired by Defendant.

28 48. At all times, Plaintiff Utne, like all Class Members, has driven his

1 vehicle in a manner both foreseeable and in which it was intended to be used.

2 **Defendant**

3 49. Defendant VWGoA is a Limited Liability Company organized and  
4 in existence under the laws of the State of New Jersey and registered to do  
5 business in the State of California and Pennsylvania. VWGoA's Corporate  
6 Headquarters are located at 3800 Hamlin Rd., Auburn Hills, Michigan 48326.  
7 VWGoA designs, manufactures, markets, distributes, services, repairs, sells, and  
8 leases passenger vehicles, including the Class Vehicles, nationwide, and in  
9 California and Pennsylvania. VWGoA is the warrantor and distributor of the  
10 Class Vehicles in the United States.

11 50. At all relevant times, VWGoA was and is engaged in the business of  
12 designing, manufacturing, constructing, assembling, marketing, distributing,  
13 and/or selling automobiles and motor vehicle components in Los Angeles  
14 County and throughout the United States of America.

15 **JURISDICTION**

16 51. This is a class action.

17 52. Members of the proposed Class are citizens of states different from  
18 the home state of Defendant.

19 53. On information and belief, the aggregate claims of individual Class  
20 Members exceed \$5,000,000.00 in value, exclusive of interest and costs.

21 54. Jurisdiction is proper in this Court pursuant to 28 U.S.C. § 1332(d).

22 **VENUE**

23 55. VWGoA, through its business of distributing, selling, and leasing  
24 the Class Vehicles, has established sufficient contacts in this district such that  
25 personal jurisdiction is appropriate. Defendant is deemed to reside in this district  
26 pursuant to 28 U.S.C. § 1391(a).

27 56. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)  
28 because Plaintiff Parrish resides in the County of Orange, California. In addition,

1 Plaintiff Parrish’s Declaration, as required under California Civil Code section  
2 1780(d) but not pursuant to *Erie* and federal procedural rules, reflects that a  
3 substantial part of the events or omissions giving rise to the claims alleged herein  
4 occurred, or a substantial part of property that is the subject of this action, is  
5 situated in Orange County, California. It is attached as Exhibit 1.

6 **FACTUAL ALLEGATIONS**

7 57. Since Summer 2017, VWGoA has designed, manufactured,  
8 distributed, sold, and leased the Class Vehicles. VWGoA has sold, directly or  
9 indirectly, through dealers and other retail outlets, thousands of Class Vehicles in  
10 California, Pennsylvania and nationwide. VWGoA warrants and services the  
11 Class Vehicles through its nationwide network of authorized dealers and service  
12 providers.

13 58. The Transmission in the Class Vehicles is a “Medium Torque  
14 Capacity FWD 8-Speed Automatic Transmission”. It has wide gear ratios and  
15 substantially lower torque loss which should enable enhanced engine performance  
16 and fuel efficiency. Further, the Transmission is made compact through a two-  
17 stage clutch structure.<sup>5</sup> It is touted as the world's first 8 speed automatic  
18 transmission designed for use in transverse engine applications. Aisin designed the  
19 transmission to package in the same space as preceding 6 speed designs, while  
20 increasing the total gear spread and reducing gear spacing.<sup>6</sup>

21 59. The illustration below depicts the Transmission as a cut-out.  
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27 <sup>5</sup> <https://www.aisin-aw.co.jp/en/products/drivetrain/lineup/at.html>

28 <sup>6</sup> <https://en.wikipedia.org/wiki/AWF8F35>

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60. The Transmission has proven to be nothing but problematic. Since its release, the Defective Transmission has been inundated with many customers complaints of grating, scuffing, scraping, grinding, and cracking seals resulting in oil leaks. All of these ultimately cause the catastrophic failure of the Transmission. As such, many customers have had to completely replace their transmissions.

**The Transmission Defect Poses a Serious Safety Concern**

61. The Transmission Defect is material to consumers because it presents a serious safety concern. Class Members have repeatedly reported disturbing failures to the National Highway Traffic Safety Administration (“NHTSA”). The following are complaints reflecting the safety risk posed:

62. On NHTSA’s website where consumer complaints about 2018 Tiguan are posted,<sup>7</sup> the following incident posted on June 14, 2018 and dated

<sup>7</sup><https://www.nhtsa.gov/vehicle/2018/VOLKSWAGEN/TIGUAN/SUV/AWD#complaints>.

1 June 14, 2018 was reported:

2 MY EVERYDAY EXPERIENCE WITH THIS  
3 VEHICLE INCLUDES - HESITATION WHEN  
4 ACCELERATING QUICKLY, JERKING  
5 FORCEFULLY WHEN ACCELERATING SLOWLY,  
6 RANDOM JERKING WHILE DRIVING. IT SEEMS  
7 AS THOUGH, EVEN AS AN AUTOMATIC CAR, I  
8 CAN FEEL EVERY GEAR CHANGE. ESPECIALLY  
9 ON THE FREEWAY, I FEEL EXTREMELY UNSAFE  
10 WHEN I ATTEMPT A LANE CHANGE. WHEN I PUT  
11 MY FOOT ON THE GAS TO QUICKLY SPEED UP,  
12 MY VEHICLE HESITATES AND DOES NOT  
13 MATCH WHAT I AM DOING ON THE PEDAL. THE  
14 HESITATION IS ESPECIALLY DANGEROUS FOR  
15 OTHER VEHICLES ON THE ROAD. I AM  
16 EXTREMELY ANXIOUS WHEN DRIVING MY  
17 VEHICLE BECAUSE I DO NOT FEEL IN CONTROL.  
18 I WORRY THAT, AT ANY POINT, IT WILL  
19 HESITATE OR JERK FORCEFULLY, AND CAUSE  
20 HARM TO ME, MY PASSENGERS, AND/OR THOSE  
21 IN OTHER VEHICLES AROUND ME.

22 PLEASE NOTE THAT THIS IS AN ONGOING  
23 PROBLEM. THIS WAS NOT A ONE-TIME  
24 OCCURRENCE. THIS DOES NOT JUST OCCUR  
25 WHEN DRIVING AT CERTAIN SPEEDS. THE  
26 HESITATION AND JERKING OCCUR DAILY.

27 63. On August 10, 2018 the following incident dated July 18, 2018 was  
28 reported:

VEHICLES HESITATES TO START FROM A SLOW  
OR DEAD STOP. WILL NOT ACCELERATE AS IT  
SHOULD. NOTICEABLE LAG WHEN SHIFTING  
AND ACCELERATING. ENGINE MISFIRING AT  
ONLY 3000 MILES. VERY DANGEROUS WHEN  
TURNING INTO TRAFFIC OR MERGING ON TO  
HIGHWAYS. VEHICLE GIVES A FALSE SENSE OF  
ACCELERATING THEN STOPS. THIS HAPPENS  
RELIABLY OVER AND OVER.

64. On August 20, 2019, the following incident dated August 18, 2019  
was reported:

I WAS DRIVING ON INTERSTATE 95 NORTH IN  
THE FAST LANE ( AT 70 MPH), WHEN THE  
"ENGINE EXCEEDS 4000 RPM" WARNING CAME  
ON THE DASH BOARD/SYSTEM READ OUT AND  
THE CAR LOST POWER AND STARTED  
DECELERATING (TO 40 MPH). I CONTINUED TO  
PUSH THE GAS PEDAL BUT THE CAR CAME TO A  
COMPLETE STOP. I PUT ON MY FLASHERS AND  
RESTARTED THE CAR AND COASTED TO THE

1 SHOULDER. I PUT THE PARK, STOPPED THE CAR  
2 AND WAITED AND RESTARTED THE CAR. WE  
3 ENTERED THE HIGHWAY AGAIN AND AS I  
4 TRIED TO ACCELERATE, THE CAR HESITATED  
5 AND DECELERATED AGAIN. THIS TIME I MOVED  
6 OVER TO THE RIGHT SHOULDER, STOPPED AND  
7 GOT OUT OF THE CAR. MY HUSBAND'S FRIEND  
8 WAS IN THE CAR WITH ME AND MY HUSBAND  
9 WAS FOLLOWING BEHIND US. I CALLED MY  
10 INSURANCE COMPANY AND EXPLAINED TO  
11 THEM WHAT WAS HAPPENING WITH THE CAR  
12 AND THEY CAME AND TOWED THE CAR TO  
13 OURISMAN LAUREL VOKLSWAGON. I LEFT A  
14 NOTE AND A KEY IN THE DROP OFF SERVICE  
15 BOW AND NOW 24 HOURS LATER I HAVE NOT  
16 RECEIVED A CALL FROM ANY SERVICE  
17 PERSONNEL. IT SEEMS FROM REVIEWING  
18 OTHER COMPLAINTS, THAT SEVERAL PEOPLE  
19 (MORE THAN 20) HAVE HAD THE SAME ISSUE.

20  
21  
22  
23 65. On April 15, 2019, the following incident dated April 13, 2019 was  
24 reported:

25 MY WIFE CALLED ME PANICKED BECAUSE HER  
26 2018 VW TIGUAN SEL, WITH 8000 MILES, CUT  
27 OUT ON HER WHILE SLOWLY PULLING INTO A  
28 BUSY INTERSECTION. SHE DESCRIBED THE  
PROBLEM AS IF THE CAR LOST COMPLETE  
POWER FOR A FEW SECONDS, EVEN THOUGH  
SHE DID NOT HAVE HER FOOT ON THE BREAK  
AT THE TIME, AND THE CAR WAS NOT ABLE TO  
ACCELERATE. MY WIFE QUICKLY PUT THE CAR  
INTO REVERSE, WHERE IT RESPONDED WELL  
MOVING BACKWARDS, AND THREW ON HER  
HAZARDS. THE VEHICLE IS LESS THAN 1 YEAR  
OLD AND SHE IS DEATHLY SCARED OF DRIVING  
IT NOW.

THE VEHICLE IS A HAZARD! WHEN LOOKING  
ONLINE FOR SIMILAR POWER TRAIN ISSUES,  
MANY OTHER CUSTOMERS ARE REPORTING A  
SIMILAR EXPERIENCE.

66. On NHTSA's website where consumer complaints about 2019 Jettas  
are posted,<sup>8</sup> the following incident posted on August 15, 2018 and dated July 9,  
2018 was reported:

<sup>8</sup> <https://www.nhtsa.gov/vehicle/2019/VOLKSWAGEN/JETTA/4%252520DR/FWD#complaints> (last viewed June 6, 2019).

1 THERE IS AN ISSUE WITH THE TORQUE  
2 CONVERTER IN THE 2019 JETTAS (AUTOMATIC).  
3 WHEN DRIVING IN LOW RPM'S, THERE IS A  
4 LOUD GRINDING SOUND COMING FROM THIS  
5 AREA. THIS AFFECTS DRIVE-ABILITY, AS YOU  
6 NEED TO DRIVE MORE AGGRESSIVELY TO  
7 ELIMINATE THE SOUND. THERE ALSO ARE  
8 MULTIPLE REPORTS OF TRANSMISSION FLUID  
9 LEAKS. THESE ISSUES ARE ON BRAND-NEW  
10 MODELS OF THIS VEHICLE.

6 67. On December 5, 2018, the following incident dated October 27,  
7 2018 was reported:

9 WELL AGAIN MY I HAD TO TAKE MY 2019 JETTA  
10 BACK TO LUNDE'S IN PEORIA, AZ. AFTER THE  
11 TRANSMISSION LEAK WAS FIXED IN AUGUST, I  
12 NOTICED ABOUT A MONTH LATER THE CAR  
13 WAS JERKING A LOT AND NOT ACCELERATING  
14 WHEN I HAD MY FOOT ON THE GAS PEDAL. (  
15 LIKE WHEN YOU PUSH ON THE GAS, BUT  
16 DISCOVER YOUR CAR IS NEUTRAL AND NOT  
17 DRIVE.) THIS BECAME VERY DANGEROUS AND  
18 THE DELAY TIME WAS GETTING LONGER AND  
19 LONGER TO THE POINT WHERE IT WAS ABOUT  
20 HALF A MINUTE BEFORE IT WOULD  
21 ACCELERATE. OR WOULD BE ACCELERATING  
22 FINE THEN MID DRIVE OR WHEN TURNING, IT  
23 WOULD JUST STOP AND COAST AND NOTHING  
24 WOULD HAPPEN WHEN YOU PUSHED YOUR  
25 FOOT ON THE GAS OTHER THEN THE CAR  
26 REVVING AND NOT MOVING. I TOOK MY JETTA  
27 BACK INTO LUNDE'S (AGAIN) AND THEY HAD  
28 MY CAR FOR A MONTH. THEY REPLACED THE O  
RINGS, AS PEOPLE HAVE MENTIONED ON HERE  
AND I WAS TOLD THAT NOW VW HAS REMADE  
ALL THE O RINGS TO WORK AND FIT PROPERLY  
IN THE TRANSMISSION. I PICKED UP MY CAR AT  
LUNDE'S AND IMMEDIATELY WENT TO GET  
GAS. I WAS WAITING IN LINE WITH THE CAR IN  
PARK & STILL RUNNING. WHEN I WENT TO PUT  
THE CAR IN DRIVE SAID RESTART ENGINE! SO  
THE CAR SHUT OFF ON ME! I CALLED LUNDE'S  
BACK AND WAS TOLD IF IT HAPPENS AGAIN TO  
CALL THEM. WELL, IT DID, AND I DID NOT CALL  
THEM BACK BECAUSE I OPENED UP A CASE  
WITH VW OF AMERICA TO TRY TO GET A  
BUYBACK OR REPLACEMENT VEHICLE. NOW I  
HAVE TO WAIT TO SEE IF MY AUTO LOAN  
COMPANY FIRST INVESTORS WILL PROCESS  
THE SUBSTITUTION OF COLLATERAL REQUEST.  
THIS WAY I CAN KEEP EVERYTHING THE SAME  
ON MY LOAN (BC I UPGRADED AND NOW HAVE



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NEGATIVE EQUITY THE BUY BACK OPTION IS NOT FINANCIALLY A GOOD OPTION FOR ME) SO OF COURSE MY AUTO LOAN COMPANY STATES "THEY DO NOT DO THAT ANYMORE". SO NOW I AM GOING BACK AND FORTH WITH THEM SO I AM NOT STUCK IN AN UNSAFE CAR. DO NOT BUY A 2019 JETTA UNTIL VW GETS IT FIGURED OUT ON ALL THE FAULTY PARTS AND DO NOT GET AN AUTO LOAN WITH 1ST INVESTORS. WHY IS THIS CAR NOT RECALLED YET?

68. On January 13, 2019, the following incident dated December 1, 2018 was reported:

IT APPEARS THAT THE MAJORITY AND OR ALL OF THE NEW 2019 VOLKSWAGEN JETTA'S HAVE TORQUE CONVERTER DEFECTS. THE DEFECT CAUSES THE VEHICLE TO EMIT A LOUD SCRAPE AND GRINDING NOISE WHICH CAN DISTRACT THE DRIVER. THE COULD CAUSE DRIVERS TO PULL OVER AND POTENTIALLY CAUSE AN ACCIDENT.

THE NEW 2019 VOLKSWAGEN JETTA THAT I HAVE BEEN DRIVING HAS BEEN TO THE SHOP 3 TIMES DUE TO THIS SOUND THE TRANSMISSION IS MAKING ON THIS VEHICLE. I HAVE BEEN TOLD THAT IT'S A 'NORMAL CHARACTERISTIC' OF THE CAR. HOWEVER, THIS NEEDS TO BE REVIEWED BY A 3RD PARTY AS PROPERLY FUNCTIONING AND SAFE TRANSMISSIONS DO NOT GRIND OR SCRAPE AS THESE NOISES GENERALLY MEAN THAT INTERNAL DAMAGE IS OCCURRING INSIDE OF THE VEHICLE'S TRANSMISSION. VOLKSWAGEN ALLOWED ME TO REVIEW A DOCUMENT STATING THEY WERE AWARE OF THE TORQUE CONVERTER ISSUE WITH THIS CAR, HOWEVER, THEY ARE CLAIMING IT'S NORMAL. AGAIN, SAFE TORQUE CONVERTERS DO NOT GRIND OR SCRAPE. HERE'S THE ID TO THE VOLKSWAGEN DOCUMENT THAT CAN BE REQUESTED FROM VW: 32-18-01TT.

THE 2019 VW JETTA THAT I HAVE WAS TAKEN TO A 3RD PARTY TRANSMISSION EXPERT AND I WAS TOLD THAT IT WAS A SERIOUS DEFECT AND THEY DID NOT FEEL SAFE TO DRIVE THE CAR FOR EXTENDED PERIODS OF TIME. I FEEL THE SAME WAY, HOWEVER, I'M BEING TOLD BY VW AND THEIR DEALERSHIPS THAT GRINDING TRANSMISSIONS ARE NORMAL AND SAFE WHICH CONTRADICTS REALITY. GRINDING

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TRANSMISSIONS ON NEW VEHICLES ARE NOT SAFE, THEY'RE DEFECTIVE AND SAYING THAT THEY ARE NORMAL IS LEGALLY CONCERNING.

PLEASE LOOK INTO THE SAFETY AND VALUE IMPLICATIONS OF THIS ISSUE FOR A NEW 2019 VOLKSWAGEN JETTA'S. I AM VERY CONCERNED FOR MY SAFETY AND JUST WANT THE PROBLEM FIXED BY VOLKSWAGEN. THEY HAVE REFUSED TO HELP ME 3 TIMES AND I HAVE BEEN GIVEN A RUN AROUND BY VW REGIONAL CARE PROVIDERS WITH THIS ISSUE, TOO (IT'S BEEN A TERRIBLE EXPERIENCE DEALING WITH VW AT TRYING TO GET THE VEHICLE BOUGHT BACK FOR SUCH A BAD DEFECT).

69. On January 22, 2019, the following incident dated January 22, 2019 was reported:

8 SPEED AUTOMATIC TRANSMISSION HAS A METALLIC GRINDING OR SCRAPING NOISE WHEN OPERATING AT LOW RPM'S DURING ACCELERATION. SPECIFICALLY AFTER THE TRANSITION TO 5TH GEAR. THE POWERTRAIN NOTICEABLY HESITATES DURING ACCELERATION WHEN THIS AFOREMENTIONED SOUND IS ACTIVE. IT'S ONLY A MATTER OF TIME BEFORE THIS TRANSMISSION FAILS AND LEAVES ME IN THE MIDDLE OF A BUSY INTERSECTION. IT'S AN EXTREMELY COMMON ISSUE ON THE 2019 VOLKSWAGEN JETTA THAT THE MANUFACTURER REFUSES TO ACKNOWLEDGE AS AN ACTUAL PROBLEM. THEY CLAIM THE SCRAPING AND GRINDING SOUND IS A "NORMAL CHARACTERISTIC" OF THE CAR, WHICH IS TOTALLY NONSENSICAL.

70. On January 31, 2019, the following incident dated December 10, 2018 was reported:

MAJOR GRINDING NOISE COMING FROM TRANSMISSION DURING DRIVING, TYPICALLY WHEN GOING BETWEEN 20-40 MPH. THERE ARE NUMEROUS COMPLAINTS OF THIS DEFECT, WHICH THE MANUFACTURER STATES AS NORMAL. HOWEVER, IT DOES APPEAR TO BE A DEFECT WITH THE TORQUE CONVERTER THAT COULD AFFECT THE SAFETY OF DRIVER AND

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PASSENGERS, AND SHORTEN THE LIFE OF THE TRANSMISSION, WHILE ALSO REDUCING THE RESALE VALUE OF THE CAR. I TOOK THE CAR TO THE DEALER AND WAS TOLD THAT IT WAS NORMAL BECAUSE THE SOUND EXISTED ON ALL JETTAS. HOWEVER, JUST BECAUSE THE SAME SAFETY DEFECT APPEARS ACROSS AN ENTIRE MODEL OF CAR DOES NOT MAKE IT NORMAL, IT MAKES IT WIDESPREAD. THERE ARE OVER 13 COMPLAINTS NOW ABOUT THE VW POWER TRAIN, AND MOST OF THEM ARE REGARDING THIS SPECIFIC ISSUE. PLEASE START AN INVESTIGATION. ALSO, THE PDF DOCUMENT OF VWS RESPONSE TO THIS ISSUE IS NOT ABLE TO BE VIEWED ON YOUR WEBSITE, THE LINK IS BROKEN OR DOC IS MISSING.

71. On February 11, 2019, the following incident dated February 4, 2019 was reported:

BRAND NEW VEHICLE WITH 300 MILES. FROM THE DAY I PICKED IT UP WITH 37 MILES, IT GRINDS EVERY TIME IT ACCLERATES INTO 3RD GEAR AUTOMATIC TRANS. DEALERSHIP CONTACTED, SERVICE MGR STATED THIS IS "NORMAL" FOR THIS TRANSMISSION. ALSO STATED HIS HANDS ARE TIED ON WHAT HE CAN DO BECAUSE VW HAS CALLED THIS "NORMAL." HE ALSO SAID HE IS LIMITED IN WHAT HE CAN DO AT THE LOCAL LEVEL BECAUSE "WE DIDN'T MAKE THE CAR." THIS DOES NOT SOUND "NORMAL" TO ME. I AM CONCERNED THAT MY VEHICLE WILL INCUR LONG-TERM DAMAGE, WHICH COULD LEAD TO A SIGNIFICANT PUBLIC SAFETY RISK. IT ALSO REPRESENTS A POTENTIAL FINANCIAL RISK FOR MYSELF AND OTHER UNKNOWING BUYERS. THE REP. WHO SOLD ME THE CAR SAID HE WAS UNAWARE OF THIS ISSUE BUT THE SERVICE REP. WAS CLEARLY AWARE. I AM VERY CONCERNED THAT THE TRAIL OF DISCLOSURE WAS NOT EXTENDED BEYOND THE SERVICE DESK TO SALES AND, IN TURN, TO BUYERS LIKE MYSELF.

72. On March 3, 2019, the following incident dated September 3, 2018 was reported:

2019 VW JETTA S  
GRINDING/RATTLING/GROANING NOISE FROM  
THE TORQUE CONVERTER. WHEN I BROUGHT

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THE CAR IN FOR THE 10,000 SERVICE, I TOLD THE SERVICE MANAGER THAT THE TRANSMISSION WAS MAKING GRINDING AND GROANING NOISES. THE SERVICE MANAGER SAID THAT THEY COULD NOT GET THE CAR TO MAKE THE NOISE AND IT IS JUST A NORMAL SOUND, I AM VERY CONCERNED THAT FURTHER USE OF THE VEHICLE IS UNSAFE AND WILL CAUSE THE TRANSMISSION TO FAIL WHILE DRIVING. RECALLING OR BUYING BACK THESE VEHICLES WILL HELP CONSUMERS AVOID POTENTIAL INJURIES AND ANY FURTHER FINANCIAL HARDSHIPS.

73. On March 15, 2019, the following incident dated November 5, 2018 was reported:

THE CAR PRODUCES A NOTICEABLE GRINDING NOISE WHENEVER I AM ACCELERATING IN BOTH ECO AND NORMAL MODES. THERE IS A GRINDING FEELING IN THE PEDAL WHEN THE GRINDING NOISE OCCURS. IT MAKES THE VEHICLE FEEL UNSAFE. VOLKSWAGEN REFUSES TO ACKNOWLEDGE THE PROBLEM. I FEEL AS THOUGH THE TRANSMISSION MAY GIVE OUT AT ANY TIME.

74. On April 26, 2019, the following incident dated March 1, 2019 was reported:

I'VE HAD THE 2019 JETTA FOR ROUGHLY 30 DAYS NOW. I'VE NOTICED A STRANGE GRINDING NOISE COMING FROM THE ENGINE AROUND 30 MPH WHEN ACCELERATING UNDER LIGHT LOAD. AS IF A DRIVER ATTEMPTS TO SHIFT WHILE THE CLUTCH IS NOT ENGAGED, THE CAR PRODUCES A GRINDING NOISE (BUT THIS CARE IS AN AUTOMATIC). SO I DECIDED TO TAKE IT INTO VW TO BE LOOKED AT (YOUNG VW). THEY SAID AND I QUOTE "NOISE IS NORMAL OPERATION OF THE DRIVE SYSTEM WHEN ACCELERATING." THAT JUST DOESN'T SEEM RIGHT TO ME.. MY HUSBAND HAS A REASONABLE AMOUNT OF AUTOMOTIVE KNOWLEDGE AND HAS MADE AN ASSERTIONS THAT THE ISSUES IS RELATED TO THE THE TRANSMISSION PACKAGE; IN HIS OPINION ANY ISSUE WITH THE TORQUE AT LOW RPMS.

VW REFUSES TO EVEN LOOK AT THE ISSUE, AT

1 THIS TIME.

2 WE WORRY IS THE CAR IS DEFECTIVE AND IT  
3 DAMAGES THE VALUE OF THE VEHICLE AND  
4 WORSE IT'S A SAFETY ISSUE AS IT CAUSES  
5 ACCELERATED HEATING AND FAILURE RATE  
6 FOR THE ENTIRE TRANSMISSION SYSTEM.

7 MY HUSBAND HAS RESEARCHED THE ISSUE ON  
8 GOOGLE, DOCUMENT ID: 32-18-01TT PROVES  
9 THAT VW AG KNOWS THIS ISSUE IS A DEFECT  
10 PART, THEY CLAIM THAT IT'S 'A NORMAL  
11 CHARACTERISTIC OF THE VEHICLE' HOWEVER,  
12 THE DOCUMENT LITERALLY MENTIONS THE  
13 TERM 'SCRAPING'.

14 HE HAS ALSO TESTED THE CAR, AND IF HE PUT  
15 THIS CAR IN MANUAL MODE AND RIGHT  
16 BEFORE 4TH GEAR HITS 2000 RPM, SWITCH TO  
17 5TH GEAR AND LET IT DROP TO AROUND 1300-  
18 1400 RPM AND ACCELERATE LIGHTLY  
19 (ESPECIALLY ON AN INCLINE); YOU'LL HEAR A  
20 LOUD SOUND THAT SCRAPES ALL THE WAY TO  
21 2000 RPM.

22 75. In addition to sudden transmission failures, the Transmission Defect  
23 presents a further safety concern because it causes the driver to lose all  
24 transmission inputs, including acceleration. Unpredictable acceleration is unsafe,  
25 particularly when changing lanes, merging onto highways, and turning left  
26 across oncoming traffic.

27 **VWGoA Had Superior and Exclusive Knowledge of the Transmission**  
28 **Defect**

76. Since Summer 2017, VWGoA has designed, manufactured,  
distributed, sold, and leased the Class Vehicles. VWGoA issued the first  
Technical Tip regarding the Transmission Defect on October 26, 2018, within  
months of the Class Vehicles being offered for sale on the market.

77. As stated, VWGoA first issued Technical Tip 32-18-1TT entitled  
“Transmission Noise or Scraping Sound When Shifting Gears” issued on  
October 26, 2018, and later issued a revised version on April 16, 2019. It states:  
“Scraping, grating or scuffing noise from between the engine and transmission

1 when at lower speeds in higher gears. Commonly heard when shifting into 5th  
2 gear at speeds of 20-25 mph, under light load. Noise can be heard in most gear  
3 changes under the right conditions.”

4 78. According to the original and later update, Defendant VWGoA  
5 determined that the Transmission Defect was a “normal operating characteristic  
6 of the torque converter stator as the torque clutch is applied.” No actual repairs  
7 were suggested or allowed. Importantly, this Technical Tip was not, and is not,  
8 disseminated to owners or prospective buyers.

9 79. Federal law requires automakers like VWGoA to be in close contact  
10 with NHTSA regarding potential auto defects, including imposing a legal  
11 requirement (backed by criminal penalties) compelling the confidential  
12 disclosure of defects and related data by automakers to NHTSA, including field  
13 reports, customer complaints, and warranty data. *See TREAD Act*, Pub. L. No.  
14 106-414, 114 Stat.1800 (2000).

15 80. Automakers have a legal obligation to identify and report emerging  
16 safety-related defects to NHTSA under the Early Warning Report requirements.  
17 *Id.* Similarly, automakers monitor NHTSA databases for consumer complaints  
18 regarding their automobiles as part of their ongoing obligation to identify  
19 potential defects in their vehicles, including those which are safety-related. *Id.*  
20 Thus, VWGoA knew or should have known of the many complaints about the  
21 Transmission Defect logged by NHTSA ODI. The content, consistency, and  
22 disproportionate number of those complaints alerted, or should have alerted,  
23 VWGoA to the Transmission Defect.

24 81. With respect solely to the Class Vehicles, the following are but a  
25 few examples of the many complaints concerning the Transmission Defect which  
26 are available through NHTSA’s website, [www.safercar.gov](http://www.safercar.gov). Many of the  
27 complaints reveal that VWGoA, through its network of dealers and repair  
28 technicians, has been made aware of the Transmission Defect. In addition, the

1 complaints indicate that despite having knowledge of the Transmission Defect  
2 and even armed with knowledge of the exact vehicles affected, VWGoA often  
3 refused to diagnose the defect or otherwise attempt to repair it while Class  
4 Vehicles were still under warranty. When VWGoA did attempt repairs, it merely  
5 replaced the Transmission with a similarly defective Transmission.

6 82. On the NHTSA website the following incident dated January 1,  
7 2018 was reported on March 28, 2018:

8 THE CAR DOES NOT GET MORE THAN 316 MILES  
9 TO A FULL TANK. IT ALSO FEELS LIKE THE  
10 TRANSMISSION IS JERKING YOU FORWARD  
11 WHICH CAUSES THE CAR TO BE REALLY  
12 SLUGGISH. THIS IS ALSO DANGEROUS WHEN  
13 TRYING TO PULL OUT ON A BUSY STREET. I  
14 TOOK IT TO THE DEALERSHIP AND THEY  
DROVE IT CAME BACK AND TOLD ME I SHOULD  
ONLY FILL UP AT CERTAIN GAS STATIONS.  
THEY GAVE ME A LIST AND SAID I HAVE TO USE  
ONLY PREMIUM GAS I. THE CAR AND ONLY FILL  
UP AT THESE STATIONS IF I WANT THE  
EXPECTED GAS MILEAGE.

15 83. On July 5, 2018, the following incident also dated July 5, 2018 was  
16 reported:

17 THE VEHICLE HAS A START/STOP FEATURE  
18 THAT IS ON BY DEFAULT AND IS DANGEROUS  
19 WHEN WAITING TO MAKE A TURN. IT  
20 TEMPORARILY SHUTS THE CAR DOWN AND  
21 RESTARTS UPON RELEASE OF THE BRAKE  
22 PEDAL TO MOVE THE CAR FORWARD WHICH  
23 CAUSES SEVERE HESITATION IN  
24 EXCELLERATION. TO MAKE MATTERS WORSE  
25 THE TRANSMISSION IN THIS VEHICLE JERKS  
26 AND HESITATES. WHEN IT DOES FINALLY KICK  
27 IN IT CAUSES THE CAR TO SURGE FORWARD TO  
28 FAST AND MAKES IT DIFFICULT TO DRIVE AND  
HANDLE IN A TURN, EPECIALLY WITH  
ONCOMING TRAFFIC. HAVE ALMOST BEEN T-  
BONED A FEW TIMES DUE TO BOTH OF THESE  
ISSUES. WE DONT FEEL SAFE IN THIS VEHICLE!!  
THESE ISSUES NEED TO BE ADDRESSED BY  
VOLKSWAGON BEFORE SOMEONE IS  
SERIOUSLY HURT. WE LOVE THE STYLING AND  
LOOK OF OUR TIGUAN BUT FEEL THE  
TRANSMISSION AND START/STOP ISSUES ARE  
VERY UNSAFE!!

1           84.    The following incident dated July 9, 2018 was reported on August  
2 15, 2018:

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4           THERE IS AN ISSUE WITH THE TORQUE  
5 CONVERTER IN THE 2019 JETTAS (AUTOMATIC).  
6 WHEN DRIVING IN LOW RPM'S, THERE IS A  
7 LOUD GRINDING SOUND COMING FROM THIS  
8 AREA. THIS AFFECTS DRIVE-ABILITY, AS YOU  
9 NEED TO DRIVE MORE AGGRESSIVELY TO  
10 ELIMINATE THE SOUND. THERE ALSO ARE  
11 MULTIPLE REPORTS OF TRANSMISSION FLUID  
12 LEAKS. THESE ISSUES ARE ON BRAND-NEW  
13 MODELS OF THIS VEHICLE.

14           85.    On October 25, 2018, the following incident dated October 25, 2018  
15 was reported:

16           THERE IS AN ISSUE WITH THE TRANSMISSION  
17 IN THE 2019 JETTAS (AUTOMATIC). WHEN  
18 DRIVING IN LOW RPM'S BETWEEN 25-30MPH,  
19 THERE IS A LOUD GRINDING SOUND COMING  
20 FROM THE CAR. THIS AFFECTS HOW YOU MUST  
21 DRIVE. AS SOMEONE ELSE STATED YOU MUST  
22 DRIVE MORE AGGRESSIVELY TO ELIMINATE  
23 THE SOUND. THERE ARE SEVERAL REPORTS OF  
24 THIS WITH OTHER JETTA OWNERS IN MY AREA.  
25 THIS HAPPENS CONSTANT. IT IS NOT AN  
26 ISOLATED EVENT. I HAVE REPORT THIS TO MY  
27 DEALERSHIP AS WELL.

28           86.    On October 30, 2018, the following incident dated October 27, 2018  
was reported:

          AFTER PURCHASING MY VEHICLE 2019 JETTA  
AT THE END OF JUNE, I HAD TO HAVE MY  
TRANSMISSION LEAK FIXED AND THE  
TRANSMISSION REPAIRED FOR A LARGE LEAK.  
IT TOOK OVER 2 WKS TO GET THE CAR BACK.  
THEN FOR ABOUT A MONTH NOW, THE CAR HAS  
BEEN RUNNING ROUGH, NOT ACCELERATING  
WITHOUT A HUGE DELAY & JERKING. IT'S LIKE  
THE CAR IS IN NEUTRAL WHEN YOU TRY TO  
STEP ON THE GAS. THE DEALER SAID THEY  
HAVE TO SEND A REP OUT FROM VOLKSWAGEN  
TO INSPECT MY VEHICLE AND THEY HAVE NO  
IDEA HOW LONG THAT WILL TAKE SO I WILL  
HAVE THE LOANER VEHICLE INDEFINITELY. I



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CALLED VOLKSWAGEN CUSTOMER CARE TO OPEN A CASE TO SEE IF I CAN GET A BUYBACK OPTION BECAUSE THE DEALER STATED THERE IS NOTHING MORE THEY CAN DO AT THIS POINT.

87. On November 2, 2018, the following incident dated July 9, 2018 was reported:

THERE IS A LOUD AND PROMINENT GRINDING NOISE THAT PRESENTS ITSELF WHEN ACCELERATING, USUALLY THROUGH 5TH GEAR. IT CAN BE MINIMIZED BY ACCELERATING VERY AGGRESSIVELY, BUT ANY LESS AND THE GRINDING NOISE WILL BE HEARD.

88. On November 7, 2018, the following incident dated October 30, 2018 was reported:

GRIND NOISE AT 30 MPH, DIMINISHES AFTER THAN STARTS AGAIN MORE FAINTLY AFTER 40 MPH. OCCASIONAL HARD DOWN SHIFTS WHEN COMING TO A STOP.

89. On December 5, 2018, the following incident dated October 27, 2018 was reported:

WELL AGAIN MY I HAD TO TAKE MY 2019 JETTA BACK TO LUNDE'S IN PEORIA, AZ. AFTER THE TRANSMISSION LEAK WAS FIXED IN AUGUST, I NOTICED ABOUT A MONTH LATER THE CAR WAS JERKING A LOT AND NOT ACCELERATING WHEN I HAD MY FOOT ON THE GAS PEDAL. ( LIKE WHEN YOU PUSH ON THE GAS, BUT DISCOVER YOUR CAR IS NEUTRAL AND NOT DRIVE.) THIS BECAME VERY DANGEROUS AND THE DELAY TIME WAS GETTING LONGER AND LONGER TO THE POINT WHERE IT WAS ABOUT HALF A MINUTE BEFORE IT WOULD ACCELERATE. OR WOULD BE ACCELERATING FINE THEN MID DRIVE OR WHEN TURNING, IT WOULD JUST STOP AND COAST AND NOTHING WOULD HAPPEN WHEN YOU PUSHED YOUR FOOT ON THE GAS OTHER THEN THE CAR REVING AND NOT MOVING. I TOOK MY JETTA BACK INTO LUNDE'S (AGAIN) AND THEY HAD

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MY CAR FOR A MONTH. THEY REPLACED THE O RINGS, AS PEOPLE HAVE MENTIONED ON HERE AND I WAS TOLD THAT NOW VW HAS REMADE ALL THE O RINGS TO WORK AND FIT PROPERLY IN THE TRANSMISSION. I PICKED UP MY CAR AT LUNDE'S AND IMMEDIATELY WENT TO GET GAS. I WAS WAITING IN LINE WITH THE CAR IN PARK & STILL RUNNING. WHEN I WENT TO PUT THE CAR IN DRIVE SAID RESTART ENGINE! SO THE CAR SHUT OFF ON ME! I CALLED LUNDE'S BACK AND WAS TOLD IF IT HAPPENS AGAIN TO CALL THEM. WELL, IT DID, AND I DID NOT CALL THEM BACK BECAUSE I OPENED UP A CASE WITH VW OF AMERICA TO TRY TO GET A BUYBACK OR REPLACEMENT VEHICLE. NOW I HAVE TO WAIT TO SEE IF MY AUTO LOAN COMPANY FIRST INVESTORS WILL PROCESS THE SUBSTITUTION OF COLLATERAL REQUEST. THIS WAY I CAN KEEP EVERYTHING THE SAME ON MY LOAN (BC I UPGRADED AND NOW HAVE NEGATIVE EQUITY THE BUY BACK OPTION IS NOT FINANCIALLY A GOOD OPTION FOR ME) SO OF COURSE MY AUTO LOAN COMPANY STATES "THEY DO NOT DO THAT ANYMORE". SO NOW I AM GOING BACK AND FORTH WITH THEM SO I AM NOT STUCK IN AN UNSAFE CAR. DO NOT BUY A 2019 JETTA UNTIL VW GETS IT FIGURED OUT ON ALL THE FAULTY PARTS AND DO NOT GET AN AUTO LOAN WITH 1ST INVESTORS. WHY IS THIS CAR NOT RECALLED YET?

90. On December 31, 2018, the following incident dated December 17, 2018 was reported:

TL\* THE CONTACT OWNS A 2019 VOLKSWAGEN JETTA. WHILE DRIVING 25 MPH OR HIGHER, THE CONTACT HEARD A LOUD BUZZING AND GRINDING SOUND COMING FROM THE TRANSMISSION. THE CONTACT TOOK THE VEHICLE TO SUNRISE VOLKSWAGEN (931 SUNRISE HWY, LYNBROOK, NY 11563, (516) 596-5970) TO HAVE THE TRANSMISSION CHECKED, BUT AN APPOINTMENT COULD NOT BE MADE UNTIL JANUARY 18, 2019. THE MANUFACTURER STATED THAT THEY WOULD CONTACT NHTSA. THE FAILURE MILEAGE WAS 250. \*DT

CONSUMER WAS TOLD BY THE DEALER NO "REPAIR" WOULD BE NEEDED THAT THEY FELT IT IS NORMAL. \*JB

91. On January 13, 2019, the following incident dated December 1,

1 2018 was reported:

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IT APPEARS THAT THE MAJORITY AND OR ALL OF THE NEW 2019 VOLKSWAGEN JETTA'S HAVE TORQUE CONVERTER DEFECTS. THE DEFECT CAUSES THE VEHICLE TO EMIT A LOUD SCRAPE AND GRINDING NOISE WHICH CAN DISTRACT THE DRIVER. THE COULD CAUSE DRIVERS TO PULL OVER AND POTENTIALLY CAUSE AN ACCIDENT.

THE NEW 2019 VOLKSWAGEN JETTA THAT I HAVE BEEN DRIVING HAS BEEN TO THE SHOP 3 TIMES DUE TO THIS SOUND THE TRANSMISSION IS MAKING ON THIS VEHICLE. I HAVE BEEN TOLD THAT IT'S A 'NORMAL CHARACTERISTIC' OF THE CAR. HOWEVER, THIS NEEDS TO BE REVIEWED BY A 3RD PARTY AS PROPERLY FUNCTIONING AND SAFE TRANSMISSIONS DO NOT GRIND OR SCRAPE AS THESE NOISES GENERALLY MEAN THAT INTERNAL DAMAGE IS OCCURRING INSIDE OF THE VEHICLE'S TRANSMISSION. VOLKSWAGEN ALLOWED ME TO REVIEW A DOCUMENT STATING THEY WERE AWARE OF THE TORQUE CONVERTER ISSUE WITH THIS CAR, HOWEVER, THEY ARE CLAIMING IT'S NORMAL. AGAIN, SAFE TORQUE CONVERTERS DO NOT GRIND OR SCRAPE. HERE'S THE ID TO THE VOLKSWAGEN DOCUMENT THAT CAN BE REQUESTED FROM VW: 32-18-01TT.

THE 2019 VW JETTA THAT I HAVE WAS TAKEN TO A 3RD PARTY TRANSMISSION EXPERT AND I WAS TOLD THAT IT WAS A SERIOUS DEFECT AND THEY DID NOT FEEL SAFE TO DRIVE THE CAR FOR EXTENDED PERIODS OF TIME. I FEEL THE SAME WAY, HOWEVER, I'M BEING TOLD BY VW AND THEIR DEALERSHIPS THAT GRINDING TRANSMISSIONS ARE NORMAL AND SAFE WHICH CONTRADICTS REALITY. GRINDING TRANSMISSIONS ON NEW VEHICLES ARE NOT SAFE, THEY'RE DEFECTIVE AND SAYING THAT THEY ARE NORMAL IS LEGALLY CONCERNING.

PLEASE LOOK INTO THE SAFETY AND VALUE IMPLICATIONS OF THIS ISSUE FOR A NEW 2019 VOLKSWAGEN JETTA'S. I AM VERY CONCERNED FOR MY SAFETY AND JUST WANT THE PROBLEM FIXED BY VOLKSWAGEN. THEY HAVE REFUSED TO HELP ME 3 TIMES AND I HAVE BEEN GIVEN A RUN AROUND BY VW REGIONAL CARE PROVIDERS WITH THIS ISSUE, TOO (IT'S BEEN A TERRIBLE EXPERIENCE

DEALING WITH VW AT TRYING TO GET THE VEHICLE BOUGHT BACK FOR SUCH A BAD DEFECT).

92. On January 22, 2019, the following incident dated January 22, 2019 was reported:

8 SPEED AUTOMATIC TRANSMISSION HAS A METALLIC GRINDING OR SCRAPING NOISE WHEN OPERATING AT LOW RPM'S DURING ACCELERATION. SPECIFICALLY AFTER THE TRANSITION TO 5TH GEAR. THE POWERTRAIN NOTICEABLY HESITATES DURING ACCELERATION WHEN THIS AFOREMENTIONED SOUND IS ACTIVE. IT'S ONLY A MATTER OF TIME BEFORE THIS TRANSMISSION FAILS AND LEAVES ME IN THE MIDDLE OF A BUSY INTERSECTION. IT'S AN EXTREMELY COMMON ISSUE ON THE 2019 VOLKSWAGEN JETTA THAT THE MANUFACTURER REFUSES TO ACKNOWLEDGE AS AN ACTUAL PROBLEM. THEY CLAIM THE SCRAPING AND GRINDING SOUND IS A "NORMAL CHARACTERISTIC" OF THE CAR, WHICH IS TOTALLY NONSENSICAL.

**Customer Complaints on Third-Party Websites**

93. Consumers similarly complained about the defect on various online forums. Below are some examples.

94. In a forum for 2019 Jettas on vvwortex.com, one commenter began a thread titled "Wierd noise"<sup>9</sup> with a post dated June 17, 2018 as follows:

I've been an owner of my new 2019 Jetta SE for about two weeks.. I've noticed something strange though that idk if anyone else might have with there vehicles as well. Starting my car from 0mph to about 25mph to 35 mph I hear a wierd noise. Like I can hear the gears shift oddly.. I never had a 1.4t or even a new car period , so I ignored it thinking it can a feature for safety or so. But it bothers the heck out of me.. it feels as if the 2nd or 3rd gear shift makes this noise.. the performance isn't effected at all.. just this noise is wierd. Anybody out there have this issue

<sup>9</sup> <https://forums.vvwortex.com/showthread.php?9205505-Wierd-noise&highlight=Aisin+transmission> (last viewed June 6, 2019).

1 at all?

2 95. A consumer responded on this thread on July 11, 2018:

3 I also am experiencing this issue in my 2019 R-Line.  
4 Purchased it under 3 weeks ago. The noise was really  
5 bothering me... took it to the dealer a few days after  
6 purchase and they told me it was "normal DSG noise."  
7 Another few days go by and it was bothering me again  
8 so I test drove another Jetta. It made the same noise. I  
9 then learned that this car doesn't actually have a DSG so  
10 I took it to a different dealer to get a second opinion.  
11 THEY FOUND A TRANSMISSION FLUID LEAK -  
12 LEVELS WERE PRETTY LOW AND LIKELY  
13 CAUSING DAMAGE!!!! They are still trying to figure  
14 out the extent of the issue and working towards a  
15 resolution. Needless to say i'm not a happy  
16 camper...especially this being my first new car and  
17 first(last?) Volkswagen. I wonder if this noise is directly  
18 related and this transmission leak could be a wide spread  
19 issue????

20 96. In the reviews section for 2019 Jettas on Edmunds.com,<sup>10</sup> a  
21 consumer wrote on December 1, 2018:

22 Poor quality have had 5 issues in less than 5 months.  
23 Dealer says one issue is normal, the grinding of brakes.  
24 You can judge for yourself if you'd like, my review is on  
25 youtube Under "Volkswagen VW 2019 Jetta review with  
26 all 5 issues". The issue I'm most concerned with is the  
27 brakes and you can hear the "normal" 3 minutes into the  
28 video. Everyone I know says it's not regular. 30 years  
of driving and never heard. It's great having a warranty  
but when you bring it in for the third time and they say  
there's nothing wrong it's pointless. They even said other  
customers have complained but that's how Volkswagens  
sound. Crazy. Of course there's the other issues  
including a back panel popping off and a recall for water  
leaks. Very very disappointed. Did I say very?

29 97. On Edmunds.com, another consumer wrote on March 11, 2019:

30 This is the worst car I've ever had! My car has been in  
31 the shop around 9 times and I have only owned it for 8  
32 months! Numerous problems with my crash sensors, and

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38 <sup>1010</sup> <https://www.edmunds.com/volkswagen/jetta/2019/consumer-reviews/?pagesize=50&sorting=created%3Adesc> (last viewed June 6, 2019).

1 blind spot monitor sensors going off at the wrong time,  
 2 so unsafe! I have expressed to my local dealer numerous  
 3 times that the car has a steady murmur coming from the  
 4 engine and it took me 3 separate trips to the dealer for  
 5 them to hear the noise, they looked at me like I was crazy  
 6 until other customers reported the noise as well. My car  
 7 sat in the shop for a little over a week just for them to tell  
 8 me nothing was wrong with it. The last time I took it to  
 9 the dealer they had told me VW Corporate was aware of  
 10 the issue and were actively working on a solution. Well,  
 11 fast forward 2 months later I still have not hear a thing  
 12 back about it. I also just found out there are 3 current  
 13 recalls on the car so I am beyond frustrated that my car  
 14 is currently been in the shop. Too bad I am stuck with  
 15 the car for another 3 years.

98. On Edmunds.com, another consumer wrote on March 13, 2019:

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 11 If I could turn back time... I never would have leased this  
 12 VW! I should run as soon as I figured out that no one at  
 13 the dealership knew how to properly register a lease. But  
 14 I didn't, so now I'm stuck...Don't miss your first oil  
 15 change, because the car is leaking transmission fluid  
 16 from faulty materials in and around the transcooler. Oh  
 17 and be prepared for all of the recalls to need to be fixed  
 18 when you arrive for that first oil change. Shortly after the  
 19 oil change, you can expect the heat to stop working. Be  
 20 prepared for everyone to laugh at your brand new car and  
 21 the sound it makes at around 30-40mph because of faulty  
 22 materials again... oh but VW will deny that part... it's  
 23 normal for a 2019 to growl and grind. SMH I'm sure I'll  
 24 be able to comment on here dozens and dozens of times  
 25 before my lease runs out... If only I could turn back  
 26 time...

99. In the reviews section for 2019 Jettas on cars.com,<sup>11</sup> a consumer  
 wrote on August 28, 2018:

22 Have owned 2019 Jetta for 5 weeks. First week was fine..  
 23 2nd week I noticed an audible noise coming from the  
 24 transmission. (Like a grinding noise) when driving in  
 25 standard mode. It has gotten worse in the past 2 weeks. I  
 26 took the car in to local vw dealer. We took it for a test  
 27 drive and technician said he does hear and feel it. I  
 28 waited 2 more hours for service mgr to come tell me its  
 normal??? xxx? Im sorry, but a brand new car does NOT  
 make strange noises in the 20-30mph range). I come to

<sup>1111</sup> <https://www.cars.com/research/volkswagen-jetta-2019/consumer-reviews/> (last viewed June 6, 2019).

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find out a week later, others are now experiencing this same issue and VW continues to "blow it off" as Normal? I think vw has a major issue going on and they dont want to admit it at this point. 6 year warranty or not, driving aound and when your family asks you what they strange noise is I just shrug it off... Embarassed to have purchased this car. I will be going thru VW channels to return this car and get Refunded... AVOID the 2019 VW's w/ 8 speed transmissions. Check out vwvortex web site.. Many folks on there now voicing their concerns over this future recall.

100. On cars.com, another consumer wrote on October 4, 2018:

I was super excited to get a brand new car... my excitement quickly died when the car started making noises. Between 30-40 mph, the car makes a growling noise - very loud and obvious People are asking what it is - so embarrassing! Then the backup camera went out twice! I took the car to VW, they beat around the bush and won't look at it, said I can come back another day... even though I made an appointment 3 days prior. ' I will never drive a VW again - I'll be telling everyone I know about this - it's about time this company goes out of business.

101. On cars.com, another consumer wrote on October 23, 2018:

The car is extremely slow and makes a terrible rattle noise each time you accelerate, which is normal according to Volkswagen. The brakes require a firm press to come to a full stop, which makes driving extremely uncomfortable combined with how underpowered the car is. The interior is very cheap. I've had the car for 6 months and it rattles like it's five years old. The only thing this car has going for it is the excellent gas mileage. Otherwise, I can't wait to get rid of this car.

102. On cars.com, another consumer wrote on November 26, 2018:

Quiet ride except for the grinding noise in the transmission switching from 4 th to 5th gear Buyer beware Dealer has no idea how to fix the problem

103. On cars.com, another consumer wrote on December 3, 2018:

I have owned the Jetta for approximately 90 days. It has

1 been to the dealer 3 times for a faulty transmission and  
2 passenger window that does not go up and down. Each  
3 time the dealer keeps the car for one week and returns it  
4 in the same condition. The transmission lurches forward  
5 from 1st to 2nd gears and drags between other gears.  
6 There are hundreds of complaints online by 2019 Jetta  
7 owners having the same transmission issues. The VW  
8 Dealer is indifferent to repairing the car and VW  
9 Corporate is downright INDIFFERENT, unprofessional  
10 and spends a lot of energy dodging complaints than  
11 honoring consumers commitment and safety. A  
12 defective transmission is dangerous. VW Corporate still  
13 hasn't issued a recall. I am invoking the LEMON LAW,  
14 which is a hassle. Meanwhile, legal action against the  
15 dealer is my only recourse to get rid of this LEMON.

9 104. On cars.com, another consumer wrote on December 5, 2018:

10 Loved the car when I test drove it. Then, unfortunately,  
11 within 1 week heard this horrible grinding noise which  
12 VW said was normal. They wouldn't do anything for me.  
13 I ended up trading it in (losing a lot of money) because I  
14 was afraid that the grinding noise would end up causing  
15 a dangerous situation.

14 105. In a forum for 2019 Jettas titled "Grinding Noise"<sup>12</sup> on  
15 carcomplaints.com, a consumer wrote on August 1, 2018:

17 I purchased my 2019 Volkswagen Jetta SEL-Premium  
18 brand new. The 8 speed automatic transmission emits a  
19 grinding noise that sounds metallic when up-shifting  
20 under normal or light acceleration. Vibrations and  
21 resonance can be felt in in the accelerator pedal and  
22 floorboard. I have not taken the vehicle to the dealership  
23 at this time as I do not want to waste my time sitting  
24 around for several hours, only to be told by a service  
25 advisor that Volkswagen feels the sound and  
26 transmission behavior is "Normal" as that is their  
27 OFFICIAL stance on the matter as of November 2018.  
28 The sound is NOT NORMAL Volkswagen, do  
something to fix these garbage transmissions that your  
engineering team haphazardly chose to implement into  
the MK7 Jetta!

106. In the "Grinding Noise" forum on carcomplaints.com, another

<sup>12</sup> [https://www.carcomplaints.com/Volkswagen/Jetta/2019/transmission/grinding\\_noise.shtml](https://www.carcomplaints.com/Volkswagen/Jetta/2019/transmission/grinding_noise.shtml) (last viewed June 6, 2019).



1 consumer wrote on August 30, 2018:

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I recently bought a 2019 Jetta S with 8 speed auto and having the same grind/gurgle type noise at 30 mph. Only seems to happen when the rpm's are under 2000. I also get a similar sound when I hold the speed steady between 40 and 50 mph. Seem to occur in Eco mode and normal mode, but not in sport mode, or just not noticeable.

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I took it back to the dealer and had a tech go with me on a drive. He said that it was "normal" that the turbo valve was releasing air. They did not document the issue. This still bothers me, I called customer care to open a case and have another appointment with a different dealer and will make sure this gets documented.

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Update after service appointment today, 9/12/18 19 Jetta S Automatic

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Had the car looked at by a different dealer today. Tech took it for a ride than he drove with me. He does confirm there is a noise present. When we went out for our drive, I drove the car in all 3 modes. The noise is most present in Eco mode. In Drive mode it is still there but is a little better. In Sport mode I really do not notice it at all. At this time the tech feels that the noise issue is normal due to the 8 speed transmission being hooked up to a small 1.4t engine. He also mentioned giving the car more time to break-in and see if there are any changes once I get closer to 2,000 miles.

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I just wonder how much damage this torque converter vibration is doing to the rest of the engine and transmission. This was my first VW ever, probably my last one too.

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107. In another forum titled "Transmission Fluid Leak" on carcomplaints.com,<sup>13</sup> a consumer wrote on July 27, 2018:

I had not even made my first car payment when I brought my car in for a flat tire. It was then that the dealer discovered a large transmission leak. No lights went on in my 2019 Jetta to indicate there was leak let alone a problem. I had a loaner car for 2 and half weeks because the dealer stated they did not know when the 2019 transmission fluid would be released from Volkswagen. Not only did my new Jetta have a huge leak, and needed

<sup>13</sup> [https://www.carcomplaints.com/Volkswagen/Jetta/2019/transmission/transmission\\_fluid\\_leak.shtml](https://www.carcomplaints.com/Volkswagen/Jetta/2019/transmission/transmission_fluid_leak.shtml) (last viewed June 6, 2019).

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to repair the transmission with new parts, but I had to wait a long time.

108. In the “Transmission Fluid Leak” forum on carcomplaints.com, another consumer wrote on October 27, 2018:

**DO NOT PURCHASE A 2019 VW JETTA UNTIL THEY FIGURE THE NEW PROBLEM OUT.**

I purchased a new 2019 Jetta Execline from Pickering Volkswagen on Oct 20, 2018. Drove the car and noticed noises coming from the left side of the engine. The sales manager at the dealership informed me that they know about noises but that is normal. When the noises became even more annoying, the car was taken in on Sat Oct 27, 2018 (one week later) as I cannot accept that this is normal.

When the car was on the hoist the mechanic said the transmission seals were leaking and showed me it dripping. Also, the two drive shafts were making clicking noises when each drive shaft was turned by hand even slightly. If you rotate the wheels, there was a distinct clicking noise and he said this is the second time it has happened where the new cars have bad seals, but that the clicking noises this problem has happened before. I asked why wouldn't you tell your customers that there is a problem before I bought the car, and there was no answer by John Callaghan.

The sales manager said that he knew there is noise complaints with the new car, but that was normal. NORMAL my @\$\$\$. The service manager did his best to smooth things over by saying he was working for me, but he also is aware that the noises have been something they experience but aren't telling the purchasers because it's not on every sale.

**CHECK CAREFULLY BEFORE YOU BUY FROM PICKERING VW, THEY MAY NOT TELL YOU EVERYTHING ABOUT YOUR CAR PURCHASE, AND THEN SAY THEY CAN'T DO ANYTHING ABOUT TAKING THE CAR BACK AS THEY ONLY SELL THE CAR. WHAT B.S.**

I believe that the new 2019 Jetta may have another problem like the diesel problem where they are selling cars even though they know there are mechanical and potential safety issues with the car.

**DO NOT BUY A 2019 JETTA UNTIL VW FIGURES THIS OUT AND REPLACES THE BAD CARS OR FIXES THEM ALL!!**

1 109. VWGoA had superior and exclusive knowledge of the Transmission  
2 Defect and knew or should have known that the defect was not known or  
3 reasonably discoverable by Plaintiffs and Class Members before they purchased  
4 or leased the Class Vehicles.

5 110. Plaintiffs are informed and believe, and based thereon allege, that  
6 before Plaintiffs purchased their respective Class Vehicles, and since early 2018,  
7 VWGoA knew about the Transmission Defect through sources not available to  
8 consumers, including pre-release testing data, early consumer complaints to  
9 VWGoA and its dealers, testing conducted in response to those consumer  
10 complaints, high failure rates of the Transmission, the data demonstrating the  
11 inordinately high volume of replacement part sales, and other aggregate data  
12 from VWGoA dealers about the problem.

13 111. VWGoA is experienced in the design and manufacture of consumer  
14 vehicles. As an experienced manufacturer, VWGoA conducts tests, including  
15 pre-sale durability testing, on incoming components, including the Transmission,  
16 to verify the parts are free from defect and align with VWGoA's specifications.<sup>14</sup>  
17 Thus, VWGoA knew or should have known the Transmission was defective and  
18 prone to put drivers in a dangerous position due to the inherent risk of the  
19 Transmission Defect.

20 112. Additionally, Defendant should have learned of this widespread  
21 defect from the sheer number of reports received from dealerships. Defendant  
22 VWGoA's customer relations department, which interacts with individual  
23 dealerships to identify potential common defects, has received numerous reports  
24 regarding the Transmission Defect, which led to the release of the Technical  
25 Tips. VWGoA's customer relations department also collects and analyzes field

26 <sup>14</sup> Akweli Parker, *How Car Testing Works*, HOWSTUFFWORKS.COM,  
27 [http://auto.howstuffworks.com/car-driving-safety/safety-regulatory-devices/car-](http://auto.howstuffworks.com/car-driving-safety/safety-regulatory-devices/car-testing.htm)  
28 [testing.htm](http://auto.howstuffworks.com/car-driving-safety/safety-regulatory-devices/car-testing.htm) ("The idea behind car testing is that it allows manufactures to work out  
all the kinks and potential problems of a model before it goes into full  
production.") (last viewed June 5, 2019).

1 data including, but not limited to, repair requests made at dealerships, technical  
2 reports prepared by engineers who have reviewed vehicles for which warranty  
3 coverage is being requested, parts sales reports, and warranty claims data.

4 113. Defendant's warranty department similarly analyzes and collects  
5 data submitted by its dealerships to identify warranty trends in its vehicles. It is  
6 Defendant's policy that when a repair is made under warranty the dealership  
7 must provide VWGoA with detailed documentation of the problem and a  
8 complete disclosure of the repairs employed to correct it. Dealerships have an  
9 incentive to provide detailed information to Defendant, because they will not be  
10 reimbursed for any repairs unless the justification for reimbursement is  
11 sufficiently detailed.

12 114. The existence of the Transmission Defect is a material fact that a  
13 reasonable consumer would consider when deciding whether to purchase or lease  
14 a Class Vehicle. Had Plaintiffs and other Class Members known of the  
15 Transmission Defect, they would have paid less for the Class Vehicles or would  
16 not have purchased or leased them.

17 115. Reasonable consumers, like Plaintiffs, expect that a vehicle's  
18 transmission is safe, will function in a manner that will not pose a safety risk,  
19 and is free from defects. Plaintiffs and Class Members further reasonably expect  
20 that VWGoA will not sell or lease vehicles with known safety defects, such as  
21 the Transmission Defect, and will disclose any such defects to its consumers  
22 when it learns of them. They did not expect VWGoA to conceal and fail to  
23 disclose the Transmission Defect to them, and to then continually deny its  
24 existence.

### 25 **VWGoA Has Actively Concealed the Transmission Defect**

26 116. Despite its knowledge of the Transmission Defect in the Class  
27 Vehicles, VWGoA actively concealed the existence and nature of the defect from  
28 Plaintiffs and Class Members. Specifically, VWGoA failed to disclose or

1 actively concealed at and after the time of purchase, lease, or repair:

- 2 (a) any and all known material defects or material nonconformity
- 3 of the Class Vehicles, including the defects pertaining to the
- 4 Transmission;
- 5 (b) that the Class Vehicles, including the Transmission, were not
- 6 in good in working order, were defective, and were not fit for
- 7 their intended purposes; and
- 8 (c) that the Class Vehicles and the Transmission were defective,
- 9 despite the fact that VWGoA learned of such defects as early
- 10 as early 2018.

11 117. When consumers present their Class Vehicles to an authorized  
12 VWGoA dealer for Transmission repairs, rather than repair the problem under  
13 warranty, VWGoA dealers either inform consumers that their vehicles are  
14 functioning properly or conduct repairs that merely mask the Transmission  
15 Defect.

16 118. VWGoA has caused Class Members to expend money at its  
17 dealerships to diagnose, repair or replace the Class Vehicles' Transmission  
18 and/or related components, despite VWGoA's knowledge of the Transmission  
19 Defect.

20 **VWGoA Has Unjustly Retained A Substantial Benefit**

21 119. On information and belief, Plaintiffs allege that Defendant  
22 unlawfully failed to disclose the alleged defect to induce them and other putative  
23 Class Members to purchase or lease the Class Vehicles.

24 120. Plaintiffs further allege that Defendant thus engaged in deceptive  
25 acts or practices pertaining to all transactions involving the Class Vehicles,  
26 including Plaintiffs'.

27 121. As discussed above therefore, Plaintiffs allege that Defendant  
28 unlawfully induced them to purchase their respective Class Vehicles by

1 concealing a material fact (the defective Transmission) and that they would have  
2 paid less for the Class Vehicles, or not purchased them at all, had they known of  
3 the defect.

4 122. Accordingly, Defendant’s ill-gotten gains, benefits accrued in the  
5 form of increased sales and profits resulting from the material omissions that did  
6 - and likely will continue to - deceive consumers, should be disgorged.

7 **CLASS ACTION ALLEGATIONS**

8 123. Plaintiffs bring this lawsuit as a class action on behalf of themselves  
9 and all others similarly situated as members of the proposed Class pursuant to  
10 Federal Rules of Civil Procedure 23(a) and 23(b)(3). This action satisfies the  
11 numerosity, commonality, typicality, adequacy, predominance, and superiority  
12 requirements of those provisions.

13 124. The Class and Sub-Class are defined as:

14 **Class:** All individuals in the United States who  
15 purchased or leased any Class Vehicle.

16 **California Sub-Class:** All members of the Class who  
17 reside in the State of California.

18 **CLRA Sub-Class:** All members of the California Sub-  
19 Class who are “consumers” within the meaning of  
California Civil Code § 1761(d).

20 **Implied Warranty Sub-Class:** All members of the  
21 Class who purchased or leased their vehicles in the State  
of California.

22 **Pennsylvania Sub-Class:** All members of the Class who  
reside in the State of Pennsylvania.

23 **Utah Sub-Class:** All members of the Class who reside  
24 in the State of Utah.

25 125. Excluded from the Class and Sub-Classes are: (1) Defendant, any  
26 entity or division in which Defendant has a controlling interest, and their legal  
27 representatives, officers, directors, assigns, and successors; (2) the Judge to  
28 whom this case is assigned and the Judge’s staff; (3) any Judge sitting in the

1 presiding state and/or federal court system who may hear an appeal of any  
2 judgment entered; and (4) those persons who have suffered personal injuries as a  
3 result of the facts alleged herein. Plaintiffs reserve the right to amend the Class  
4 and Sub-Class definitions if discovery and further investigation reveal that the  
5 Class and Sub-Class should be expanded or otherwise modified.

6 126. Numerosity: Although the exact number of Class Members is  
7 uncertain, and can only be ascertained through appropriate discovery, the number  
8 is significant enough such that joinder is impracticable. The disposition of the  
9 claims of these Class Members in a single action will provide substantial benefits  
10 to all parties and to the Court. The Class Members are readily identifiable from  
11 information and records in Defendant's possession, custody, or control, as well  
12 as from records kept by the Department of Motor Vehicles.

13 127. Typicality: Plaintiffs' claims are typical of the claims of the Class  
14 in that Plaintiffs, like all Class Members, purchased or leased a Class Vehicle  
15 designed, manufactured, and distributed by VWGoA. The representative  
16 Plaintiffs, like all Class Members, have been damaged by Defendant's  
17 misconduct in that they have incurred or will incur the cost of repairing or  
18 replacing the defective Transmission and/or its components. Furthermore, the  
19 factual bases of VWGoA's misconduct are common to all Class Members and  
20 represent a common thread resulting in injury to the Class.

21 128. Commonality: There are numerous questions of law and fact  
22 common to Plaintiffs and the Class that predominate over any question affecting  
23 Class Members individually. These common legal and factual issues include the  
24 following:

- 25 (a) Whether Class Vehicles suffer from defects relating to the  
26 Transmission;  
27 (b) Whether the defects relating to the Transmission constitute an  
28 unreasonable safety risk;

- 1 (c) Whether Defendant knew about the defects pertaining to the
- 2 Transmission and, if so, how long Defendant has known of
- 3 the defect;
- 4 (d) Whether the defective nature of the Transmission constitutes a
- 5 material fact;
- 6 (e) Whether Defendant has had an ongoing duty to disclose the
- 7 defective nature of the Transmission to Plaintiffs and Class
- 8 Members;
- 9 (f) Whether Plaintiffs and the other Class Members are entitled
- 10 to equitable relief, including a preliminary and/or a permanent
- 11 injunction;
- 12 (g) Whether Defendant knew or reasonably should have known of
- 13 the defects pertaining to the Transmission before it sold and
- 14 leased Class Vehicles to Class Members;
- 15 (h) Whether Defendant should be declared financially responsible
- 16 for notifying the Class Members of problems with the Class
- 17 Vehicles and for the costs and expenses of repairing and
- 18 replacing the defective Transmission and/or its components;
- 19 (i) Whether Defendant is obligated to inform Class Members of
- 20 their right to seek reimbursement for having paid to diagnose,
- 21 repair, or replace their defective Transmission and/or its
- 22 components;
- 23 (j) Whether Defendant breached the implied warranty of
- 24 merchantability pursuant to the Magnuson-Moss Warranty
- 25 Act;
- 26 (k) Whether Defendant breached the implied warranty of
- 27 merchantability pursuant to the Song-Beverly Act
- 28 (l) Whether Defendant breached its express warranties under



1 UCC section 2301; and

2 (m) Whether Defendant breached written warranties pursuant to  
3 the Magnuson-Moss Warranty Act.

4 129. Adequate Representation: Plaintiff swill fairly and adequately  
5 protect the interests of the Class Members. Plaintiffs have retained attorneys  
6 experienced in the prosecution of class actions, including consumer and product  
7 defect class actions, and Plaintiffs intend to vigorously prosecute this action.

8 130. Predominance and Superiority: Plaintiffs and Class Members have  
9 all suffered, and will continue to suffer, harm and damages as a result of  
10 Defendant’s unlawful and wrongful conduct. A class action is superior to other  
11 available methods for the fair and efficient adjudication of the controversy.  
12 Absent a class action, most Class Members would likely find the cost of  
13 litigating their claims prohibitively high and would therefore have no effective  
14 remedy. Because of the relatively small size of the individual Class Members’  
15 claims, it is likely that only a few Class Members could afford to seek legal  
16 redress for Defendant’s misconduct. Absent a class action, Class Members will  
17 continue to incur damages, and Defendant’s misconduct will continue unabated  
18 without remedy or relief. Class treatment of common questions of law and fact  
19 would also be a superior method to multiple individual actions or piecemeal  
20 litigation in that it will conserve the resources of the courts and the litigants and  
21 promote consistency and efficiency of adjudication.

22 **FIRST CAUSE OF ACTION**

23 **(Violation of California’s Consumers Legal Remedies Act,**

24 **California Civil Code § 1750, et seq.)**

25 **(On Behalf of the CLRA Sub-Class)**

26 131. Plaintiffs Parrish and Combrinck incorporate by reference the  
27 allegations contained in the preceding paragraphs of this Complaint.

28 132. Plaintiffs Parrish and Combrinck bring this cause of action on behalf

1 of themselves and the CLRA Sub-Class (CLRA Sub-Class).

2 133. Defendant is a “person” as defined by California Civil Code  
3 § 1761(c).

4 134. Plaintiffs Parrish and Combrinck and the CLRA Sub-Class members  
5 are “consumers” within the meaning of California Civil Code § 1761(d) because  
6 they purchased their Class Vehicles primarily for personal, family, or household  
7 use.

8 135. By failing to disclose and concealing the defective nature of the  
9 Transmission from Plaintiffs Parrish and Combrinck and prospective CLRA  
10 Sub-Class members, Defendant violated California Civil Code § 1770(a), as it  
11 represented that the Class Vehicles and their Transmission had characteristics  
12 and benefits that they do not have, and represented that the Class Vehicles and  
13 their Transmission were of a particular standard, quality, or grade when they  
14 were of another. *See* Cal. Civ. Code §§ 1770(a)(5) & (7).

15 136. Defendant’s unfair and deceptive acts or practices occurred  
16 repeatedly in Defendant’s trade or business, were capable of deceiving a  
17 substantial portion of the purchasing public, and imposed a serious safety risk on  
18 the public.

19 137. Defendant knew that the Class Vehicles and their Transmission  
20 suffered from an inherent defect, were defectively designed, and were not  
21 suitable for their intended use.

22 138. As a result of their reliance on Defendant’s omissions, owners  
23 and/or lessees of the Class Vehicles, including Plaintiffs Parrish and Combrinck,  
24 suffered an ascertainable loss of money, property, and/or value of their Class  
25 Vehicles. Additionally, as a result of the Transmission Defect, Plaintiffs Parrish  
26 and Combrinck and the CLRA Sub-Class members were harmed and suffered  
27 actual damages in that the Class Vehicles’ Transmission and its components are  
28 substantially certain to fail before their expected useful life has run.

1           139. Defendant was under a duty to Plaintiffs Parrish and Combrinck and  
2 the CLRA Sub- Class members to disclose the defective nature of the  
3 Transmission and/or the associated repair costs because:

4           (a) Defendant was in a superior position to know the true state of  
5 facts about the safety defect in the Class Vehicles’  
6 Transmission;

7           (b) Plaintiffs Parrish and Combrinck and the CLRA Sub-Class  
8 members could not reasonably have been expected to learn or  
9 discover that their Transmission had a dangerous safety defect  
10 until it manifested; and

11           (c) Defendant knew that Plaintiffs Parrish and Combrinck and the  
12 CLRA Sub-Class members could not reasonably have been  
13 expected to learn of or discover the safety defect.

14           140. In failing to disclose the defective nature of Transmission,  
15 Defendant knowingly and intentionally concealed material facts and breached its  
16 duty not to do so.

17           141. The facts Defendant concealed from or failed to disclose to  
18 Plaintiffs Parrish and Combrinck and the CLRA Sub-Class members are material  
19 in that a reasonable consumer would have considered them to be important in  
20 deciding whether to purchase or lease the Class Vehicles or pay less. Had  
21 Plaintiffs Parrish and Combrinck and the CLRA Sub-Class members known that  
22 the Class Vehicles’ Transmission was defective, they would not have purchased  
23 or leased the Class Vehicles or would have paid less for them.

24           142. Plaintiffs Parrish and Combrinck and the CLRA Sub-Class members  
25 are reasonable consumers who do not expect the transmission installed in their  
26 vehicles to exhibit problems such as the Transmission Defect. This is the  
27 reasonable and objective consumer expectation relating to a vehicle’s  
28 transmission.

1           143. As a result of Defendant’s conduct, Plaintiffs Parrish and  
2 Combrinck and the CLRA Sub-Class members were harmed and suffered actual  
3 damages in that, on information and belief, the Class Vehicles experienced and  
4 will continue to experience problems such as the Transmission Defect.

5           144. As a direct and proximate result of Defendant’s unfair or deceptive  
6 acts or practices, Plaintiffs Parrish and Combrinck and the CLRA Sub-Class  
7 members suffered and will continue to suffer actual damages.

8           145. Plaintiffs Parrish and Combrinck and the CLRA Sub-Class members  
9 are entitled to equitable relief.

10           146. Plaintiff provided Defendant with notice of its violations of the  
11 CLRA pursuant to California Civil Code § 1782(a). Defendant failed to provide  
12 appropriate relief for their violations of the CLRA. Accordingly, Plaintiffs seek  
13 monetary, compensatory, and punitive damages, in addition to injunctive and  
14 equitable relief.

15   **SECOND CAUSE OF ACTION**

16                           **(Violation of California Business & Professions Code § 17200, *et seq.*)**

17   **(On Behalf of the California Sub-Class)**

18           147. Plaintiffs Parrish and Combrinck incorporate by reference the  
19 allegations contained in the preceding paragraphs of this Complaint.

20           148. Plaintiffs Parrish and Combrinck bring this cause of action on behalf  
21 of themselves and the California Sub-Class (CA Sub-Class).

22           149. As a result of their reliance on Defendant’s omissions, owners  
23 and/or lessees of the Class Vehicles, including Plaintiffs Parrish and Combrinck,  
24 suffered an ascertainable loss of money, property, and/or value of their Class  
25 Vehicles. Additionally, as a result of the Transmission Defect, Plaintiff Parrish  
26 and the CA Sub-Class members were harmed and suffered actual damages in that  
27 the Class Vehicles’ Transmission and/or its components are substantially certain  
28 to fail before their expected useful life has run.

1           150. California Business & Professions Code § 17200 prohibits acts of  
2 “unfair competition,” including any “unlawful, unfair or fraudulent business act  
3 or practice” and “unfair, deceptive, untrue or misleading advertising.”

4           151. Plaintiffs Parrish and Combrinck and the CA Sub-Class members  
5 are reasonable consumers who do not expect their transmission to exhibit  
6 problems such as loss of power, premature wear, and frequent replacement or  
7 repair.

8           152. Defendant knew the Class Vehicles and their Transmissions were  
9 defectively designed or manufactured, would fail prematurely, and were not  
10 suitable for their intended use.

11           153. In failing to disclose the Transmission Defect, Defendant has  
12 knowingly and intentionally concealed material facts and breached its duty not to  
13 do so.

14           154. Defendant was under a duty to Plaintiffs Parrish and Combrinck and  
15 the CA Sub-Class members to disclose the defective nature of the Class Vehicles  
16 and their Transmission because:

- 17                   (a) Defendant was in a superior position to know the true state of  
18 facts about the safety defect in the Class Vehicles’  
19 Transmission; and  
20                   (b) Defendant actively concealed the defective nature of the Class  
21 Vehicles and their Transmission from Plaintiff Parrish and the  
22 CA Sub-Class.

23           155. The facts Defendant concealed from or failed to disclose to  
24 Plaintiffs Parrish and Combrinck and the CA Sub-Class members are material in  
25 that a reasonable person would have considered them to be important in deciding  
26 whether to purchase or lease Class Vehicles. Had they known of the  
27 Transmission Defect, Plaintiffs Parrish and Combrinck and the other CA Sub-  
28 Class members would have paid less for Class Vehicles equipped with the

1 Transmission or would not have purchased or leased them at all.

2 156. Defendant continued to conceal the defective nature of the Class  
3 Vehicles and their Transmission even after Plaintiffs Parrish and Combrinck and  
4 the other CA Sub-Class members began to report problems.

5 157. Defendant's conduct was and is likely to deceive consumers.

6 158. Defendant's acts, conduct, and practices were unlawful, in that they  
7 constituted:

- 8 (a) Violations of California's Consumers Legal Remedies Act;
- 9 (b) Violations of the Song-Beverly Consumer Warranty Act;
- 10 (c) Violations of the Magnuson-Moss Warranty Act; and
- 11 (d) Breach of Express Warranty under California Commercial  
12 Code § 2313.

13 159. By its conduct, Defendant has engaged in unfair competition and  
14 unlawful, unfair, and fraudulent business practices.

15 160. Defendant's unfair or deceptive acts or practices occurred  
16 repeatedly in Defendant's trade or business and were capable of deceiving a  
17 substantial portion of the purchasing public.

18 161. As a direct and proximate result of Defendant's unfair and deceptive  
19 practices, Plaintiffs Parrish and Combrinck and the other CA Sub-Class members  
20 have suffered and will continue to suffer actual damages.

21 162. Defendant has been unjustly enriched and should be required to  
22 make restitution to Plaintiffs Parrish and Combrinck and the other CA Sub-Class  
23 members pursuant to §§ 17203 and 17204 of the Business & Professions Code.

24 **THIRD CAUSE OF ACTION**  
25 **(Breach of Implied Warranty Pursuant to Song-Beverly**  
26 **Consumer Warranty Act, California Civil Code §§ 1792 and 1791.1, et seq.)**  
27 **(On Behalf of the Implied Warranty Sub-Class)**

28 163. Plaintiffs Parrish and Combrinck incorporate by reference the

1 allegations contained in the preceding paragraphs of this Complaint.

2 164. Plaintiffs Parrish and Combrinck bring this cause of action against  
3 Defendant on behalf of himself and the Implied Warranty Sub-Class (IW Sub-  
4 Class).

5 165. Defendant was at all relevant times the manufacturer, distributor,  
6 warrantor, and/or seller of the Class Vehicles. Defendant knew or had reason to  
7 know of the specific use for which the Class Vehicles were purchased or leased.

8 166. Defendant provided Plaintiffs Parrish and Combrinck and the IW  
9 Sub-Class members with an implied warranty that the Class Vehicles and their  
10 components and parts are merchantable and fit for the ordinary purposes for  
11 which they were sold. However, the Class Vehicles are not fit for their ordinary  
12 purpose of providing reasonably reliable and safe transportation because, *inter*  
13 *alia*, the Class Vehicles and their Transmission suffered from an inherent defect  
14 at the time of sale and thereafter and are not fit for their particular purpose of  
15 providing safe and reliable transportation.

16 167. Defendant impliedly warranted that the Class Vehicles were of  
17 merchantable quality and fit for their intended use. This implied warranty  
18 included, among other things: (i) a warranty that the Class Vehicles and their  
19 Transmission, which were manufactured, supplied, distributed, and/or sold by  
20 VWGoA, would provide safe and reliable transportation; and (ii) a warranty that  
21 the Class Vehicles and their Transmission would be fit for their intended use.

22 168. Contrary to the applicable implied warranties, the Class Vehicles  
23 and their Transmission at the time of sale and thereafter were not fit for their  
24 ordinary and intended purpose of providing Plaintiffs Parrish and Combrinck and  
25 the IW Sub-Class members with reliable, durable, and safe transportation.  
26 Instead, the Class Vehicles are defective, including the defective Transmission.

27 169. The alleged Transmission Defect is inherent and was present in each  
28 Class Vehicle at the time of sale.

1 170. As a result of Defendant’s breach of the applicable implied  
2 warranties, owners and/or lessees of the Class Vehicles suffered an ascertainable  
3 loss of money, property, and/or value of their Class Vehicles. Additionally, as a  
4 result of the Transmission Defect, Plaintiffs Parrish and Combrinck and the IW  
5 Sub-Class members were harmed and suffered actual damages in that the Class  
6 Vehicles’ Transmission and/or its components are substantially certain to fail  
7 before their expected useful life has run.

8 171. Defendant’s actions, as complained of herein, breached the implied  
9 warranty that the Class Vehicles were of merchantable quality and fit for such  
10 use in violation of California Civil Code §§ 1792 and 1791.1.

11 **FOURTH CAUSE OF ACTION**

12 **(Breach of Warranty under the Magnuson-Moss Warranty Act,**

13 **15 U.S.C. § 2303 *et seq.*)**

14 **(On Behalf of the Class)**

15 172. Plaintiffs incorporate by reference the allegations contained in the  
16 preceding paragraphs of this Complaint.

17 173. Plaintiffs bring this cause of action on behalf of themselves and on  
18 behalf of the Class against Defendant.

19 174. Defendant provided all purchasers and lessees of the Class Vehicles  
20 with an express warranty described *infra*, which became a material part of the  
21 bargain. Accordingly, Defendant’s express warranty is an express warranty  
22 under California law.

23 175. The Transmission and its component parts were manufactured  
24 and/or installed in the Class Vehicles by Defendant and are covered by the  
25 express warranty.

26 176. In a section entitled “What’s Covered,” Defendant’s express  
27 warranty provides in relevant part that “The Basic Limited Warranty covers the  
28 cost of all parts and labor needed to repair any item on your vehicle when it left



1 the manufacturing plant that is defective in material, workmanship or factory  
2 preparation.” The warranty further provides that “You pay nothing for these  
3 repairs. These warranty repairs or adjustments—including all parts and labor  
4 connected with them—will be made by your dealer at no charge, using new or  
5 remanufactured parts.”

6 177. According to VWGoA, “The Basic Limited Warranty lasts for 36  
7 months from the date it begins or for 36,000 miles on the odometer, whichever  
8 occurs first.”

9 178. Defendant also provides a “Powertrain Limited Warranty” that  
10 “covers the cost of all parts and labor needed to repair a powertrain component  
11 listed in section 2.4.E below that is defective in workmanship and materials.”  
12 Section 2.4.E., in turn, lists “Transmission: transmission case and all internal  
13 parts; torque converter; drive/flex plate; transmission range switch; speed  
14 sensors; pressure sensors; transmission control module; bell housing; oil pan;  
15 seals and gaskets for listed components only;” as well as “Front wheel drive:  
16 transaxle case and all internal parts... differential cover; oil pan; transaxle speed  
17 sensors; transaxle solenoid assembly, PRNDL position switch; transaxle  
18 electronic controller; torque converter; seals and gaskets for listed components  
19 only.”

20 179. According to VWGoA, “The Powertrain Limited Warranty lasts for  
21 up to 5 years or 100,000 miles on the odometer, whichever occurs first...”

22 180. Defendant breached the express warranties by selling and leasing  
23 Class Vehicles with Transmissions that were defective, requiring repair or  
24 replacement within the warranty period, and refusing to honor the express  
25 warranty by repairing or replacing, free of charge, the Transmission and its  
26 component parts, and instead, replacing the defective Transmission and its  
27 components with equally defective Transmissions and components. By simply  
28 replacing Plaintiffs’ and Class Members’ defective Transmissions with similarly

1 defective parts, VWGoA has failed to “repair” the defects as alleged herein.

2 181. Plaintiffs were not required to notify VWGoA of the breach or was  
3 not required to do so because affording VWGoA a reasonable opportunity to  
4 cure its breach of written warranty would have been futile. Defendant was also  
5 on notice of the defect from complaints and service requests it received from  
6 Class Members, from repairs and/or replacements of the Transmission, and from  
7 other internal sources.

8 182. As a direct and proximate cause of Defendant’s breach, Plaintiffs  
9 and the other Class members have suffered, and continue to suffer, damages,  
10 including economic damages at the point of sale or lease. Additionally, Plaintiffs  
11 and the other Class members have incurred or will incur economic damages at  
12 the point of repair in the form of the cost of repair.

13 183. Plaintiffs and the other Class members are entitled to legal and  
14 equitable relief against Defendant, including actual damages, consequential  
15 damages, specific performance, attorneys’ fees, costs of suit, and other relief as  
16 appropriate.

17 **FIFTH CAUSE OF ACTION**

18 **(Breach of Implied Warranty under the Magnuson-Moss Warranty Act,**

19 **15 U.S.C. § 2303 *et seq.*)**

20 **(On Behalf of the Class)**

21 184. Plaintiffs incorporate by reference the allegations contained in the  
22 preceding paragraphs of this Complaint.

23 185. Plaintiffs bring this cause of action on behalf of themselves and the  
24 Class against Defendant.

25 186. The Class Vehicles are a “consumer product” within the meaning of  
26 the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(1).

27 187. Plaintiffs and Class Members are “consumers” within the meaning  
28 of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(3).

1 188. Defendant is a “supplier” and “warrantor” within the meaning of the  
2 Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(4)-(5).

3 189. VWGoA impliedly warranted that the Class Vehicles were of  
4 merchantable quality and fit for use. This implied warranty included, among  
5 other things: (i) a warranty that the Class Vehicles and their Transmission were  
6 manufactured, supplied, distributed, and/or sold by VWGoA would provide safe  
7 and reliable transportation; and (ii) a warranty that the Class Vehicles and their  
8 Transmission would be fit for their intended use while the Class Vehicles were  
9 being operated.

10 190. Contrary to the applicable implied warranties, the Class Vehicles  
11 and their Transmissions at the time of sale and thereafter were not fit for their  
12 ordinary and intended purpose of providing Plaintiffs and Class members with  
13 reliable, durable, and safe transportation. Instead, the Class Vehicles are  
14 defective, including the defective design of their Transmission.

15 191. Defendant’s breach of implied warranties has deprived Plaintiffs  
16 and Class members of the benefit of their bargain.

17 192. The amount in controversy of Plaintiffs’ individual claims meets or  
18 exceeds the sum or value of \$25,000. In addition, the amount in controversy  
19 meets or exceeds the sum or value of \$50,000 (exclusive of interests and costs)  
20 computed on the basis of all claims to be determined in this suit.

21 193. Defendant has been afforded a reasonable opportunity to cure its  
22 breach, including when Plaintiffs and Class members brought their vehicles in  
23 for diagnoses and repair of the Transmission.

24 194. As a direct and proximate cause of Defendant’s breach of implied  
25 warranties, Plaintiffs and Class members sustained and incurred damages and  
26 other losses in an amount to be determined at trial. Defendant’s conduct  
27 damaged Plaintiffs and Class members, who are entitled to recover actual  
28 damages, consequential damages, specific performance, diminution in value,

1 costs, attorneys' fees, and/or other relief as appropriate.

2 195. As a result of Defendant's violations of the Magnuson-Moss  
3 Warranty Act as alleged herein, Plaintiffs and Class members have incurred  
4 damages.

5 **SIXTH CAUSE OF ACTION**

6 **(Violation of the Pennsylvania Unfair Trade Practices and**

7 **Consumer Protection Law – 73 P.S. § 201-1, et seq.)**

8 **(On Behalf of the Pennsylvania Sub-Class)**

9 196. Plaintiff Wood incorporates by reference all preceding allegations as  
10 though fully set forth herein

11 197. Plaintiff Wood asserts this claim on behalf of himself and the other  
12 members of the Pennsylvania Sub-Class (PA Sub-Class).

13 198. Plaintiff Wood and the PA Sub-Class purchased or leased their  
14 Class Vehicles primarily for personal, family or household purposes within the  
15 meaning of 73 P.S. § 201-9.2.

16 199. All of the acts complained of herein were perpetrated by Defendant  
17 in the course of trade or commerce within the meaning of 73 P.S. § 201-2(3).

18 200. The Pennsylvania Unfair Trade Practices and Consumer Protection  
19 Law ("UTPCPL") prohibits unfair or deceptive acts or practices, including: (i)  
20 "Representing that goods or services have ... characteristics, .... [b]enefits or  
21 qualities that they do not have;" (ii) "Representing that goods or services are of a  
22 particular standard, quality or grade ... if they are of another;" (iii) "Advertising  
23 goods or services with intent not to sell them as advertised;" and (iv) "Engaging  
24 in any other fraudulent or deceptive conduct which creates a likelihood of  
25 confusion or misunderstanding." 73 P.S. § 201-2(4).

26 201. Defendant engaged in unlawful trade practices, including  
27 representing that Class Vehicles have characteristics, uses, benefits, and qualities  
28 which they do not have; representing that Class Vehicles are of a particular

1 standard and quality when they are not; advertising Class Vehicles with the  
2 intent not to sell them as advertised; and engaging in any other fraudulent or  
3 deceptive conduct which creates a likelihood of confusion or of  
4 misunderstanding.

5 202. In the course of its business, Defendant concealed the Transmission  
6 Defect as described herein and otherwise engaged in activities with a tendency or  
7 capacity to deceive. Defendant also engaged in unlawful trade practices by  
8 employing deception, deceptive acts or practices, fraud, , or concealment,  
9 suppression or omission of any material fact with intent that others rely upon  
10 such concealment, suppression or omission, in connection with the sale of Class  
11 Vehicles.

12 203. Defendant has known of the Transmission Defect and the true nature  
13 of its Transmission system when it sold the Vehicles but concealed all of that  
14 information.

15 204. By failing to disclose and by actively concealing the Transmission  
16 Defect and the true nature of its Transmission system, by marketing its vehicles  
17 as safe, reliable, easily operable, efficient, and of high quality, and by presenting  
18 itself as a reputable manufacturer that valued safety, cleanliness, performance  
19 and efficiency, and stood behind its vehicles after they were sold, Defendant  
20 engaged in unfair and deceptive business practices in violation of the UTPCPL.

21 205. Defendant's unfair or deceptive acts or practices were likely to and  
22 did in fact deceive reasonable consumers, including Plaintiff Wood and the PA  
23 Sub-Class, about the true performance and characteristics of the Class Vehicles.

24 206. Defendant intentionally and knowingly omitted material facts  
25 regarding the Class Vehicles with intent to mislead the Plaintiff Wood and the  
26 PA Sub-Class.

27 207. Defendant knew or should have known that its conduct violated the  
28 UTPCPL.

1           208. Because Defendant fraudulently concealed the Transmission Defect,  
2 the value of the Class Vehicles has greatly diminished.

3           209. Defendant’s concealment of the true characteristics of the  
4 Transmission was material to the Plaintiff Wood and the Pennsylvania Sub-  
5 Class.

6           210. The Plaintiff Wood and the PA Sub-Class suffered ascertainable  
7 loss caused by Defendant’s omissions and its concealment of and failure to  
8 disclose material information.

9           211. Defendant had an ongoing duty to all its customers to refrain from  
10 unfair and deceptive acts or practices under the UTPCPL. All owners of Class  
11 Vehicles suffered ascertainable loss in the form of the diminished value of their  
12 vehicles as a result of Defendant’s deceptive and unfair acts and practices that  
13 occurred in the course of Defendant’s business.

14           212. As a direct and proximate result of Defendant’s violations of the  
15 UTPCPL, the Plaintiff Wood and the PA Sub-Class have suffered injury-in-fact  
16 and/or actual damage.

17           213. Defendant is liable to the Plaintiff Wood and the PA Sub-Class for  
18 treble their actual damages or \$100, whichever is greater, and attorneys’ fees and  
19 costs. *See* 73 P.S. § 201-9.2(a). The Plaintiff Wood and the PA Sub-Class are  
20 also entitled to an award of punitive damages given that Defendant’s conduct  
21 was malicious, wanton, willful, oppressive, or exhibited a reckless indifference  
22 to the rights of others.

23   **SEVENTH CAUSE OF ACTION**  
24           **(Breach of Express Warranty pursuant to 13 PA. Const. Stat. §§ 2313 and**  
25   **2A210.)**

26   **(On Behalf of the Pennsylvania Sub-Class)**

27           214. Plaintiffs incorporate by reference and re-allege the allegations  
28 contained in this Complaint.

1           215. Pennsylvania Plaintiffs bring this cause of action on his own behalf  
2 and on behalf of the members of the Pennsylvania Sub-Class.

3           216. VWGoA is and was at all relevant times a “merchant” with respect  
4 to motor vehicles under 13 Pa. Cons. Stat. §§ 2104 and 2A103(a), and a “seller”  
5 of motor vehicles under § 2103(a).

6           217. With respect to leases, VWGoA is and was at all relevant times a  
7 “lessor” of motor vehicles under 13 Pa. Cons. Stat. § 2A103(a).

8           218. The Class Vehicles are and were at all relevant times “goods” within  
9 the meaning of 13 Pa. Cons. Stat. § 2105(a) and 2A103(a).

10           219. VWGoA provided all purchasers and lessees of the Class Vehicles  
11 with the express warranty described herein, which became a material part of the  
12 bargain.

13           220. VWGoA provided all purchasers and lessees of Class Vehicles with  
14 the VWGoA Warranty.

15           221. According to VWGoA, “The Basic Limited Warranty lasts for 36  
16 months from the date it begins or for 36,000 miles on the odometer, whichever  
17 occurs first.”

18           222. Defendant also provides a “Powertrain Limited Warranty” that  
19 “covers the cost of all parts and labor needed to repair a powertrain component  
20 listed in section 2.4.E below that is defective in workmanship and materials.”  
21 Section 2.4.E., in turn, lists “Transmission: transmission case and all internal  
22 parts; torque converter; drive/flex plate; transmission range switch; speed  
23 sensors; pressure sensors; transmission control module; bell housing; oil pan;  
24 seals and gaskets for listed components only;” as well as “Front wheel drive:  
25 transaxle case and all internal parts... differential cover; oil pan; transaxle speed  
26 sensors; transaxle solenoid assembly, PRNDL position switch; transaxle  
27 electronic controller; torque converter; seals and gaskets for listed components  
28 only.”

1           223. According to VWGoA, “The Powertrain Limited Warranty lasts for  
2 up to 5 years or 100,000 miles on the odometer, whichever occurs first...”

3           224. VWGoA manufactured and/or installed the Transmission and the  
4 transmissions’ component parts in the Class Vehicles, and the Transmission and  
5 their component parts are covered by the express Warranties.

6           225. The Transmission Defect at issue in this litigation was present at the  
7 time the Class Vehicles were sold or leased to Pennsylvania Plaintiffs and the  
8 Pennsylvania Sub-Class Members.

9           226. Plaintiffs relied on VWGoA’s express warranties, which were a  
10 material part of the bargain, when purchasing or leasing their Class Vehicles.

11           227. Under the express Warranties, VWGoA was obligated to correct the  
12 Transmission Defect in the vehicles owned or leased by Pennsylvania Plaintiffs  
13 and the Pennsylvania Sub-Class Members.

14           228. Although VWGoA was obligated to correct the Transmission  
15 Defect, none of the attempted fixes to the transmissions are adequate under the  
16 terms of the Warranties, as they did not cure the defect.

17           229. VWGoA breached the express Warranties by performing illusory  
18 repairs. Rather than repairing the vehicles pursuant to the express Warranties,  
19 VWGoA falsely informed Pennsylvania Sub-Class Members that there was no  
20 problem with their Class Vehicles, performed ineffective procedures including  
21 software updates, and/or replaced defective components in the 8L90 and 8L45  
22 transmissions with equally defective components, without actually repairing the  
23 Class Vehicles.

24           230. VWGoA and its agent dealers have failed and refused to conform  
25 the Transmission to the express Warranties. VWGoA’s conduct, as discussed  
26 throughout this Complaint, has voided any attempt on its part to disclaim  
27 liability for its actions.

28           231. Moreover, VWGoA’s attempt to disclaim or limit these express



1 Warranties vis-à-vis consumers is unconscionable and unenforceable under the  
2 circumstances here. Specifically, VWGoA's warranty limitation is unenforceable  
3 because it knowingly sold a defective product without informing consumers  
4 about the defect.

5 232. The time limits contained in VWGoA's warranty period were also  
6 unconscionable and inadequate to protect Pennsylvania Plaintiffs and the  
7 Pennsylvania Sub-Class Members. Among other things, Pennsylvania Plaintiffs  
8 and the Pennsylvania Sub-Class Members had no meaningful choice in  
9 determining these time limitations, the terms of which unreasonably favored  
10 VWGoA. A gross disparity in bargaining power existed between VWGoA and  
11 the Class members, and VWGoA knew or should have known that the Class  
12 Vehicles were defective at the time of sale.

13 233. Pennsylvania Plaintiffs and the Pennsylvania Sub-Class Members  
14 have complied with all obligations under the Warranties, or otherwise have been  
15 excused from performance of said obligations as a result of VWGoA's conduct  
16 described herein.

17 234. Pennsylvania Plaintiffs and the Pennsylvania Sub-Class Members  
18 were not required to notify VWGoA of the breach because affording VWGoA a  
19 reasonable opportunity to cure its breach of written warranty would have been  
20 futile. VWGoA was also on notice of the Transmission Defect from the  
21 complaints and service requests it received from Plaintiffs and the Class  
22 Members, from repairs and/or replacements of the transmissions or components  
23 thereof, and through other internal and external sources.

24 235. Because VWGoA, through its conduct and exemplified by its own  
25 service bulletins, has covered repairs of the Transmission Defect if VWGoA  
26 determines the repairs are appropriately covered under the Warranties, VWGoA  
27 cannot now deny that the Warranties cover the Transmission Defect.

28 236. Because VWGoA has not been able remedy the Transmission

1 Defect, any limitation on remedies included in the Warranties causes the  
2 Warranties to fail their essential purposes, rendering them null and void.

3 237. As a direct and proximate cause of VWGoA’s breach, Pennsylvania  
4 Plaintiffs and the Pennsylvania Sub-Class Members suffered damages and  
5 continue to suffer damages, including economic damages at the point of sale or  
6 lease and diminution of value of their Class Vehicles. Additionally, Pennsylvania  
7 Plaintiffs and the Pennsylvania Sub-Class Members have incurred or will incur  
8 economic damages at the point of repair in the form of the cost of repair.

9 238. As a direct and proximate result of VWGoA’s breach of express  
10 warranties, Pennsylvania Plaintiffs and the Pennsylvania Sub-Class Members  
11 have been damaged in an amount to be determined at trial.

12 **EIGHTH CAUSE OF ACTION**

13 **(Breach of Implied Warranty of Merchantability pursuant to 13 PA. Const.**  
14 **Stat. §§ 2314 and 2A212.)**

15 **(On Behalf of the Pennsylvania Sub-Class)**

16 239. Plaintiffs incorporate by reference and re-allege the allegations  
17 contained in this Complaint.

18 240. VWGoA is and was at all relevant times a “merchant” with respect  
19 to motor vehicles under 13 Pa. Cons. Stat. §§ 2104 and 2A103(a), and a “seller”  
20 of motor vehicles under § 2103(a).

21 241. With respect to leases, VWGoA is and was at all relevant times a  
22 “lessor” of motor vehicles under 13 Pa. Cons. Stat. § 2A103(a).

23 242. The Class Vehicles are and were at all relevant times “goods” within  
24 the meaning of 13 Pa. Cons. Stat. § 2105(a) and 2A103(a).

25 243. A warranty that the Class Vehicles were in merchantable condition  
26 and fit for the ordinary purpose for which vehicles are used is implied by law  
27 under 13 Pa. Cons. Stat. §§ 2314 and 2A212.

28 244. VWGoA knew or had reason to know of the specific use for which

1 the Class Vehicles were purchased or leased. VWGoA directly sold and  
2 marketed vehicles equipped with the Transmission to customers through  
3 authorized dealers, like those from whom Pennsylvania Plaintiffs and the  
4 Pennsylvania Sub-Class Members bought or leased their vehicles, for the  
5 intended purpose of consumers purchasing the vehicles. VWGoA knew that the  
6 Class Vehicles would and did pass unchanged from the authorized dealers to  
7 Pennsylvania Plaintiffs and the Pennsylvania Sub-Class Members, with no  
8 modification to the defective transmissions.

9 245. VWGoA provided Plaintiffs and Class Members with an implied  
10 warranty that the Class Vehicles and their components and parts are  
11 merchantable and fit for the ordinary purposes for which they were sold.

12 246. This implied warranty included, among other things: (i) a warranty  
13 that the Class Vehicles and their transmissions that were manufactured, supplied,  
14 distributed, and/or sold by VWGoA were safe and reliable for providing  
15 transportation; and (ii) a warranty that the Class Vehicles and their transmissions  
16 would be fit for their intended use while the Class Vehicles were being operated.

17 247. Contrary to the applicable implied warranties, the Class Vehicles  
18 and their transmissions at the time of sale and thereafter were not fit for their  
19 ordinary and intended purpose of providing Plaintiffs and Class Members with  
20 reliable, durable, and safe transportation. Instead, the Class Vehicles are  
21 defective, including, but not limited to, the defective design and manufacture of  
22 their transmissions and the existence of the Transmission Defect at the time of  
23 sale or lease and thereafter. VWGoA knew of this defect at the time these sale or  
24 lease transactions occurred.

25 248. As a result of VWGoA's breach of the applicable implied  
26 warranties, Pennsylvania Plaintiffs and the Pennsylvania Sub-Class Members of  
27 the Class Vehicles suffered an ascertainable loss of money, property, and/or  
28 value of their Class Vehicles. Additionally, as a result of the Transmission

1 Defect, Pennsylvania Plaintiffs and the Pennsylvania Sub-Class Members were  
2 harmed and suffered actual damages in that the Class Vehicles' transmission  
3 components are substantially certain to fail before their expected useful life has  
4 run.

5 249. VWGoA's actions, as complained of herein, breached the implied  
6 warranty that the Class Vehicles were of merchantable quality and fit for such  
7 use in violation of 13 Pa. Cons. Stat. §§ 2314 and 2A212.

8 250. Pennsylvania Plaintiffs and the Pennsylvania Sub-Class Members  
9 have complied with all obligations under the warranty, or otherwise have been  
10 excused from performance of said obligations as a result of VWGoA's conduct  
11 described herein.

12 251. Pennsylvania Plaintiffs and the Pennsylvania Sub-Class Members  
13 were not required to notify VWGoA of the breach because affording VWGoA a  
14 reasonable opportunity to cure its breach of written warranty would have been  
15 futile. VWGoA was also on notice of the Transmission Defect from the  
16 complaints and service requests it received from Plaintiffs and the Class  
17 Members, from repairs and/or replacements of the transmissions or components  
18 thereof, and through other internal sources.

19 252. As a direct and proximate cause of VWGoA's breach, Pennsylvania  
20 Plaintiffs and the Pennsylvania Sub-Class Members suffered damages and  
21 continue to suffer damages, including economic damages at the point of sale or  
22 lease and diminution of value of their Class Vehicles. Additionally, Pennsylvania  
23 Plaintiffs and the Pennsylvania Sub-Class Members have incurred or will incur  
24 economic damages at the point of repair in the form of the cost of repair.

25 253. As a direct and proximate result of VWGoA's breach of the implied  
26 warranty of merchantability, Pennsylvania Plaintiffs and the Pennsylvania Sub-  
27 Class Members have been damaged in an amount to be proven at trial.

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**NINTH CAUSE OF ACTION**  
**(Violations of the Utah Consumer Sales Practices Act**  
**Utah Code Ann. § 13-11-1 et seq.)**  
**(On Behalf of the Utah Sub-Class)**

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

255. Plaintiff Utne bring this Count on behalf of the Utah Sub-Class Members.

256. VWGoA qualifies as a “supplier” under the Utah Consumer Sales Practices Act (“Utah CSPA”), Utah Code Ann. § 13-11-3.

257. Plaintiffs and the Class Members are “persons” under Utah Code Ann. § 13-11-3. Sales of the Class Vehicles to Plaintiffs and the Class were “consumer transactions” within the meaning of Utah Code Ann. § 13-11-3.

258. The Utah CSPA makes unlawful any “deceptive act or practice by a supplier in connection with a consumer transaction” under Utah Code Ann. § 13-11-4. Specifically, “a supplier commits a deceptive act or practice if the supplier knowingly or intentionally: (a) indicates that the subject of a consumer transaction has sponsorship, approval, performance characteristics, accessories, uses, or benefits, if it has not” or (b) indicates that the subject of a consumer transaction is of a particular standard, quality, grade, style, or model, if it is not.” Utah Code Ann. § 13-11-4. “An unconscionable act or practice by a supplier in connection with a consumer transaction” also violates the Utah CSPA. Utah Code Ann. § 13-11-5.

259. In the course of VWGoA’s business, it willingly failed to disclose and actively concealed that the Transmission in the Class Vehicles is defective in that they suffer from the Transmission Defect. VWGoA engaged in unfair and deceptive trade practices, in unfair methods of competition, unconscionable acts or practices, including representing that the Class Vehicles have characteristics,

1 uses, benefits, and qualities which they do not have; representing that the Class  
2 Vehicles are of a particular standard and quality when they are not; failing to  
3 reveal a material fact, the omission of which tends to mislead or deceive the  
4 consumer, and which fact could not reasonably be known by the consumer;  
5 making a representation of fact or statement of fact material to the transaction  
6 such that a person reasonably believes the represented and suggested state of  
7 affairs to be other than it actually is; and failing to reveal facts that are material  
8 to the transaction in light of the representations of fact made in a positive  
9 manner. VWGoA's acts had capacity, tendency, or effect of deceiving or  
10 misleading consumers; failed to state a material fact that deceives or tends to  
11 deceive; and constitute deception, fraud, false pretense, false promise, or  
12 knowing concealment, suppression, or omission of any material fact with intent  
13 that Plaintiffs and other Class Members rely upon such concealment,  
14 suppression, or omission, in connection with the sale of Class Vehicles. VWGoA  
15 engaged in unfair and deceptive business practices in violation of the Utah  
16 CSPA.

17       260. In purchasing or leasing the Class Vehicles, Plaintiffs and the other  
18 Class Members were deceived by VWGoA's failure to disclose that the Class  
19 Vehicles' Transmissions suffer from the Transmission Defect.

20       261. Plaintiffs and Class Members reasonably relied upon VWGoA's  
21 omissions. They had no way of knowing that VWGoA's representations and  
22 omissions were false and gravely misleading. As alleged herein, VWGoA  
23 engaged in extremely sophisticated methods of deception. Plaintiffs and Class  
24 Members did not, and could not, unravel VWGoA's deception on their own, as  
25 Class Members were not aware of the defective nature of the Transmissions prior  
26 to purchase or lease.

27       262. VWGoA's actions as set forth above occurred in the conduct of  
28 trade or commerce.

1           263. The facts concealed and omitted by VWGoA were material in that a  
2 reasonable consumer would have considered them to be important in deciding  
3 whether to purchase or lease the Class Vehicles or pay a lower price. Had  
4 Plaintiffs and other Class Members known of the Transmission Defect at the  
5 time they purchased or leased their Class Vehicles, they would not have  
6 purchased or leased those vehicles, or would have paid substantially less for the  
7 vehicles than they did.

8           264. VWGoA's unfair or deceptive acts or practices, fraud, concealment,  
9 suppression, or omission of material facts were likely to and did in fact deceive  
10 reasonable consumers.

11           265. VWGoA intentionally and knowingly misrepresented material facts  
12 regarding the Class Vehicles with intent to mislead Plaintiffs and the Class. \

13           266. VWGoA knew or should have known that its conduct violated the  
14 Utah CSPA.

15           267. VWGoA owed to Plaintiffs and the Class a duty to disclose the truth  
16 about the Transmission Defect because VWGoA:

- 17           a. Possessed exclusive knowledge of the design of the Class  
18           Vehicles and the Transmission Defect in its vehicles, including  
19           the uptick in warranty claims it saw;
- 20           b. Intentionally concealed the foregoing from Plaintiffs and the  
21           Class; and/or
- 22           c. Made incomplete representations regarding the quality and  
23           durability of the Class Vehicles, while purposefully withholding  
24           material facts from Plaintiffs and the Class that contradicted  
25           these representations.

26           268. Due to VWGoA's specific and superior knowledge that the  
27 Transmissions in the Class Vehicles will fail, and Plaintiffs' and other Class  
28 Members' reliance on these material omissions, VWGoA had a duty to disclose

1 to Plaintiffs and the Class Members that their Class Vehicles suffered from the  
2 Transmission Defect. These omitted and concealed facts were material because  
3 they directly impact the value of the Class Vehicles purchased or leased by  
4 Plaintiffs and Class Members.

5 269. VWGoA's conduct proximately caused injuries to Plaintiffs and the  
6 other Class Members.

7 270. Plaintiffs and the other Class Members were injured and suffered  
8 ascertainable loss, injury in act, and/or actual damages as a proximate result of  
9 VWGoA's conduct in that Plaintiffs and the other Class Members overpaid for  
10 their Class Vehicles, did not get the benefit of their bargain, their Class Vehicles  
11 have suffered a diminution in value, and their vehicles are equipped with a  
12 defective Transmission. These injuries are the direct and natural consequence of  
13 VWGoA's misrepresentations and omissions.

14 271. VWGoA's violations present a continuing risk to Plaintiffs as well  
15 as the other Class Members and the general public. VWGoA's unlawful acts and  
16 practices complained of herein affect the public interest.

17 272. Pursuant to Utah Code Ann. § 13-11-4, Plaintiffs and Class  
18 Members seek monetary relief against VWGoA measured as the greater of (a)  
19 actual damages in an amount to be determined at trial and (b) statutory damages  
20 in the amount of \$2,000 for Plaintiffs and each Utah Class Member, reasonable  
21 attorneys' fees, and any other just and proper relief available under the Utah  
22 CSPA.

23 **TENTH CAUSE OF ACTION**

24 **(Breach of Implied Warranty of Merchantability pursuant to Utah Code**  
25 **Ann. § 70A-2-314.)**

26 **(On Behalf of the Utah Sub-Class)**

27 273. Plaintiffs incorporate by reference all paragraphs as though fully set  
28 forth herein.



1           274. Plaintiffs bring this Count on behalf of the Utah Sub-Class  
2 Members.

3           275. VWGoA was at all times a merchant with respect to motor vehicles  
4 within the meaning of the Utah Code Ann. § 70A-2-314.

5           276. Under Utah Code Ann. § 70A-2-314, a warranty that the Class  
6 Vehicles were in merchantable condition and fit for the ordinary purpose for  
7 which the vehicles are used was implied by law in the transactions when\

8           277. Plaintiffs and the Class purchased or leased their Class Vehicles  
9 from VWGoA.

10           278. The Class Vehicles, when sold or leased and at all times thereafter,  
11 were not in merchantable condition and are not fit for the ordinary purpose for  
12 which vehicles are used. Specifically, the Class Vehicles suffered from the  
13 Transmission Defect.

14           279. It was reasonable to expect that Plaintiffs and other Class Members  
15 may use, consume or be affected by the defective vehicles.

16           280. The Transmissions in the Class Vehicles are inherently defective in  
17 that they suffered from the Transmission Defect.

18           281. Plaintiffs and Class Members were and are third-party beneficiaries  
19 to the VWGoA's manufacturer's contracts with VWGoA-certified/authorized  
20 retailers who sold the Class Vehicles to Plaintiffs and Class Members.

21           282. VWGoA was provided notice of these issues within a reasonable  
22 time of Plaintiffs' knowledge of the non-conforming or defective nature of the  
23 Class Vehicles, by letters from Plaintiffs' counsel, on behalf of Plaintiffs and the  
24 Class, to VWGoA, complaints by Plaintiffs or Class Members to VWGoA either  
25 orally or in writing, complaints to VWGoA dealerships, intermediate sellers, or  
26 repair facilities either orally or in writing, presentation of the vehicles for repair  
27 to dealerships or to intermediate sellers or repair facilities, countless consumer  
28 complaints to NHTSA regarding the defect that is the subject of this Complaint,

1 and/or by the allegations contained in this Complaint.

2 283. As a direct and proximate result of VWGoA's breach of the implied  
3 warranty of merchantability, Plaintiffs and the Class have been damaged in an  
4 amount to be proven at trial.

5 **ELEVENTH CAUSE OF ACTION**

6 **(For Unjust Enrichment)**

7 **(On Behalf of the Class)**

8 284. Plaintiffs incorporate by reference the allegations contained in the  
9 preceding paragraphs of this Complaint.

10 285. Plaintiffs bring this cause of action on behalf of themselves and the  
11 Class.

12 286. As a direct and proximate result of Defendant's failure to disclose  
13 known defects, Defendant has profited through the sale and lease of the Class  
14 Vehicles. Although these vehicles are purchased through Defendant's agents,  
15 the money from the vehicle sales flows directly back to Defendant.

16 287. Additionally, as a direct and proximate result of Defendant's failure  
17 to disclose known defects in the Class Vehicles, Plaintiffs and Class Members  
18 have vehicles that require repeated, high-cost repairs that can and therefore have  
19 conferred an unjust substantial benefit upon Defendant.

20 288. Defendant has been unjustly enriched due to the known defects in  
21 the Class Vehicles through the use money paid that earned interest or otherwise  
22 added to Defendant's profits when said money should have remained with  
23 Plaintiffs and Class Members.

24 289. As a result of the Defendant's unjust enrichment, Plaintiffs and  
25 Class Members have suffered damages.

26 **RELIEF REQUESTED**

27 290. Plaintiffs, on behalf of themselves and all others similarly situated,  
28 request the Court to enter judgment against Defendant, as follows:

- 1 (a) An order certifying the proposed Class and Sub-Classes,  
2 designating Plaintiffs as named representatives of the Class,  
3 and designating the undersigned as Class Counsel;
- 4 (a) A declaration that Defendant is financially responsible for  
5 notifying all Class Members about the defective nature of the  
6 Transmission, including the need for periodic maintenance;
- 7 (b) An order enjoining Defendant from further deceptive  
8 distribution, sales, and lease practices with respect to Class  
9 Vehicles; compelling Defendant to issue a voluntary recall for  
10 the Class Vehicles pursuant to 49 U.S.C. § 30118(a);  
11 compelling Defendant to remove, repair, and/or replace the  
12 Class Vehicles' defective Transmission and/or its components  
13 with suitable alternative product(s) that do not contain the  
14 defects alleged herein; enjoining Defendant from selling the  
15 Class Vehicles with the misleading information; and/or  
16 compelling Defendant to reform its warranty, in a manner  
17 deemed to be appropriate by the Court, to cover the injury  
18 alleged and to notify all Class Members that such warranty  
19 has been reformed;
- 20 (c) A declaration requiring Defendant to comply with the various  
21 provisions of the Song-Beverly Act alleged herein and to  
22 make all the required disclosures;
- 23 (d) An award to Plaintiffs and the Class for compensatory,  
24 exemplary, and statutory damages, including interest, in an  
25 amount to be proven at trial;
- 26 (e) Any and all remedies provided pursuant to the Song-Beverly  
27 Act, including California Civil Code section 1794;
- 28 (f) Any and all remedies provided pursuant to the Magnuson-

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- Moss Warranty Act;
- (g) A declaration that Defendant must disgorge, for the benefit of the Class, all or part of the ill-gotten profits it received from the sale or lease of its Class Vehicles or make full restitution to Plaintiffs and Class Members;
- (h) An award of attorneys’ fees and costs, as allowed by law;
- (i) An award of attorneys’ fees and costs pursuant to California Code of Civil Procedure § 1021.5;
- (j) An award of pre-judgment and post-judgment interest, as provided by law;
- (k) Leave to amend the Complaint to conform to the evidence produced at trial; and
- (l) Such other relief as may be appropriate under the circumstances.

**DEMAND FOR JURY TRIAL**

291. Pursuant to Federal Rule of Civil Procedure 38(b) and Central District of California Local Rule 38-1, Plaintiffs demand a trial by jury of all issues in this action so triable.

Dated: September 4, 2019

Respectfully submitted,

**Capstone Law APC**

By: /s/ Mark A. Ozzello

Mark A. Ozzello  
Tarek H. Zohdy  
Cody R. Padgett  
Trisha K. Monesi

Attorneys for Plaintiffs

/s/ Russell D. Paul

Russell D. Paul  
Amey J. Park

**BERGER MONTAGUE PC**

# EXHIBIT 1

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23 Attorneys for Plaintiffs

24 UNITED STATES DISTRICT COURT  
25 CENTRAL DISTRICT OF CALIFORNIA

26 DOMINIQUE PARRISH and EVAN  
27 WOOD, individually, and on behalf  
28 of a class of similarly situated  
individuals,

Plaintiffs,

v.

VOLKSWAGEN GROUP OF  
AMERICA, INC. a Delaware limited  
liability company,

Defendant.

Case No.:

**DECLARATION OF DOMINIQUE  
PARISH IN SUPPORT OF VENUE  
FOR CLASS ACTION COMPLAINT  
PURSUANT TO CIVIL CODE  
SECTION 1780(d)**

1           1. I make this declaration based upon my personal knowledge except  
2 as to those matters stated herein that are based upon information and belief, and  
3 as to those matters I believe them to be true. I am over the age of eighteen, a  
4 citizen of the State of California, and a Plaintiff in this action.

5           2. Pursuant to California Civil Code section 1780(d), this Declaration  
6 is submitted in support of Plaintiff’s Selection of Venue for the Trial of  
7 Plaintiff’s Cause of Action alleging violation of California’s Consumers Legal  
8 Remedies Act against Defendant, Volkswagen Group of America, Inc.  
9 (“VWGoA”).

10           3. I purchased my 2019 Volkswagen Jetta—the subject vehicle in this  
11 lawsuit—from Norm Reeves Volkswagen Superstore, an authorized VWGoA  
12 dealer in Irvine, California, which is the County of Orange.

13           4. I am informed and believe that Defendant VWGoA is a corporation  
14 organized and in existence under the laws of the State of New Jersey and  
15 registered to do business in the State of California. On information and belief,  
16 VWGoA conducts business in Orange County, including marketing, distributing,  
17 selling, and/or servicing vehicles through its authorized dealerships.

18           5. Based on the facts set forth herein, this Court is a proper venue for  
19 the prosecution of Plaintiff’s Cause of Action alleging violation of California’s  
20 Consumers Legal Remedies Act because vehicles a substantial portion of the  
21 events giving rise to my claims occurred here. Further, Defendant conducts  
22 business in the Central District of California and the County of Orange,  
23 California, including, but not limited to, marketing, distributing, selling, and/or  
24 servicing Class Vehicles to Class Members.

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1           6. I declare under penalty of perjury under the laws of California and  
2 the United States of America that the foregoing is true and correct.

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4 Executed on June <sup>6/7/2019</sup>\_\_\_\_\_, 2019 in \_\_\_\_\_, Irvine \_\_\_\_\_, California.

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6 By:  \_\_\_\_\_  
7 Dominique rarrish

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