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15 UNITED STATES DISTRICT COURT
16 CENTRAL DISTRICT OF CALIFORNIA
17

18 DOMINIQUE PARRISH and
19 EVAN WOOD, individually, and on
behalf of a class of similarly situated
20 individuals,

21 Plaintiffs,

22 v.

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

25 Defendant.
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Case No.:

**CLASS ACTION COMPLAINT
FOR:**

- (1) Violations of California’s Consumers Legal Remedies Act
- (2) Violations of Unfair Competition Law
- (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) Unjust Enrichment

DEMAND FOR JURY TRIAL

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1 was the Transmission, which Defendant said was a “major boost.... which
2 provides a wide band of drive ratios that allow more efficient running at higher
3 speeds.”² However, in everyday use, the Class Vehicles have proven to be
4 unreliable, far from an efficiently running vehicle, and a safety hazard to its
5 drivers and others.

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

10 7. The Transmission Defect is inherent in each Class Vehicle and was
11 present at the time of sale.

12 8. VWGoA undertook affirmative measures to conceal the
13 Transmission Defect and other malfunctions through, among other things,
14 “Technical Tips” issued to its authorized repair facilities. These Technical Tips
15 confirmed VWGoA’s knowledge of the Transmission Defect, but disregarded its
16 importance and cited it as “normal operating characteristics”.

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

22 10. The Transmission Defect is material because it poses a serious
23 safety concern. As attested by Class Members in scores of complaints to the
24 National Highway Traffic Safety Administration (“NHTSA”), and other online
25 forums, the Transmission Defect can impair any driver’s ability to control his or
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27 ² “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 her vehicle and greatly increase the risk of collision.

2 11. The Transmission Defect is also material because consumers incur
3 significant and unexpected repair costs. VWGoA's failure to disclose, at the time
4 of purchase, the Transmission's marked tendency to fail is material because no
5 reasonable consumer expects to spend hundreds, if not thousands, of dollars to
6 repair or replace essential transmission components.

7 12. Had VWGoA disclosed the Transmission Defect, Plaintiffs and
8 Class Members would not have purchased the Class Vehicles or would have paid
9 less for them.

10 THE PARTIES

11 Plaintiff Dominique Parrish

12 13. Plaintiff Parrish is a California citizen who resides in Irvine,
13 California.

14 14. On or around May 18, 2018, Plaintiff Parrish purchased a new 2019
15 Volkswagen Jetta equipped with the Transmission from Norm Reeves
16 Volkswagen Superstore, an authorized VWGoA dealer in Irvine, California.

17 15. Plaintiff Parrish purchased his vehicle primarily for personal,
18 family, or household use.

19 16. Passenger safety and reliability were important factors in Plaintiff
20 Parrish's decision to purchase his vehicle. Before making his purchase, Plaintiff
21 Parrish did an online search for the vehicle, including on "Google" and
22 "Youtube" videos, watched television ads, visited Defendant's website to
23 research the 2019 Jetta, and test drove his vehicle with a dealership salesperson
24 who made no reference to the Transmission Defect. Plaintiff Parrish believed
25 that the Jetta would be a safe and reliable vehicle. Plaintiff Parrish also reviewed
26 the vehicle's Monroney Sticker or "window sticker" which listed official
27 information about the vehicle, which also made no reference to the Transmission
28 Defect.

1 17. VWGoA's omissions were material to Plaintiff Parrish. Had
2 VWGoA disclosed its knowledge of the Transmission Defect before he
3 purchased his vehicle, Plaintiff Parrish would have seen and been aware of the
4 disclosures. Furthermore, had he known of the Transmission Defect, Plaintiff
5 Parrish would not have purchased his vehicle, or would have paid less for it.

6 18. Specifically, on or around August 15, 2018, with approximately
7 2,418 miles on the odometer of his VW Jetta, Plaintiff Parrish delivered his
8 vehicle to Norm Reeves Volkswagen complaining of "coffee grinder noise from
9 engine or transmission...." The technician test drove the vehicle and determined
10 that it was "normal as designed due to transmission in lower gear no correction"
11 and returned the vehicle to Plaintiff Parrish without performing or attempting to
12 perform any transmission repairs.

13 19. Accordingly, Plaintiff Parrish vehicle continues to exhibit the
14 Transmission Defect, continues to grind and has never been repaired by
15 Defendant.

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

18 **Plaintiff Evan Wood**

19 21. Plaintiff Wood is a Pennsylvania resident who resides in Allentown,
20 Pennsylvania.

21 22. On or around January 1, 2019, Plaintiff Wood purchased a new
22 2019 Volkswagen Jetta equipped with the Transmission from Young
23 Volkswagen, Inc., an authorized VWGoA dealer in Easton, California.

24 23. Plaintiff Wood purchased his vehicle primarily for personal, family,
25 or household use.

26 24. Passenger safety and reliability were important factors in Plaintiff
27 Wood's decision to purchase his vehicle. Before making his purchase, Plaintiff
28 Wood watched television ads, visited Defendant's website to research the 2019

1 Jetta, and test drove his vehicle with a dealership salesperson who made no
2 reference to the Transmission Defect. Plaintiff Wood believed that the Jetta
3 would be a safe and reliable vehicle and even spoke with the service manager of
4 Young Volkswagen, Inc. who recommended the vehicle to Plaintiff Wood.
5 Plaintiff Wood also reviewed the vehicle's Monroney Sticker or "window
6 sticker" which listed official information about the vehicle, which also made no
7 reference to the Transmission Defect.

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

13 26. Specifically, on April 20, 2019 and with 4,049 miles on the
14 odometer, Plaintiff Wood delivered his vehicle to Ciocca Volkswagen of
15 Allentown complaining that "there is a growl noise heard when driving less than
16 25 MPH, around 200 RPMS in 4th gear upshifting to 5th gear make (sip) the
17 noise, see TSB 32-18-01TT customer found." The assigned technician
18 "confirmed noise, called tech line about eh noise. no faults found in system. tech
19 line referred to noise as torque cover. noise is normal in the vehicle. no repair
20 needed at this time." The vehicle was returned to Plaintiff Wood with no repairs
21 performed.

22 27. Unsatisfied, Plaintiff Wood delivered his vehicle to Young
23 Volkswagen, Inc. two days later on May 2, 2019 and with 4,110 miles on the
24 odometer. Plaintiff Wood complained that "Customer states noise coming from
25 trans Growl/rumble/scrape." The assigned technician determined the "cause"
26 was "normal operation as per tech tip 32-018-01TT" and that "NO
27 CORRECTION WORKING AS PER DESIGNED AND SAME AS ALL 2019
28 JETTA." The vehicle was thereafter again returned to Plaintiff Wood with no

1 repairs performed.

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

12 29. Accordingly, Plaintiff Wood vehicle continues to exhibit the
13 Transmission Defect, continues to grind and has never been repaired by
14 Defendant.

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

17 **Defendant**

18 31. Defendant VWGoA is a Limited Liability Company organized and
19 in existence under the laws of the State of New Jersey and registered to do
20 business in the State of California and Pennsylvania. VWGoA’s Corporate
21 Headquarters are located at 3800 Hamlin Rd., Auburn Hills, Michigan 48326.
22 VWGoA designs, manufactures, markets, distributes, services, repairs, sells, and
23 leases passenger vehicles, including the Class Vehicles, nationwide, and in
24 California and Pennsylvania. VWGoA is the warrantor and distributor of the
25 Class Vehicles in the United States.

26 32. At all relevant times, VWGoA was and is engaged in the business of
27 designing, manufacturing, constructing, assembling, marketing, distributing,
28 and/or selling automobiles and motor vehicle components in Los Angeles

1 County and throughout the United States of America.

2 **JURISDICTION**

3 33. This is a class action.

4 34. Members of the proposed Class are citizens of states different from
5 the home state of Defendant.

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

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

9 **VENUE**

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

14 38. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)
15 because Plaintiff Parrish resides in the County of Orange, California. In addition,
16 Plaintiff Parrish’s Declaration, as required under California Civil Code section
17 1780(d) but not pursuant to *Erie* and federal procedural rules, reflects that a
18 substantial part of the events or omissions giving rise to the claims alleged herein
19 occurred, or a substantial part of property that is the subject of this action, is
20 situated in Orange County, California. It is attached as Exhibit 1.

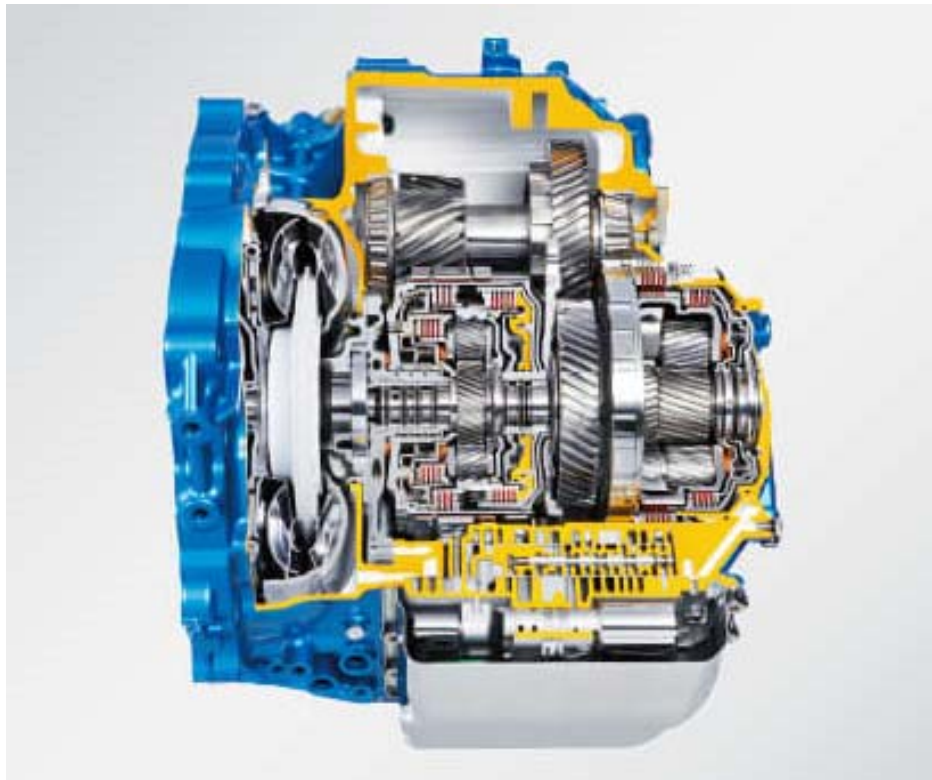
21 **FACTUAL ALLEGATIONS**

22 39. Since Summer 2018, VWGoA has designed, manufactured,
23 distributed, sold, and leased the Class Vehicles. VWGoA has sold, directly or
24 indirectly, through dealers and other retail outlets, thousands of Class Vehicles in
25 California, Pennsylvania and nationwide. VWGoA warrants and services the
26 Class Vehicles through its nationwide network of authorized dealers and service
27 providers.

28 40. The Transmission in the Class Vehicles is a “Medium Torque

1 Capacity FWD 8-Speed Automatic Transmission”. It has wide gear ratios and
2 substantially lower torque loss which should enable enhanced engine performance
3 and fuel efficiency. Further, the Transmission is made compact through a two-
4 stage clutch structure.³ It is touted as the world's first 8 speed automatic
5 transmission designed for use in transverse engine applications. Aisin designed the
6 transmission to package in the same space as preceding 6 speed designs, while
7 increasing the total gear spread and reducing gear spacing.⁴

8 41. The illustration below depicts the Transmission as a cut-out.



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

27 ³ <https://www.aisin-aw.co.jp/en/products/drivetrain/lineup/at.html>

28 ⁴ <https://en.wikipedia.org/wiki/AWF8F35>

1 transmissions.

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

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

7 44. On NHTSA’s website where consumer complaints about 2019 Jettas
8 are posted,⁵ the following incident dated December 5, 2018 was reported on
9 October 27, 2018:

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

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

1 WITH VW OF AMERICA TO TRY TO GET A
2 BUYBACK OR REPLACEMENT VEHICLE. NOW I
3 HAVE TO WAIT TO SEE IF MY AUTO LOAN
4 COMPANY FIRST INVESTORS WILL PROCESS
5 THE SUBSTITUTION OF COLLATERAL REQUEST.
6 THIS WAY I CAN KEEP EVERYTHING THE SAME
7 ON MY LOAN (BC I UPGRADED AND NOW HAVE
8 NEGATIVE EQUITY THE BUY BACK OPTION IS
9 NOT FINANCIALLY A GOOD OPTION FOR ME) SO
10 OF COURSE MY AUTO LOAN COMPANY STATES
11 "THEY DO NOT DO THAT ANYMORE". SO NOW I
12 AM GOING BACK AND FORTH WITH THEM SO I
13 AM NOT STUCK IN AN UNSAFE CAR. DO NOT
14 BUY A 2019 JETTA UNTIL VW GETS IT FIGURED
15 OUT ON ALL THE FAULTY PARTS AND DO NOT
16 GET AN AUTO LOAN WITH 1ST INVESTORS.
17 WHY IS THIS CAR NOT RECALLED YET?

18 45. On January 13, 2019, the following incident dated December 1,
19 2018 was reported:

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

28 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
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

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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).

46. 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.

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

MAJOR GRINDING NOISE COMING FROM

1 TRANSMISSION DURING DRIVING, TYPICALLY
2 WHEN GOING BETWEEN 20-40 MPH. THERE ARE
3 NUMEROUS COMPLAINTS OF THIS DEFECT,
4 WHICH THE MANUFACTURER STATES AS
5 NORMAL. HOWEVER, IT DOES APPEAR TO BE A
6 DEFECT WITH THE TORQUE CONVERTER THAT
7 COULD AFFECT THE SAFETY OF DRIVER AND
8 PASSENGERS, AND SHORTEN THE LIFE OF THE
9 TRANSMISSION, WHILE ALSO REDUCING THE
10 RESALE VALUE OF THE CAR. I TOOK THE CAR
11 TO THE DEALER AND WAS TOLD THAT IT WAS
12 NORMAL BECAUSE THE SOUND EXISTED ON
13 ALL JETTAS. HOWEVER, JUST BECAUSE THE
14 SAME SAFETY DEFECT APPEARS ACROSS AN
15 ENTIRE MODEL OF CAR DOES NOT MAKE IT
16 NORMAL, IT MAKES IT WIDESPREAD. THERE
17 ARE OVER 13 COMPLAINTS NOW ABOUT THE
18 VW POWER TRAIN, AND MOST OF THEM ARE
19 REGARDING THIS SPECIFIC ISSUE. PLEASE
20 START AN INVESTIGATION. ALSO, THE PDF
21 DOCUMENT OF VWS RESPONSE TO THIS ISSUE
22 IS NOT ABLE TO BE VIEWED ON YOUR WEBSITE,
23 THE LINK IS BROKEN OR DOC IS MISSING.

13 48. On February 11, 2019, the following incident dated February 4,
14 2019 was reported:

15 BRAND NEW VEHICLE WITH 300 MILES. FROM
16 THE DAY I PICKED IT UP WITH 37 MILES, IT
17 GRINDS EVERY TIME IT ACCLERATES INTO 3RD
18 GEAR AUTOMATIC TRANS. DEALERSHIP
19 CONTACTED, SERVICE MGR STATED THIS IS
20 "NORMAL" FOR THIS TRANSMISSION. ALSO
21 STATED HIS HANDS ARE TIED ON WHAT HE CAN
22 DO BECAUSE VW HAS CALLED THIS "NORMAL."
23 HE ALSO SAID HE IS LIMITED IN WHAT HE CAN
24 DO AT THE LOCAL LEVEL BECAUSE "WE DIDN'T
25 MAKE THE CAR." THIS DOES NOT SOUND
26 "NORMAL" TO ME. I AM CONCERNED THAT MY
27 VEHICLE WILL INCUR LONG-TERM DAMAGE,
28 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.

49. On March 3, 2019, the following incident dated September 3, 2018

1 was reported:

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2019 VW JETTA S
GRINDING/RATTLING/GROANING NOISE FROM
THE TORQUE CONVERTER. WHEN I BROUGHT
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
THESES THE VEHICLES WILL HELP CONSUMERS
AVOID POTENTIAL INJURIES AND ANY
FURTHER FINANCIAL HARDSHIPS.

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50. 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.

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51. 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

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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 THIS TIME.

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

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

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

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

VWGoA Had Superior and Exclusive Knowledge of the Transmission Defect

53. Since Summer 2018, 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.

54. As stated, Technical Tip 32-18-1TT entitled “Transmission Noise or

1 Scraping Sound When Shifting Gears” was first issued on October 26, 2018, and
2 later revised on April 16, 2019. According to the original and later update,
3 Defendant VWGoA determined that the Transmission Defect was a “normal
4 operating characteristic of the torque converter stator as the torque clutch is
5 applied.” No actual repairs were suggested or allowed. Importantly, this
6 Technical Tip was not, and is not, disseminated to owners or prospective buyers.

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

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

22 57. With respect solely to the Class Vehicles, the following are but a
23 few examples of the many complaints concerning the Transmission Defect which
24 are available through NHTSA’s website, www.safercar.gov. Many of the
25 complaints reveal that VWGoA, through its network of dealers and repair
26 technicians, has been made aware of the Transmission Defect. In addition, the
27 complaints indicate that despite having knowledge of the Transmission Defect
28 and even armed with knowledge of the exact vehicles affected, VWGoA often

1 refused to diagnose the defect or otherwise attempt to repair it while Class
2 Vehicles were still under warranty. When VWGoA did attempt repairs, it merely
3 replaced the Transmission with a similarly defective Transmission.

4 58. On NHTSA's website, the following incident dated July 9, 2018 was
5 reported on August 15, 2018:

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

17 59. On October 25, 2018, the following incident dated October 25, 2018
18 was reported:

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

60. 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

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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 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.

61. 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.

62. 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.

63. 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

1 FINE THEN MID DRIVE OR WHEN TURNING, IT
2 WOULD JUST STOP AND COAST AND NOTHING
3 WOULD HAPPEN WHEN YOU PUSHED YOUR
4 FOOT ON THE GAS OTHER THEN THE CAR
5 REVVING AND NOT MOVING. I TOOK MY JETTA
6 BACK INTO LUNDE'S (AGAIN) AND THEY HAD
7 MY CAR FOR A MONTH. THEY REPLACED THE O
8 RINGS, AS PEOPLE HAVE MENTIONED ON HERE
9 AND I WAS TOLD THAT NOW VW HAS REMADE
10 ALL THE O RINGS TO WORK AND FIT PROPERLY
11 IN THE TRANSMISSION. I PICKED UP MY CAR AT
12 LUNDE'S AND IMMEDIATELY WENT TO GET
13 GAS. I WAS WAITING IN LINE WITH THE CAR IN
14 PARK & STILL RUNNING. WHEN I WENT TO PUT
15 THE CAR IN DRIVE SAID RESTART ENGINE! SO
16 THE CAR SHUT OFF ON ME! I CALLED LUNDE'S
17 BACK AND WAS TOLD IF IT HAPPENS AGAIN TO
18 CALL THEM. WELL, IT DID, AND I DID NOT CALL
19 THEM BACK BECAUSE I OPENED UP A CASE
20 WITH VW OF AMERICA TO TRY TO GET A
21 BUYBACK OR REPLACEMENT VEHICLE. NOW I
22 HAVE TO WAIT TO SEE IF MY AUTO LOAN
23 COMPANY FIRST INVESTORS WILL PROCESS
24 THE SUBSTITUTION OF COLLATERAL REQUEST.
25 THIS WAY I CAN KEEP EVERYTHING THE SAME
26 ON MY LOAN (BC I UPGRADED AND NOW HAVE
27 NEGATIVE EQUITY THE BUY BACK OPTION IS
28 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?

64. 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

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

3 65. On January 13, 2019, the following incident dated December 1,
4 2018 was reported:

5
6 IT APPEARS THAT THE MAJORITY AND OR ALL
7 OF THE NEW 2019 VOLKSWAGEN JETTA'S HAVE
8 TORQUE CONVERTER DEFECTS. THE DEFECT
9 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.

10 THE NEW 2019 VOLKSWAGEN JETTA THAT I
11 HAVE BEEN DRIVING HAS BEEN TO THE SHOP 3
12 TIMES DUE TO THIS SOUND THE TRANSMISSION
13 IS MAKING ON THIS VEHICLE. I HAVE BEEN
14 TOLD THAT IT'S A 'NORMAL CHARACTERISTIC'
15 OF THE CAR. HOWEVER, THIS NEEDS TO
16 REVIEWED BY A 3RD PARTY AS PROPERLY
17 FUNCTIONING AND SAFE TRANSMISSIONS DO
18 NOT GRIND OR SCRAPE AS THESE NOISES
19 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.

20
21 THE 2019 VW JETTA THAT I HAVE WAS TAKEN
22 TO A 3RD PARTY TRANSMISSION EXPERT AND I
23 WAS TOLD THAT IT WAS A SERIOUS DEFECT
24 AND THEY DID NOT FEEL SAFE TO DRIVE THE
25 CAR FOR EXTENDED PERIODS OF TIME. I FEEL
26 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.

27 PLEASE LOOK INTO THE SAFETY AND VALUE
28 IMPLICATIONS OF THIS ISSUE FOR A NEW 2019
VOLKSWAGEN JETTA'S. I AM VERY

1 CONCERNED FOR MY SAFETY AND JUST WANT
2 THE PROBLEM FIXED BY VOLKSWAGEN. THEY
3 HAVE REFUSED TO HELP ME 3 TIMES AND I
4 HAVE BEEN GIVEN A RUN AROUND BY VW
5 REGIONAL CARE PROVIDERS WITH THIS ISSUE,
6 TOO (IT'S BEEN A TERRIBLE EXPERIENCE
7 DEALING WITH VW AT TRYING TO GET THE
8 VEHICLE BOUGHT BACK FOR SUCH A BAD
9 DEFECT).

6 66. On January 22, 2019, the following incident dated January 22, 2019
7 was reported:

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

18 **Customer Complaints on Third-Party Websites**

19 67. Consumers similarly complained about the defect on various online
20 forums. Below are some examples.

21 68. In a forum for 2019 Jettas on vvwortex.com, one commenter began
22 a thread titled "Wierd noise"⁶ with a post dated June 17, 2018 as follows:
23

24 I've been an owner of my new 2019 Jetta SE for about
25 two weeks.. I've noticed something strange though that
26 idk if anyone else might have with there vehicles as well.
27 Starting my car from 0mph to about 25mph to 35 mph I
28 hear a wierd noise. Like I can hear the gears shift oddly..

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

1 I never had a 1.4t or even a new car period , so I ignored
2 it thinking it can a feature for safety or so. But it bothers
3 the heck out of me.. it feels as if the 2nd or 3rd gear shift
4 makes this noise.. the performance isn't effected at all..
5 just this noise is wierd. Anybody out there have this issue
6 at all?

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

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

70. In the reviews section for 2019 Jettas on Edmunds.com,⁷ a
24 consumer wrote on December 1, 2018:

25 Poor quality have had 5 issues in less than 5 months.
26 Dealer says one issue is normal, the grinding of brakes.
27 You can judge for yourself if you'd like, my review is on
28 youtube Under "Volkswagen VW 2019 Jetta review with
all 5 issues". The issue I'm most concerned with is the
brakes and you can hear the "normal" 3 minutes into the
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?

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

⁷⁷ <https://www.edmunds.com/volkswagen/jetta/2019/consumer-reviews/?pagesize=50&sorting=created%3Adesc> (last viewed June 6, 2019).

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

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

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

22 73. In the reviews section for 2019 Jettas on cars.com,⁸ a consumer
23 wrote on August 28, 2018:

25 Have owned 2019 Jetta for 5 weeks. First week was fine..
26 2nd week I noticed an audible noise coming from the
27 transmission. (Like a grinding noise) when driving in
28 standard mode. It has gotten worse in the past 2 weeks. I

⁸⁸ <https://www.cars.com/research/volkswagen-jetta-2019/consumer-reviews/> (last viewed June 6, 2019).

1 took the car in to local vw dealer. We took it for a test
2 drive and technician said he does hear and feel it. I
3 waited 2 more hours for service mgr to come tell me its
4 normal??? xxx? Im sorry, but a brand new car does NOT
5 make strange noises in the 20-30mph range). I come to
6 find out a week later, others are now experiencing this
7 same issue and VW continues to "blow it off" as
8 Normal? I think vw has a major issue going on and they
9 dont want to admit it at this point. 6 year warranty or not,
10 driving aound and when your family asks you what they
11 strange noise is I just shrug it off... Embarassed to have
12 purchased this car. I will be going thru VW channels to
13 return this car and get Refunded... AVOID the 2019
14 VW's w/ 8 speed transmissions. Check out vwvortex web
15 site.. Many folks on there now voicing their concerns
16 over this future recall.

9
10 74. On cars.com, another consumer wrote on October 4, 2018:

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

17
18 75. On cars.com, another consumer wrote on October 23, 2018:

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

25
26 76. On cars.com, another consumer wrote on November 26, 2018:

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

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

2
3 I have owned the Jetta for approximately 90 days. It has
4 been to the dealer 3 times for a faulty transmission and
5 passenger window that does not go up and down. Each
6 time the dealer keeps the car for one week and returns it
7 in the same condition. The transmission lurches forward
8 from 1st to 2nd gears and drags between other gears.
9 There are hundreds of complaints online by 2019 Jetta
10 owners having the same transmission issues. The VW
11 Dealer is indifferent to repairing the car and VW
12 Corporate is downright INDIFFERENT, unprofessional
13 and spends a lot of energy dodging complaints than
14 honoring consumers commitment and safety. A
15 defective transmission is dangerous. VW Corporate still
16 hasn't issued a recall. I am invoking the LEMON LAW,
17 which is a hassle. Meanwhile, legal action against the
18 dealer is my only recourse to get rid of this LEMON.

11 78. On cars.com, another consumer wrote on December 5, 2018:

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

17 79. In a forum for 2019 Jettas titled "Grinding Noise"⁹ on
18 carcomplaints.com, a consumer wrote on August 1, 2018:

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

⁹ https://www.carcomplaints.com/Volkswagen/Jetta/2019/transmission/grinding_noise.shtml (last viewed June 6, 2019).

1 the MK7 Jetta!

2 80. In the “Grinding Noise” forum on carcomplaints.com, another
3 consumer wrote on August 30, 2018:

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

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

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

18 Had the car looked at by a different dealer today. Tech
19 took it for a ride than he drove with me. He does confirm
20 there is a noise present. When we went out for our drive,
21 I drove the car in all 3 modes. The noise is most present
22 in Eco mode. In Drive mode it is still there but is a little
23 better. In Sport mode I really do not notice it at all. At
24 this time the tech feels that the noise issue is normal due
25 to the 8 speed transmission being hooked up to a small
26 1.4t engine. He also mentioned giving the car more time
27 to break-in and see if there are any changes once I get
28 closer to 2,000 miles.

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.

22 81. In another forum titled “Transmission Fluid Leak” on
23 carcomplaints.com,¹⁰ a consumer wrote on July 27, 2018:

24 I had not even made my first car payment when I brought
25 my car in for a flat tire. It was then that the dealer
26 discovered a large transmission leak. No lights went on
27 in my 2019 Jetta to indicate there was leak let alone a

28 ¹⁰ https://www.carcomplaints.com/Volkswagen/Jetta/2019/transmission/transmission_fluid_leak.shtml (last viewed June 6, 2019).

1 problem. I had a loaner car for 2 and half weeks because
2 the dealer stated they did not know when the 2019
3 transmission fluid would be released from Volkswagen.
4 Not only did my new Jetta have a huge leak, and needed
5 to repair the transmission with new parts, but I had to
6 wait a long time.

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

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

11 I purchased a new 2019 Jetta Execline from Pickering
12 Volkswagen on Oct 20, 2018. Drove the car and noticed
13 noises coming from the left side of the engine. The sales
14 manager at the dealership informed me that they know
15 about noises but that is normal. When the noises became
16 even more annoying, the car was taken in on Sat Oct 27,
17 2018 (one week later) as I cannot accept that this is
18 normal.

19 When the car was on the hoist the mechanic said the
20 transmission seals were leaking and showed me it
21 dripping. Also, the two drive shafts were making
22 clicking noises when each drive shaft was turned by hand
23 even slightly. If you rotate the wheels, there was a
24 distinct clicking noise and he said this is the second time
25 it has happened where the new cars have bad seals, but
26 that the clicking noises this problem has happened
27 before. I asked why wouldn't you tell your customers that
28 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.

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

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

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

16 85. VWGoA is experienced in the design and manufacture of consumer
17 vehicles. As an experienced manufacturer, VWGoA conducts tests, including
18 pre-sale durability testing, on incoming components, including the Transmission,
19 to verify the parts are free from defect and align with VWGoA's specifications.¹¹
20 Thus, VWGoA knew or should have known the Transmission was defective and
21 prone to put drivers in a dangerous position due to the inherent risk of the
22 Transmission Defect.

23 86. Additionally, Defendant should have learned of this widespread
24 defect from the sheer number of reports received from dealerships. Defendant
25 VWGoA's customer relations department, which interacts with individual
26 dealerships to identify potential common defects, has received numerous reports

27 ¹¹ Akweli Parker, *How Car Testing Works*, HOWSTUFFWORKS.COM,
28 <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 regarding the Transmission Defect, which led to the release of the Technical
2 Tips. VWGoA's customer relations department also collects and analyzes field
3 data including, but not limited to, repair requests made at dealerships, technical
4 reports prepared by engineers who have reviewed vehicles for which warranty
5 coverage is being requested, parts sales reports, and warranty claims data.

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

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

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

27 **VWGoA Has Actively Concealed the Transmission Defect**

28 90. Despite its knowledge of the Transmission Defect in the Class

1 Vehicles, VWGoA actively concealed the existence and nature of the defect from
2 Plaintiffs and Class Members. Specifically, VWGoA failed to disclose or
3 actively concealed at and after the time of purchase, lease, or repair:

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

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

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

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

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

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

1 95. As discussed above therefore, Plaintiffs allege that Defendant
2 unlawfully induced them to purchase their respective Class Vehicles by
3 concealing a material fact (the defective Transmission) and that they would have
4 paid less for the Class Vehicles, or not purchased them at all, had they known of
5 the defect.

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

9 **CLASS ACTION ALLEGATIONS**

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

15 98. The Class and Sub-Class are defined as:

16 **Class:** All individuals in the United States who
17 purchased or leased any Volkswagen Jetta vehicle with
18 a Transmission.

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

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

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

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

26 99. Excluded from the Class and Sub-Classes are: (1) Defendant, any
27 entity or division in which Defendant has a controlling interest, and their legal
28 representatives, officers, directors, assigns, and successors; (2) the Judge to

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

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

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

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

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

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

1 (l) Whether Defendant breached its express warranties under
2 UCC section 2301; and

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

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

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

23 **FIRST CAUSE OF ACTION**

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

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

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

27 105. Plaintiff Parrish incorporates by reference the allegations contained
28 in the preceding paragraphs of this Complaint.

1 106. Plaintiff Parrish brings this cause of action on behalf of himself and
2 the CLRA Sub-Class (CLRA Sub-Class).

3 107. Defendant is a “person” as defined by California Civil Code
4 § 1761(c).

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

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

15 110. 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.

19 111. 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.

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

1 113. Defendant was under a duty to Plaintiff Parrish and the CLRA Sub-
2 Class members to disclose the defective nature of the Transmission and/or the
3 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) Plaintiff Parrish and the CLRA Sub-Class members could not
8 reasonably have been expected to learn or discover that their
9 Transmission had a dangerous safety defect until it
10 manifested; and

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

14 114. 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.

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

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

28 117. As a result of Defendant’s conduct, Plaintiff Parrish and the CLRA

1 Sub-Class members were harmed and suffered actual damages in that, on
2 information and belief, the Class Vehicles experienced and will continue to
3 experience problems such as the Transmission Defect.

4 118. As a direct and proximate result of Defendant's unfair or deceptive
5 acts or practices, Plaintiff Parrish and the CLRA Sub-Class members suffered
6 and will continue to suffer actual damages.

7 119. Plaintiff Parrish and the CLRA Sub-Class members are entitled to
8 equitable relief.

9 120. Plaintiff Parrish provided Defendant with notice of its violations of
10 the CLRA pursuant to California Civil Code § 1782(a). If, within 30 days,
11 Defendant fails to provide appropriate relief for their violations of the CLRA,
12 Plaintiff Parrish will amend this Complaint to seek monetary, compensatory, and
13 punitive damages, in addition to the injunctive and equitable relief that he seeks
14 now on behalf of himself and the CLRA Sub-Class.

15 **SECOND CAUSE OF ACTION**

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

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

18 121. Plaintiff Parrish incorporates by reference the allegations contained
19 in the preceding paragraphs of this Complaint.

20 122. Plaintiff Parrish brings this cause of action on behalf of himself and
21 the California Sub-Class (CA Sub-Class).

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

1 124. 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.”

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

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

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

13 128. Defendant was under a duty to Plaintiff Parrish and the CA Sub-
14 Class members to disclose the defective nature of the Class Vehicles and their
15 Transmission because:

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

22 129. The facts Defendant concealed from or failed to disclose to Plaintiff
23 Parrish and the CA Sub-Class members are material in that a reasonable person
24 would have considered them to be important in deciding whether to purchase or
25 lease Class Vehicles. Had they known of the Transmission Defect, Plaintiff
26 Parrish and the other CA Sub-Class members would have paid less for Class
27 Vehicles equipped with the Transmission or would not have purchased or leased
28 them at all.

1 138. Plaintiff Parrish brings this cause of action against Defendant on
2 behalf of himself and the Implied Warranty Sub-Class (IW Sub-Class).

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

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

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

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

25 143. The alleged Transmission Defect is inherent and was present in each
26 Class Vehicle at the time of sale.

27 144. As a result of Defendant's breach of the applicable implied
28 warranties, owners and/or lessees of the Class Vehicles suffered an ascertainable

1 loss of money, property, and/or value of their Class Vehicles. Additionally, as a
2 result of the Transmission Defect, Plaintiff Parrish and the IW Sub-Class
3 members were harmed and suffered actual damages in that the Class Vehicles’
4 Transmission and/or its components are substantially certain to fail before their
5 expected useful life has run.

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

9 **FOURTH CAUSE OF ACTION**

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

11 **15 U.S.C. § 2303 *et seq.*)**

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

13 146. Plaintiffs incorporate by reference the allegations contained in the
14 preceding paragraphs of this Complaint.

15 147. Plaintiffs bring this cause of action on behalf of themselves and on
16 behalf of the Class against Defendant.

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

21 149. The Transmission and its component parts were manufactured
22 and/or installed in the Class Vehicles by Defendant and are covered by the
23 express warranty.

24 150. In a section entitled “What’s Covered,” Defendant’s express
25 warranty provides in relevant part that “The Basic Limited Warranty covers the
26 cost of all parts and labor needed to repair any item on your vehicle when it left
27 the manufacturing plant that is defective in material, workmanship or factory
28 preparation.” The warranty further provides that “You pay nothing for these

1 repairs. These warranty repairs or adjustments—including all parts and labor
2 connected with them—will be made by your dealer at no charge, using new or
3 remanufactured parts.”

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

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

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

20 154. Defendant breached the express warranties by selling and leasing
21 Class Vehicles with Transmissions that were defective, requiring repair or
22 replacement within the warranty period, and refusing to honor the express
23 warranty by repairing or replacing, free of charge, the Transmission and its
24 component parts, and instead, replacing the defective Transmission and its
25 components with equally defective Transmissions and components. By simply
26 replacing Plaintiffs’ and Class Members’ defective Transmissions with similarly
27 defective parts, VWGoA has failed to “repair” the defects as alleged herein.

28 155. Plaintiffs were not required to notify VWGoA of the breach or was

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

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

11 157. Plaintiffs and the other Class members are entitled to legal and
12 equitable relief against Defendant, including actual damages, consequential
13 damages, specific performance, attorneys' fees, costs of suit, and other relief as
14 appropriate.

15 **FIFTH CAUSE OF ACTION**

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

17 **15 U.S.C. § 2303 *et seq.*)**

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

19 158. Plaintiffs incorporate by reference the allegations contained in the
20 preceding paragraphs of this Complaint.

21 159. Plaintiffs bring this cause of action on behalf of themselves and the
22 Class against Defendant.

23 160. The Class Vehicles are a "consumer product" within the meaning of
24 the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(1).

25 161. Plaintiffs and Class Members are "consumers" within the meaning
26 of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(3).

27 162. Defendant is a "supplier" and "warrantor" within the meaning of the
28 Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(4)-(5).

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

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

13 165. Defendant's breach of implied warranties has deprived Plaintiffs
14 and Class members of the benefit of their bargain.

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

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

22 168. As a direct and proximate cause of Defendant's breach of implied
23 warranties, Plaintiffs and Class members sustained and incurred damages and
24 other losses in an amount to be determined at trial. Defendant's conduct
25 damaged Plaintiffs and Class members, who are entitled to recover actual
26 damages, consequential damages, specific performance, diminution in value,
27 costs, attorneys' fees, and/or other relief as appropriate.

28 169. As a result of Defendant's violations of the Magnuson-Moss

1 Warranty Act as alleged herein, Plaintiffs and Class members have incurred
2 damages.

3 **SIXTH CAUSE OF ACTION**
4 **(Violation of the Pennsylvania Unfair Trade Practices and**
5 **Consumer Protection Law – 73 P.S. § 201-1, *et seq.*)**
6 **(On Behalf of the Pennsylvania Sub-Class)**

7 170. Plaintiff Wood incorporates by reference all preceding allegations as
8 though fully set forth herein

9 171. Plaintiff Wood asserts this claim on behalf of himself and the other
10 members of the Pennsylvania Sub-Class (PA Sub-Class).

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

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

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

24 175. Defendant engaged in unlawful trade practices, including
25 representing that Class Vehicles have characteristics, uses, benefits, and qualities
26 which they do not have; representing that Class Vehicles are of a particular
27 standard and quality when they are not; advertising Class Vehicles with the
28 intent not to sell them as advertised; and engaging in any other fraudulent or

1 deceptive conduct which creates a likelihood of confusion or of
2 misunderstanding.

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

10 177. Defendant has known of the Transmission Defect and the true nature
11 of its Transmission system when it sold the Vehicles but concealed all of that
12 information.

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

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

22 180. Defendant intentionally and knowingly misrepresented material
23 facts regarding the Class Vehicles with intent to mislead the Plaintiff Wood and
24 the PA Sub-Class.

25 181. Defendant knew or should have known that its conduct violated the
26 UTPCPL.

27 182. Because Defendant fraudulently concealed the Transmission Defect,
28 the value of the Class Vehicles has greatly diminished.

1 183. Defendant's concealment of the true characteristics of the
2 Transmission was material to the Plaintiff Wood and the Pennsylvania Sub-
3 Class.

4 184. The Plaintiff Wood and the PA Sub-Class suffered ascertainable
5 loss caused by Defendant's misrepresentations and its concealment of and failure
6 to disclose material information.

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

12 186. As a direct and proximate result of Defendant's violations of the
13 UTPCPL, the Plaintiff Wood and the PA Sub-Class have suffered injury-in-fact
14 and/or actual damage.

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

21 **SEVENTH CAUSE OF ACTION**

22 **(For Unjust Enrichment)**

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

24 188. Plaintiffs incorporate by reference the allegations contained in the
25 preceding paragraphs of this Complaint.

26 189. Plaintiffs bring this cause of action on behalf of themselves and the
27 Class.

28 190. As a direct and proximate result of Defendant's failure to disclose

1 known defects, Defendant has profited through the sale and lease of the Class
2 Vehicles. Although these vehicles are purchased through Defendant's agents,
3 the money from the vehicle sales flows directly back to Defendant.

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

8 192. Defendant has been unjustly enriched due to the known defects in
9 the Class Vehicles through the use money paid that earned interest or otherwise
10 added to Defendant's profits when said money should have remained with
11 Plaintiffs and Class Members.

12 193. As a result of the Defendant's unjust enrichment, Plaintiffs and
13 Class Members have suffered damages.

14 **RELIEF REQUESTED**

15 194. Plaintiffs, on behalf of themselves and all others similarly situated,
16 request the Court to enter judgment against Defendant, as follows:

- 17 (a) An order certifying the proposed Class and Sub-Classes,
18 designating Plaintiffs as named representatives of the Class,
19 and designating the undersigned as Class Counsel;
- 20 (a) A declaration that Defendant is financially responsible for
21 notifying all Class Members about the defective nature of the
22 Transmission, including the need for periodic maintenance;
- 23 (b) An order enjoining Defendant from further deceptive
24 distribution, sales, and lease practices with respect to Class
25 Vehicles; compelling Defendant to issue a voluntary recall for
26 the Class Vehicles pursuant to. 49 U.S.C. § 30118(a);
27 compelling Defendant to remove, repair, and/or replace the
28 Class Vehicles' defective Transmission and/or its components

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with suitable alternative product(s) that do not contain the defects alleged herein; enjoining Defendant from selling the Class Vehicles with the misleading information; and/or compelling Defendant to reform its warranty, in a manner deemed to be appropriate by the Court, to cover the injury alleged and to notify all Class Members that such warranty has been reformed;

- (c) A declaration requiring Defendant to comply with the various provisions of the Song-Beverly Act alleged herein and to make all the required disclosures;
- (d) An award to Plaintiffs and the Class for compensatory, exemplary, and statutory damages, including interest, in an amount to be proven at trial; except that Plaintiffs do not currently seek monetary damages under the Consumers Legal Remedies Act;
- (e) Any and all remedies provided pursuant to the Song-Beverly Act, including California Civil Code section 1794;
- (f) Any and all remedies provided pursuant to the Magnuson-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;

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- (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

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

Dated: June 10, 2019

Respectfully submitted,

Capstone Law APC

By: /s/ Mark A. Ozzello

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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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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

DOMINIQUE PARRISH and EVAN
WOOD, individually, and on behalf
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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6. I declare under penalty of perjury under the laws of California and the United States of America that the foregoing is true and correct.

Executed on June ^{6/7/2019}_____, 2019 in _____, Irvine, California.

By:  _____
Dominique Parrish