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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

NEERAJ SHARMA and STEPHAN
MOONESAR, individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

VOLKSWAGEN AG, VOLKSWAGEN
GROUP OF AMERICA, INC., AUDI AG,
ROBERT BOSCH GMBH, and ROBERT
BOSCH LLC,

Defendants.

Case No. 4:20-cv-02394-JST

**AMENDED CLASS ACTION
COMPLAINT**

JURY TRIAL DEMANDED

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1 The allegations herein are based on personal knowledge as to Plaintiffs' own conduct and
2 are made on information and belief as to all other matters based on an investigation by counsel.

3 **I. INTRODUCTION**

4 1. Many automatic driving and safety features found in new cars today are the first
5 steps toward fully autonomous cars. Automatic emergency braking ("AEB") is one of those
6 features. Broadly speaking, AEB Systems work by scanning the road for other vehicles,
7 pedestrians, and objects and automatically applying the brakes if there is a threat of collision. No
8 car manufacturer wants to be left behind its competition when it comes to providing automated
9 safety features like AEB. Manufacturers comprising "more than 99% of the U.S. automobile
10 market" have voluntarily committed to outfitting "every new passenger vehicle with [AEB] by
11 Sept. 1, 2022."¹ The problem is that car manufacturers are rushing this feature to market when the
12 technology is not yet ready and not yet safe. That is what this case is about.

13 2. In general, much of the technology that underpins AEB technology is shared among
14 the industry. A small handful of companies provide sensors, control units, and algorithms to car
15 makers, who then integrate those systems for their particular products. Defendants Robert Bosch
16 GmbH and Robert Bosch LLC (collectively, the "Bosch Defendants" or "Bosch") are the largest
17 supplier of automatic emergency braking systems, and provide the systems used in cars made by
18 the vehicle manufacturer defendants here. Defendants Volkswagen AG, Volkswagen Group of
19 America, Audi AG, and Audi of America (collectively, the "VW Defendants" or "VW") have used
20 Bosch sensors to implement automatic emergency braking across the Class Vehicles.

21 3. Accordingly, this is a class action asserting claims against Bosch and VW who sell
22 cars equipped with Bosch-made AEB Systems. The "Class Vehicles" at issue in this case include
23 all VW and Audi vehicles equipped with AEB Systems that utilize either Bosch mid-range radar
24 sensors ("MRR") or long-range radar sensors ("LRR") (collectively the "AEB Systems"). As
25 alleged in more detail below, the AEB Systems are the same or substantially similar in all the Class
26 Vehicles at issue in this action.

27 ¹ [https://www.iihs.org/news/detail/10-automakers-equipped-most-of-their-2018-vehicles-with-](https://www.iihs.org/news/detail/10-automakers-equipped-most-of-their-2018-vehicles-with-automatic-emergency-braking)
28 [automatic-emergency-braking](https://www.iihs.org/news/detail/10-automakers-equipped-most-of-their-2018-vehicles-with-automatic-emergency-braking)

1 4. The AEB Systems at issue here have a defect that causes them to falsely engage
2 randomly and unexpectedly (the “AEB Defect”). The AEB Defect causes the Class Vehicles to
3 detect non-existent obstacles, thereby automatically triggering the brakes and causing the Class
4 Vehicles to abruptly slow down or come to a complete stop, sometimes in the middle of traffic.
5 Simply put, as a result of the AEB Defect, the AEB Systems at issue here are a safety hazard, not a
6 safety feature.

7 5. Many Class Vehicle owners have reported significant, unexpected slow-downs and
8 stops due to the false engagement of the Class Vehicle’s AEB System, even though no objects
9 were nearby. As one commentator described, “[w]hen the systems work, they are brilliant.
10 **When they don’t work, they are a frightening and dangerous nightmare.**”² Another aspect of
11 the AEB Defect is that the AEB Systems frequently deactivate themselves and display error
12 message for no good reason, rendering this safety feature effectively useless.

13 6. The National Highway Traffic Safety Administration (“NHTSA”) has fielded
14 hundreds of individual complaints in the last three years from drivers of vehicles made by major
15 car manufacturers, including Volkswagen and Audi.

16 7. The AEB Defect is substantially likely to materialize during the useful life of the
17 vehicles in which the systems are installed. All of the Plaintiffs here have experienced the AEB
18 Defect, and numerous car owners have publicly complained about the problem to NHTSA and on
19 various internet forums.

20 8. Defendants have known about problems with their AEB Systems for years but have
21 been silent. Disclosing the AEB Defect would likely: (1) put Defendants at a competitive
22 disadvantage both in safety ratings and in the race to get autonomous safety features on the market;
23 (2) have a negative impact on their respective brands; and (3) reduce profits from sales. Instead,
24 the VW Defendants market their vehicles as safe, despite their knowledge that the vehicles are
25 defective and not fit for their intended purpose of providing consumers with safe and reliable
26 transportation at the time of the sale and thereafter. They have actively concealed the true nature

27 _____
28 ² <https://www.honestjohn.co.uk/askhj/answer/119759/is-there-a-known-problem-with-pre-sense-systems->

1 and extent of the AEB Defect from Plaintiffs and the other Class members and have failed to
2 disclose it to them at the time of purchase or lease.

3 9. Had Plaintiffs and other Class members known about the AEB Defect, they would
4 not have purchased and/or leased the Class Vehicles on the same terms or would have paid less for
5 them. As a result of their reliance on partial representations and/or omissions by Defendants,
6 Plaintiffs and the other Class members have suffered a loss of money and/or loss in value of their
7 Class Vehicles.

8 **II. PARTIES**

9 **A. The VW Defendants**

10 10. Defendant Volkswagen AG (“VW AG”) is a German corporation with its principal
11 place of business in Wolfsburg, Germany. VW AG is one of the largest automobile manufacturers
12 in the world, and is in the business of designing, developing, manufacturing, and selling cars. VW
13 AG is the parent corporation of Audi AG, VW USA, and Audi USA, among others.

14 11. Defendant Volkswagen Group of America, Inc. (“VW USA”) is a New Jersey
15 corporation doing business throughout the United States. VW USA maintains its principal place of
16 business in Herndon, Virginia. At all relevant times, VW USA acted as an authorized agent,
17 representative, servant, employee, and/or alter ego of VW AG while performing activities
18 including but not limited to advertising, warranties, warranty repairs, dissemination of technical
19 information, and monitoring the performance of VW vehicles in the United States, including
20 substantial activities that occurred within this jurisdiction.

21 12. Defendant Audi AG is a German corporation with its principal place of business in
22 Ingolstadt, Germany and is wholly owned by VW AG. Audi AG does business throughout the
23 USA because it is an operating unit of VW USA. At all relevant times, Audi AG acted as an
24 authorized agent, representative, servant, employee, and/or alter ego of VW USA while performing
25 activities such as advertising, warranties, warranty repairs, dissemination of technical information,
26 and monitoring the performance of Audi vehicles in the United States, including substantial
27 activities that occurred within this jurisdiction.

1 13. VW AG, Audi AG, and VW USA, are collectively referred to as the “VW
2 Defendants” or “VW.”

3 14. At all relevant times, the VW Defendants took part in designing, engineering,
4 manufacturing, testing, marketing, supplying, selling, and distributing motor vehicles, including the
5 Class Vehicles, throughout the United States. Generally, VW AG and Audi AG are responsible for
6 the design and manufacture of their respective Class Vehicles, while VW USA and Audi USA are
7 responsible for advertising, distribution, warranties and customer service.

8 15. The VW Defendants also provide service and maintenance for the Class Vehicles
9 through their extensive network of authorized dealers and service providers nationwide. At all
10 relevant times, each authorized dealership and service provider acted as an authorized agent,
11 representative, servant, employee and/or alter ego of VW AG and/or other VW Defendants while
12 performing activities including but not limited to advertising, warranties, warranty repairs,
13 dissemination of technical information, and monitoring the performance of vehicles in the United
14 States, including substantial activities that occurred within this jurisdiction.

15 16. VW AG and Audi AG also imported into the United States, sold, offered for sale,
16 introduced into commerce, or otherwise delivered the Class Vehicles, with the intent to market or
17 sell them in all fifty states, including in California. The VW Defendants further developed and
18 disseminated the owner’s manuals, warranty booklets, product brochures, advertisements, and
19 other promotional materials relating to the Class Vehicles, with the intent that such documents
20 should be purposely distributed throughout all fifty states, including in California. The VW
21 Defendants are also engaged in interstate commerce, selling vehicles through their network of
22 dealers in every state of the United States.

23 17. Beginning in approximately 2010, VW Defendants began working with Bosch to
24 supply the AEB Systems for its vehicles. The main design and testing center for VW’s
25 autonomous driving development is their Electronics Research Lab & Design Center (“ERL”) in
26 Belmont, CA. Also known as the “Innovation & Engineering Center California (‘IECC’)” and
27 “Future Center California (‘FCC’),” this single location is the home of “the innovation and
28 development arms of Volkswagen Group of America.” It is where VW’s “teams engineer the

future, from autonomous driving and connected mobile living to elegant user experiences [and] pioneer groundbreaking future technology and designs for Audi, Bentley, Bugatti, Lamborghini, Porsche and Volkswagen brands.”³ In other words, it is the “epicenter of the company’s vehicle electronics expertise in North America and its largest research facility outside of Germany...”⁴ The foundations of modern autonomous driving were developed in this lab. “Its employees through the years were pioneers in early autonomous driving demonstrations. In 2005, a team from what was then the Electronics Research Laboratory became the first to successfully complete the U.S. Department of Defense’s DARPA Grand Challenge, when their robotic SUV, built in cooperation with Stanford University and others, navigated 132 miles across the desert without human intervention.”

18. As ERL’s executive director Nikolai Reimer described, “at the ERL, we leverage the unique benefits of the Silicon Valley for the Volkswagen Group. Specifically, we cooperate with universities and startups on promising, emerging technologies such as sensors for autonomous driving and battery technology.” Volkswagen sums up the work of ERL as “German Automotive DNA. Silicon Valley Spirit.” Personnel from ERL work closely with Silicon Valley high-tech companies in developing autonomous systems, including with Bosch in connection with the AEB Systems at issue here.

B. Bosch Defendants

19. Robert Bosch GmbH (“Bosch GmbH”) is a German multinational engineering and electronics company headquartered in Gerlingen, Germany. Bosch GmbH is the parent company of Robert Bosch LLC. Bosch GmbH, directly and/or through its North American subsidiary Robert Bosch LLC, at all material times, designed, manufactured, developed, reviewed, approved, and/or supplied the AEB Systems at issue here for use in the Class Vehicles. Bosch GmbH is subject to the personal jurisdiction of this Court because it has availed itself of the laws of the United States through its management and control over Robert Bosch LLC, and over the design,

³ https://www.linkedin.com/company/volkswagen-group-of-america-electronics-research-lab?trk=recent-update_see-all#updates

⁴ <https://newsroom.vw.com/company/innovating-the-future-at-vws-electronics-research-lab/>

1 development, manufacture, distribution, testing, and sale of hundreds of thousands of AEB
2 Systems installed in the Class Vehicles sold or leased in the U.S.

3 20. Robert Bosch LLC (“Bosch LLC”) is a Delaware limited liability company with its
4 principal place of business located at 38000 Hills Tech Drive, Farmington Hills, Michigan 48331.
5 Bosch LLC is a wholly owned subsidiary of Bosch GmbH and is controlled and dominated by its
6 parent company. At all material times, Bosch LLC, directly and/or in conjunction with its parent
7 Bosch GmbH, designed, manufactured, developed, reviewed, approved, and/or supplied defective
8 AEB Systems to the VW Defendants for use in the Class Vehicles.

9 21. Both Bosch GmbH and Bosch LLC (collectively, “Bosch”) operate under the
10 umbrella of the Bosch Group, which encompasses some 340 subsidiaries and companies. The
11 Bosch Group is divided into four business sectors: Mobility Solutions (formerly Automotive
12 Technology), Industrial Technology, Consumer Goods, and Energy and Building Technology. The
13 Mobility Solutions sector – which supplies parts to the automotive industry – is particularly at issue
14 here and includes the relevant individuals at both Bosch GmbH and Bosch LLC.

15 22. Regardless of whether an individual works for Bosch in Germany or the United
16 States, the individual holds him or herself out as working for Bosch. This collective identity is
17 captured by Bosch’s mission statement: “We are Bosch,” a unifying principle that links each entity
18 and person within the Bosch Group.⁵

19 23. Silicon Valley is ground zero worldwide for the development of autonomy ous
20 driving features and “has laid the foundation for innovative products and solutions in areas such as
21 sensor technology and automated and connected vehicle systems.”⁶ As one reporter aptly
22 described, “[y]ou could make a good argument that the center of the automotive world’s future is
23 being planned in Silicon Valley ... every auto company has a presence in the region, tapping
24
25

26 ⁵ Bosch 2014 Annual Report: “Experiencing quality of life,” available at
27 https://assets.bosch.com/media/en/global/bosch_group/our_figures/publication_archive/pdf_1/GB2014.pdf

28 ⁶ <https://www.bosch.us/our-company/bosch-in-the-usa/sunnyvale/>

1 engineering expertise and young talent that is shaping how the cars of today become the cars of
2 tomorrow.”⁷

3 24. Bosch has been present in Silicon Valley for nearly 20 years. Bosch’s Research and
4 Technology Center North America “is headquartered in Sunnyvale, CA – right in the heart of
5 Silicon Valley” in “close proximity to world-class universities and entrepreneurial ecosystems.”⁸
6 Bosch’s research in Silicon Valley “centers on fusing together the capabilities of short-range radar,
7 long-range radar, video cameras, Lidar and other sensors to establish 360-degree visibility around a
8 moving vehicle.”⁹ For instance, Bosch’s Engineering Director of Research & Development for
9 Automated Driving is based at Bosch’s Sunnyvale facility and was personally involved in
10 developing Bosch’s AEB System from prototype to series production. Employment recruiting
11 advertisements disclose that employees working in one office work directly with the entire
12 development team at both offices.

13 25. From its Silicon Valley locations, Bosch works with the largest automakers in the
14 world, including the VW Defendants, many of whom have their own facilities in Silicon Valley
15 from which they collaborated with Bosch to implement Bosch’s Radar Sensors and AEB Systems
16 into their own vehicles. The 25-mile stretch from Belmont to San Jose has historically been known
17 for software and semiconductors, not cars. But the world’s nine largest automakers by revenue, as
18 well as the three largest auto suppliers, now have offices and research labs along this drag,
19 including the VW Defendants.

20 **C. Plaintiffs**

21 26. Plaintiff Neeraj Sharma is a citizen of California and resides in Hercules, CA. Mr.
22 Sharma leased a 2017 Audi Q7 and Audi A7 for personal or household use from Audi of Concord
23 in California. Mr. Sharma’s cars are equipped with the AEB System which is able to automatically
24 actuate the brakes. Mr. Sharma leased the cars based on the understanding that they would be safe
25 for normal use as cars and that they would not unintentionally brake despite no other vehicles or

26 ⁷ <https://innotechtoday.com/revenge-automotive-industry/>

27 ⁸ <https://www.bosch.us/our-company/innovation/>

28 ⁹ <https://www.wardsauto.com/blog/bosch-embracing-automated-vehicles>

1 pedestrians nearby. Mr. Sharma viewed and relied on the Monroney labels on his cars before
2 leasing his cars – which highlighted Audi pre sense– but did not otherwise refer Mr. Sharma to the
3 owner’s manual. Had Defendants disclosed the AEB Defect, Mr. Sharma would not have leased
4 the cars, or would not have done so on the same terms. Mr. Sharma has experienced the AEB
5 Defect described herein in the form of unintentional, phantom braking for no reason, and also
6 instances of error messages appearing on his dashboard indicating the AEB system not functional.

7 27. Plaintiff Stephan Moonesar is a citizen of New Jersey and resides in Egg Harbor
8 Township, NJ. Plaintiff Moonesar bought a certified pre-owned (“CPO”) 2018 Audi S4 for
9 personal or household use from Audi of Turnersville in New Jersey. Plaintiff Moonesar’s car is
10 equipped with the AEB System which is able to automatically actuate the brakes. Plaintiff
11 Moonesar bought the car based on the understanding that it would be safe for normal use as a
12 vehicle and that it would not unintentionally brake despite no other vehicles or pedestrians nearby.
13 Mr. Moonesar viewed and relied on the Monroney label on his car before purchasing his car –
14 which highlighted Audi pre sense– but did not otherwise refer Mr. Moonesar to the owner’s
15 manual. Had Defendants disclosed the AEB Defect, Plaintiff Moonesar would not have bought the
16 car, or would not have done so on the same terms. Plaintiff Moonesar has experienced the AEB
17 Defect described herein in the form of unintentional, phantom braking for no reason, and also
18 instances of error messages appearing on his dashboard indicating the AEB system not functional.

19 **III. JURISDICTION AND VENUE**

20 28. This Court has subject matter jurisdiction over this action pursuant to the Class
21 Action Fairness Act (“CAFA”). 28 U.S.C. § 1332(d)(2). The matter in controversy, exclusive of
22 interest and costs, exceeds the sum or value of \$5,000,000 and is a class action in which there are
23 more than 100 members of the Classes, members of the Classes (as defined below) are citizens of
24 states different from Defendants, and greater than two-thirds of the members of the Classes reside
25 in states other than the states in which Defendants are citizens.

26 29. This also Court has subject matter jurisdiction under 28 U.S.C. § 1331 (federal
27 question) and jurisdiction over supplemental state law claims pursuant to 28 U.S.C. § 1367.
28

30. Venue properly lies in this District pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the events and/or omissions giving rise to Plaintiffs' claims occurred in this District. Specifically, as set forth *supra* ¶¶ 24-26, the AEB systems as issue here were researched, designed, and developed within this District. Moreover, Plaintiff Sharma purchased his Class Vehicle in this District and resides in this District.

31. Venue properly lies in this District pursuant to 28 U.S.C. § 1391(c)(3) with respect to Volkswagen AG, Audi AG, and Robert Bosch GmbH because, as non-residents of the United States, they "may be sued in any judicial district."

IV. GENERAL AND SPECIFIC ALLEGATIONS CONCERNING THE BOSCH DEFENDANTS

A. Plaintiffs And Putative Class Members Suffered Economic Harm Traceable To Bosch's Conduct

32. The primary thrust of the allegations against Bosch is that it actively participated with the VW Defendants to rush AEB Systems to market when the technology was not yet fully developed and not yet safe. In doing so, Bosch and the VW Defendants worked knowingly and purposefully together to equip the AEB Systems in the Class Vehicles.

33. Plaintiffs and putative Class members suffered economic harm traceable to Bosch and the VW Defendants for two reasons. First, the AEB Defect renders the Class Vehicles worth less than what Plaintiffs and putative Class members paid at the time of sale. Second, the Bosch Defendants knowingly concealed the AEB Defect from consumers. In turn, consumers would not have bought or leased the Class Vehicles, or would have paid less for them, if Bosch and the VW Defendants had disclosed that the Class Vehicles suffered from the AEB Defect. Plaintiffs and Class members thus overpaid for their cars because Bosch worked closely with the VW Defendants to install defective AEB Systems in the Class Vehicles. In other words, Bosch's conduct led directly to each Plaintiff purchasing or leasing a Class Vehicle with the AEB Defect.

B. Bosch Actively Lobbied For The Implementation Of Its AEB Technology When That Technology Is Not Yet Safe

34. To increase demand for its radar sensors, Bosch lobbied government entities to make AEB technology a required (i.e., standard) feature on new vehicles, even though the

1 technology was not yet safe (and still is not). In the course of those lobbying efforts, the Bosch
2 Defendants either failed to disclose or downplayed the AEB Defect to government entities and did
3 not disclose that they had not yet found a satisfactory solution to address the radar sensors'
4 limitations.

5 35. As described more fully below, Bosch's lobbying strategy for AEB was two
6 pronged. The first was to lobby NHTSA to require AEB technology in all new cars, or to at least
7 create a testing regime that gives cars with AEB more stars or an additional rating for consumers to
8 compare. The second was to lobby the United States Legislature to create a uniform federal regime
9 that would require AEB in all new cars and preempt states from banning their use. Both avenues
10 were an attempt to increase sales of Bosch's AEB Systems even though those systems were not
11 ready for consumer use.

12 36. On April 5, 2013, NHTSA requested comments on potential areas for improvement
13 of the New Car Assessment Program ("NCAP").¹⁰ The NCAP results in the ubiquitous "star-
14 rating" used by consumers in their evaluation of the safety of a vehicle at purchase. In its July 3,
15 2013 public comment, Bosch "recommended that [Crash Imminent Braking / Dynamic Brake
16 Support] CIB/DBS be included in NCAP as soon as possible."¹¹ Bosch also stated: "displaying
17 crash avoidance systems as part of the official safety portion of the Monroney Label [affixed to
18 every Class Vehicle], and particularly in the form a five star rating, is the most effective means to
19 help drive consumer awareness and eventually consumer demand for such technologies."

20 37. On November 5, 2015, NHTSA announced its final decision that "AEB
21 technologies" would be a "part of NCAP Recommended Advanced Technology Features,
22 [including]... crash imminent braking (CIB) and dynamic brake support (DBS)."¹² In this decision,
23 NHTSA cited Bosch approximately fifteen times, specifically noting Bosch's support for the
24 implementation. On March 17, 2016, NHTSA and IIHS announced that 20 automakers
25

26 ¹⁰ <https://www.regulations.gov/document?D=NHTSA-2012-0180-0001>

27 ¹¹ <https://www.regulations.gov/document?D=NHTSA-2012-0180-0028>

28 ¹² <https://www.nhtsa.gov/nhtsa/aeb-fr-notice.docx>

1 representing more than 99 percent of the U.S. auto market committed to making AEB a standard
2 safety feature on virtually all new cars no later than 2022.¹³

3 38. On April 6, 2016, NHTSA sought public comment in connection with an event
4 called “Automated Vehicle Operational Guidance Public Meetings.” At the meeting, Bosch’s
5 lobbyist and Director of Federal Government Affairs, Anna Meuwissen, lobbied NHTSA to push
6 for the use of AEB Systems at a Federal level, as well as allowance of future advanced automated
7 driving systems and vehicles.¹⁴

8 39. As Bosch’s LD-2 Disclosure forms reveal, for every quarter since at least Q2 2014,
9 Bosch has prioritized its lobbying for AEB Systems. Bosch has lobbied in the U.S. House and
10 Senate to federally mandate AEB and automated systems on cars, and also to block states from
11 banning such systems. Bosch actively lobbied for legislation such as H.R. 3388 (SELF DRIVE
12 Act) and Senate 1885 (AV-START ACT). The SELF DRIVE Act and AV-START ACT were
13 very similar and would have blocked and preempted states from banning highly automated driving
14 systems, among other things.¹⁵ The fact that Bosch would seek to preemptively bar states from
15 banning AEB Systems shows that Bosch knew about the AEB Defect – because why else would
16 states want to ban such systems if they were otherwise safe and effective?

17 **C. Bosch Collaborated With The VW Defendants To Develop And**
18 **Integrate AEB Systems Into The Class Vehicles**

19 40. Bosch partners with car manufacturers to co-develop and integrate Bosch
20 components and systems into vehicles. In doing so, Bosch promotes itself as a “reliable partner
21 from development to market launches,” explaining it supports automakers “in development, in
22 application and testing, in series production, in post-series supply, as well as in market launches of
23

24 ¹³ [https://www.iihs.org/news/detail/u-s-dot-and-iihs-announce-historic-commitment-of-20-](https://www.iihs.org/news/detail/u-s-dot-and-iihs-announce-historic-commitment-of-20-automakers-to-make-automatic-emergency-braking-standard-on-new-vehicles)
25 [automakers-to-make-automatic-emergency-braking-standard-on-new-vehicles;](https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/aeb_factsheet_031616.pdf)
https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/aeb_factsheet_031616.pdf

26 ¹⁴ https://www.youtube.com/watch?time_continue=463&v=J_RvYZR_HLA

27 ¹⁵ [https://www.congress.gov/bill/115th-congress/house-bill/3388?q=%7B%22search%22%](https://www.congress.gov/bill/115th-congress/house-bill/3388?q=%7B%22search%22%3A%5B%22hr3388%22%5D%7D&s=1&r=2)
28 [3A%5B%22hr3388%22%5D%7D&s=1&r=2; https://www.congress.gov/bill/115th-](https://www.congress.gov/bill/115th-congress/senate-bill/1885)
[congress/senate-bill/1885](https://www.congress.gov/bill/115th-congress/senate-bill/1885)

1 new systems – today and in the future.” Bosch also explains that it coordinates with car
2 manufacturers “through in-house development of all necessary components.”

3 41. Bosch and the VW Defendants collaborated, partnered, and shared control over the
4 development and integration of the AEB Systems in the Class Vehicles and are jointly responsible
5 for the AEB Defect. Without the collaboration between Bosch and the VW Defendants, the AEB
6 Systems would not exist. This collaborative partnership is standard practice for Bosch in particular
7 and the automotive industry in general. There are numerous examples of Bosch collaborating and
8 forming close-knit partnerships between itself and vehicle manufacturers for the co-development of
9 components and systems for vehicles.

10 42. The VW Defendants were the first to partner with Bosch to implement an AEB
11 System in the 2011 Audi A8.

12 43. As a result, Bosch and the VW Defendants exercise mutual control over the
13 integration of AEB Systems in the Class Vehicles. It is common in the development of vehicle
14 components and systems for both the component manufacturer and the car manufacturer to require
15 mutual approval for production. The vehicle manufacturer exercises control by deciding whether
16 or not to include a component or system in the final production, and the component manufacturer
17 commonly exercises control through agreements which limit changes to their components or
18 systems by the vehicle manufacturer without express approval. Bosch commonly follows this
19 practice such that the VW Defendants and Bosch exercised mutual control over the development
20 and integration of the AEB System in the Class Vehicles.”¹⁶

21
22
23
24 ¹⁶ One example of such collaboration is Bosch’s co-development of the components and systems
25 that were at issue in the Dieselgate litigation concerning Volkswagen vehicles. In Dieselgate,
26 Bosch and vehicle manufacturers, including some of the VW Defendants here, collaborated and co-
27 partnered to develop and integrate ECU components and software. The partnership there went as
28 far as having a full-time Bosch presence at the automaker’s facility. In fact, Bosch and its car
manufacturer clients work so closely that Bosch frequently locates its component part
manufacturing facilities close to its carmaker customers’ manufacturing plants such that “distances
are short and the company can cooperate closely and flexibly with its customers.”
<https://www.bosch-mobility-solutions.com/en/highlights/automated-mobility/>

44. A public example of Bosch's mutual control practice came to light in the so-called "Dieselgate" litigation where this relationship is aptly described by a car company engineer:

I've had many arguments with Bosch, and they certainly own the dataset software and let their customers tune the curves. Before each dataset is released it goes back to Bosch for its own validation.

Bosch is involved in all the development we ever do. They insist on being present at all our physical tests and they log all their own data, so someone somewhere at Bosch will have known what was going on.

All software routines have to go through the software verification of Bosch, and they have hundreds of milestones of verification, that's the structure ...

The car company is *never* entitled by Bosch to do something on their own.¹⁷

D. Bosch's Knowledge Of The AEB Defect

45. The Bosch Defendants have known about the AEB Defect since 2011 at the latest, though most likely since 2010 (shortly before the first AEB Systems were installed in the Audi A8), through sources not available to Plaintiffs and Class members, including, but not limited to: pre-production testing, pre-production design failure mode and analysis data, production design failure mode and analysis data. Because of the close working relationship between Bosch and each VW Defendant with respect to designing, testing and installing the AEB Systems, Bosch also would have obtained information from the VW Defendants concerning the AEB Defect. In other words, Bosch had all the information – both its own and information it received from all of the VW Defendants.

46. Knowledge is also imputed to Bosch GmbH because its U.S. subsidiary, Bosch LLC, monitored all information and reported back to Germany. In addition, Bosch GmbH would have monitored claims and performance of the Class Vehicles sold in other countries which have also been impacted by the AEB Defect.

¹⁷ Michael Taylor, EPA Investigating Bosch over VW Diesel Cheater Software, Car and Driver (Nov. 23, 2015), <https://www.caranddriver.com/news/a15349893/epa-investigating-bosch-over-vw-diesel-cheater-software/>

47. At a bare minimum, Bosch must have known about the AEB Defect no later than March 30, 2015, which was the deadline to submit public comments in connection with NHTSA's plan to update its New Car Assessment Program (NCAP), which is a program that provides consumers with comparative information on the safety of new vehicles. As described in Paragraph 34 above, Bosch provided public comments supporting the inclusion of information about AEB Systems in the Class Vehicles' Monroney window stickers. At the same time, however, various commentators discussed the challenges of "false activations" or "false-positive AEB event[s]," i.e., the AEB Defect. As NHTSA explained, "**Bosch said there is no single test that will fully address the problem of false activations.**"¹⁸ By that time, Bosch had already supplied Audi with AEB Systems for several years, and had begun supplying other manufacturers too. Despite having this knowledge, Bosch and the VW Defendants have continued to manufacture and sell Class Vehicles equipped with AEB Systems that are susceptible to the AEB Defect.

V. GENERAL AND SPECIFIC ALLEGATIONS CONCERNING THE VW DEFENDANTS

A. The AEB System And AEB Defect Are Substantially Similar In All Class Vehicles

48. The VW Defendants, having committed to outfitting every one of their new passenger vehicles with AEB Systems by 2022, needed to implement an AEB System as soon as possible. "Much of the technology that underpins these systems is shared among the industry. A handful of companies like Bosch, Delphi, and Mobileye provide sensors, control units, and even algorithms to car makers, who then integrate and refine those systems."¹⁹ To implement the AEB Systems in the Class Vehicles at issue, every one of the VW Defendants turned to Bosch due to its ability to provide "[k]ey technologies for automated driving from a single source."²⁰

49. Bosch was able to provide its AEB System and integration support to all of the VW Defendants to enable them to bring the Class Vehicles with the AEB Systems to market as soon as

¹⁸ <https://www.nhtsa.gov/nhtsa/aeb-fr-notice.docx> (pg. 28)

¹⁹ <https://arstechnica.com/cars/2016/05/from-audi-to-volvo-most-self-driving-cars-use-the-same-hardware/>

²⁰ <https://www.bosch-mobility-solutions.com/en/highlights/automated-mobility/>

possible.²¹ In fact, Bosch markets this advantage as a systems supplier, stating it has a “[c]omprehensive portfolio and extensive expertise for vehicles, infrastructure, and services” and thus “offers technologies covering all levels of automation and for automated parking, many of which are already being deployed in volume production.”²²

50. As a result, every Class Vehicle from each VW Defendant uses the same, or substantially similar, Bosch-supplied AEB Systems, all of which manifest the same AEB Defect. While model and part numbers vary amongst the Class Vehicles, the radar sensor module at the core of the Bosch AEB System is substantially similar, if not identical, across the Class Vehicles such that the systems function – and malfunction – in the same way and for the same reasons.

51. Specifically, the AEB Systems in the Class Vehicles use one of four Bosch AEB radar sensor modules – the LRR3, the LRR4, the MRR, or the MRRevo (the “Radar Sensors”).²³ In fact, there are only four sensor module manufacturer (Bosch) part numbers across all of the Class Vehicles, the LRR3, LRR4, MRR1PLUS, and MRRevo14F. For instance, the MRRevo

²¹ Bosch on its website touts that it has “already developed all of the technologies required for highly and fully automated driving... [and] can quickly make new solutions read for high-volume markets. High volumes make low prices possible.” (<https://www.bosch-mobility-solutions.com/en/highlights/powertrain-and-electrified-mobility/>)

²² <https://www.bosch-mobility-solutions.com/en/highlights/automated-mobility/>

²³ Depending on the particular vehicle and model year, all of the sensors are either Bosch LRR3 (3rd generation), LRR4 (4th generation) or MRR series modules, each of which exhibits the same defect. The LRR series modules are installed as pairs and the MRR series modules are installed as single units. However, no matter the series, or configuration of the modules, the same malfunction exists, with the common dominator being the use of an LRR or MRR series module.

1 module found in Volkswagen vehicles is uniformly labeled as having a M/N (manufacturer part
2 number) of “MRRevo14F:”



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12 52. The substantial similarity among AEB Systems used is further demonstrated by
13 Federal Communication Commission (“FCC”) identification numbers associated with the systems.
14 An FCC ID is a unique identifier assigned to a device registered with the FCC. FCC IDs are
15 required for all wireless emitting devices sold in the United States.²⁴ There are only four FCC IDs
16 among the AEB Systems used in the Class Vehicles, which correspond to the four sensor models
17 described above – “NF3-LRR3SCU” (LRR3), “NF3-LRR4” (LRR4), “NF3-MRR1PLUS” (MRR),
18 and “NF3-MRREVO14F” (MRRevo). Therefore – as FCC registration denotes – every LRR3
19 module is the same regardless of which make and model Class Vehicle they are installed, as is
20 every LRR4, MRR, and MRRevo module. Any differences between the four modules is
21 immaterial since each manifests the same AEB Defect.

22 53. Moreover, pursuant to 47 C.F.R. § 15.21, the user manuals for the Bosch sensors
23 used in the AEB Systems at issue here state, “[c]hanges or modifications made to this equipment
24 not expressly approved by Robert BOSCH GmbH may void the FCC authorization to operate this
25 equipment.” Thus, any changes to the AEB modules or their software require Bosch’s approval, if

26
27 ²⁴ Under 47 C.F.R. § 2.925(b) “a device subject to more than one equipment authorization
28 procedure may be assigned a single FCC Identifier. However, a single FCC Identifier is required to
be assigned to any device consisting of two or more sections assembled in a common enclosure, on
a common chassis or circuit board, and with common frequency controlling circuits.”

not its leadership or cooperation in implementing any change. In addition, it is likely that any changes to the sensor modules would likely require reregistration with the FCC. No such reregistration has been reported to date.

B. VW's Knowledge Of The AEB Defect

54. The VW Defendants have known about the AEB Defect since at least 2014, and most likely since 2010, through sources not available to Plaintiffs and Class members, including, but not limited to: pre-production testing, pre-production design failure mode and analysis data, production design failure mode and analysis data, early consumer complaints made exclusively to the VW Defendants' network of dealers and directly to the VW Defendants, aggregate warranty data compiled from the VW Defendants' network of dealers, testing conducted by the VW Defendants in response to consumer complaints, and repair order and parts data received by the VW Defendants from their network of dealers and suppliers, including Bosch. Because of the relationship between the VW Defendants and Bosch, they each knew about the AEB Defect which they all jointly developed and supported.

55. Knowledge is also imputed to VW AG and Audi AG because their U.S. subsidiaries – Defendants VW USA and Audi USA – monitored warranty claims and Class Vehicle performance in the United States and reported back to their affiliated and parent companies located in Germany. In addition, VW AG and Audi AG monitored claims and performance of the Class Vehicles sold in other countries, which are similarly impacted by the AEB Defect.

56. The VW Defendants also knew about the AEB Defect based on partial disclosures in owner's manuals, technical service bulletins, customer complaints on car enthusiast forums, and customer complaints to NHTSA.

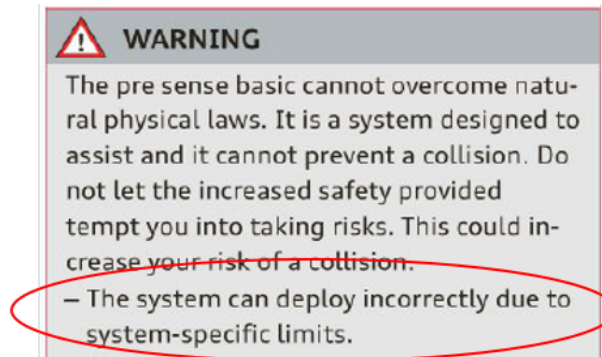
1. Admissions In Owner's Manuals

57. The VW Defendants have known about the AEB Defect for years, as acknowledged by the small print buried in their owner's manuals. However, car purchasers – such as Plaintiffs and class members – do not typically review the manual's fine print prior to purchase.

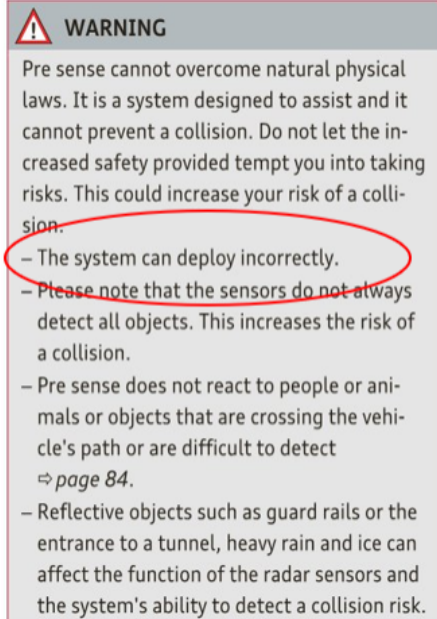
58. Specifically, when the VW Defendants first introduced the AEB Systems (called "pre sense" in Audi cars) in the 2011 Audi A8, the owner's manual warned of the possibility that

1 the system might not always detect objects. However, the manual did not disclose the opposite
2 problem at issue here – that the AEB Systems have a propensity for false detections and activations
3 and/or rendering itself unavailable.

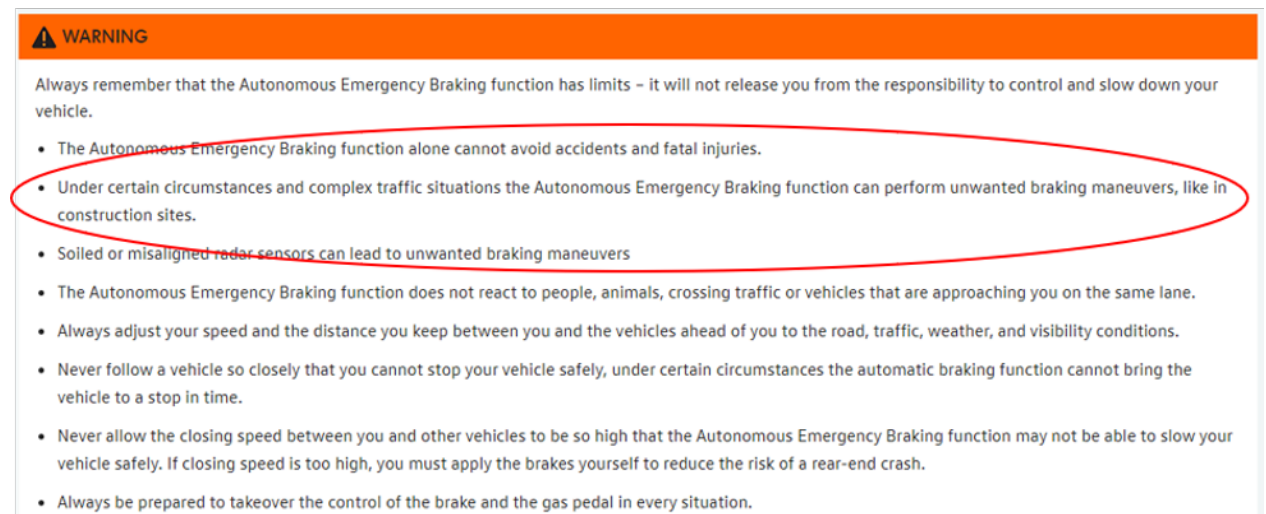
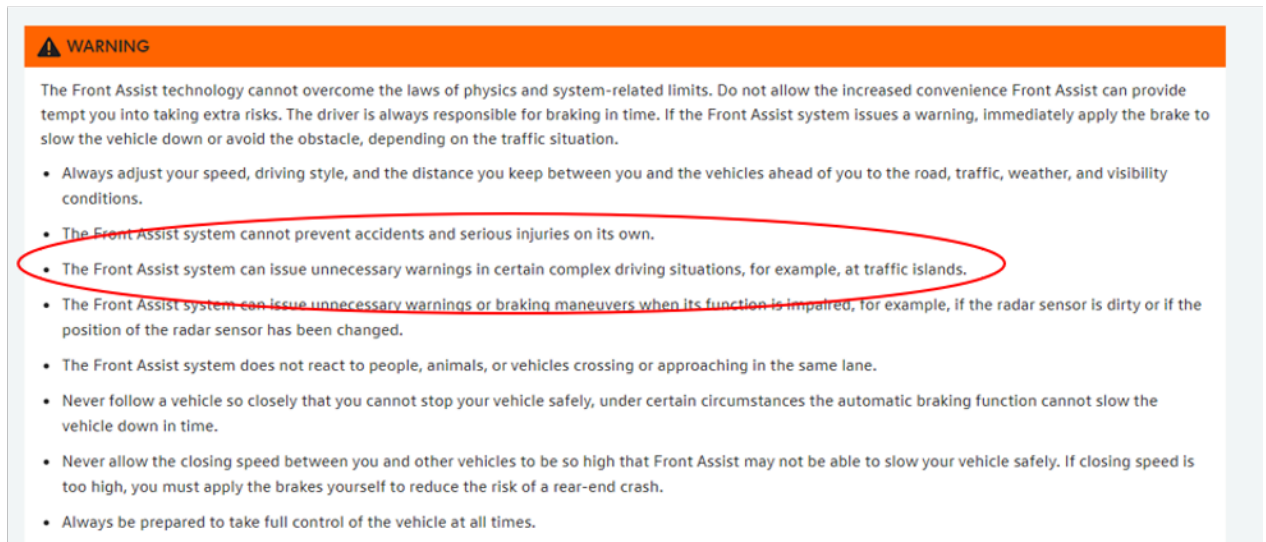
4 59. Manuals for later cars, however, did disclose the risk of false activations, albeit in
5 small print buried in the middle of manuals that were hundreds of pages long. For instance, Audi's
6 A3 model cars first included an AEB System in 2015. A small text box buried on page 94 of the
7 300-page owner's manual for that car briefly noted that the "system can deploy incorrectly due to
8 system-specific limits." However, there is no explanation of what those limits are or what
9 scenarios are likely to cause the AEB System to deploy incorrectly. The text box is depicted
10 below:



60. The owner's manual for the 2016 Audi A3 made the same disclosure in the same manner. For other cars, Audi's owner's manual simply states that "[t]he system can deploy incorrectly."



61. The owner's manuals for other VW Class Vehicles include a similar disclosure buried inside hundreds of pages. For instance, the owner's manuals for the 2015 VW Touareg and 2018 VW Jetta state:



62. These warnings about the AEB Systems were always buried in the middle of owner's manuals, which are several hundred pages long. Notwithstanding the AEB Systems being touted as a safety feature, the VW Defendants never referenced or otherwise directed potential purchasers to this hidden disclaimer. As such, Class members would only see this disclosure after

1 they purchased or leased the vehicles and if they happened to stumble upon it when reading the
2 owner's manual.

3 63. Even then, the disclosures are too vague, cursory and non-specific to adequately
4 warn anyone about the dangers of the AEB Defect. That is especially true for VW, which
5 downplayed the problem by falsely implying it would only occur in "complex driving situations,"
6 such as traffic islands or construction sites. Despite this, the VW Defendants remained silent about
7 the conditions in which the AEB Defect is known to manifest.

8 64. Although the disclosures described above did nothing to adequately warn people
9 about the AEB Defect, the fact that the VW Defendants alluded to the AEB Systems' propensity
10 for false activations demonstrates they knew about the AEB Defect before they began marketing
11 and selling the Class Vehicles with the AEB Systems.

12 2. Technical Service Bulletins

13 65. On November 2, 2018, VW released Technical Tip # 45-18-03TT entitled
14 "Autonomous Braking Event - Data Gathering." A Technical Tip is akin to a Technical Service
15 Bulletin ("TSB"). Technical Tip # 45-18-03TT describes the exact problem that Plaintiffs and
16 Class members experience and demonstrates the VW Defendants' long-standing knowledge of the
17 AEB Defect and inability to fix it:

18 Technical Background

19 The customer may have a concern their vehicle performed an unwarranted autonomous braking event.

20 66. The tip applies to every 2016-2019 VW CC, Golf, GTI, Sportwagen, Golf R, Jetta,
21 Passat, and every 2018-2019 Atlas equipped with an AEB System from Bosch.

22 67. Technical Tip # 45-18-03TT generally recommends taking the following actions:

- 23 (1) Check the diagnostic system, namely the "Distance Regulation Control
24 Module," for data that indicates whether there was an event described as a
25 "pre-warning or warning" or a "partial and-or full braking event."
- 26 (2) If there is no event data then check the sensors calibration and/or perform a
27 calibration and then "refer the customer to the owner's manual and
28

www.knowyourvw.com for an explanation of the system operation and limitations.”

- (3) If there is event data the technician is instructed to gather modules’ data and vehicle data, conduct a visual inspection for damage, note any damage or obstruction and take pictures of findings. The customer is also instructed to complete a “Front Assist Questionnaire.” Once all of these steps are done, the technician creates a “Volkswagen VTA case” and attaches all data, the questionnaire and any picture for submission to VW.

If there are only zeros in lines 5-18:

Check the MVB for -J428- misalignment angle. Ensure the angle is within specification (-0.8° to +0.8°). If it is not, perform a calibration of the -J428-. Then refer the customer to the Owner’s Manual and www.knowyourvw.com for an explanation of the system operation and limitations.

If there is any alphanumeric data in lines 5-18:

Gather MVB information (via guided functions) from AW 13 Distance Control module/Adaptive Cruise Control, AW 8B - Distance Control Module 2/Adaptive Cruise Control 2, and AW A5 Front Sensors Driver Assistance System (some vehicle may not have all modules installed). With O.D.I.S. on the OBD screen, click on each module one at a time, use the dropdown box just above the module list, and select MVB and then green forward arrow. Display all MVB information for that selected module, then on the right side menu of O.D.I.S., there is “OBD Log”, select this, then select “New”, then “Add”, then “Display”. This will then open a HTM file that can be saved to the laptop. Do this for each of the modules requested.

Conduct a visual inspection of the radar sensor(s) and driver assistance camera, their mounting brackets, and glass. Note any signs of damage or distortion. Verify the sensors are properly secured in the mounting brackets. Note if there is any damage or obstruction to the glass in the front camera location, if equipped. Inspect the front bumper cover and grille for damage, distortion, or looseness. Take pictures of any findings.

Have the customer complete the Front Assist Questionnaire, as thoroughly as possible. The questionnaire can be found on Service Net under Technician References, Technician Helpline, Worksheets/Check Sheets.

Once all information is compiled, create a VTA case. Attach the GFF log (with -J428- test plan data), all MVBs, the completed Front Assist Questionnaire, and any pictures.

68. The name of Technical Tip # 45-18-03TT – “Autonomous Braking Event - Data Gathering” – further demonstrates that the VW Defendants know about the AEB Defect but have no solution. They are merely gathering data from customers, as if the AEB Systems were still in its beta development stage.

3. Customer Complaints On Car Enthusiast Forums

69. For many years, the VW Defendants have been aware of customer complaints about the AEB Defect as a result of their online reputation management (or “ORM”) efforts. ORM is now a standard business practice among most major companies and entails monitoring consumer forums, social media and other sources on the internet where consumers can review or comment on

1 products. “Specifically, [online] reputation management involves the monitoring of the reputation
 2 of an individual or a brand on the internet, addressing content which is potentially damaging to it,
 3 and using customer feedback to try to solve problems before they damage the individual’s or
 4 brand’s reputation.”²⁵ The growth of the internet and social media, along with the advent of
 5 reputation management companies, has led to ORM becoming an integral part of many companies’
 6 marketing efforts.

7 70. Owners have been complaining for years about the AEB Defect on enthusiast
 8 websites like AudiWorld.com, AudiForums.com, and Audi-Sport.net. Owners of VW cars have
 9 made similar complaints about the AEB Defect in their cars. The number of complaints on
 10 consumer forums about the AEB Defect is unusually high, especially when compared to other car
 11 manufacturers who offer their own automatic braking systems. The VW Defendants monitor these
 12 sources in connection with ORM activities because candid comments from VW and Audi owners
 13 provide valuable data regarding quality control issues, customer satisfaction and marketing
 14 analytics. The VW Defendants would therefore have seen complaints about the AEB Defect when
 15 they first appeared online, starting as early as 2013 for Audi and 2014 for VW, if not earlier.

16 71. The VW Defendants also knew or should have known about the defect because of
 17 the similarity of complaints. The fact that so many customers made similar complaints indicates
 18 that the complaints were not the result of user error or anomalous incidents, but instead a systemic
 19 problem with the Class Vehicles. Here, the reports and complaints from consumers were similar
 20 enough to put the VW Defendants on notice that the incidents described were the result of a defect,
 21 and that the Class Vehicles were experiencing unusually high levels of complaints about the AEB
 22 Systems.

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 28 ²⁵ https://en.wikipedia.org/wiki/Reputation_management#Online_reputation_management

72. Examples of some of the many complaints about the AEB Defect in Audi cars are below:

- June 2013: “I’ve had two recent incidents where the pre sense braking almost caused two accidents. ... I love that this feature can save me from an accident, but it may get me into one first.”²⁶
- August 2016: “So the other day I was picking up my daughter from the movies and I was turning left, crossing over two lanes and when I started to go my car slammed on the brakes and half my car was sticking out in the lane of oncoming traffic. Luckily there was no traffic coming from the other direction but I guess the car thought it saw another car or something. It could have caused an accident though if there was a car coming from the other direction.”²⁷
- March 2017: “Hi all today I got fright of my life when driving back from work. I was going 50mph on the expressway when suddenly a motorbike sped past to my left. The bike was at least 3 feet away at any given time. However I got the shock of my life when my A4 suddenly applied the brakes while I had the foot resting on the accelerator. It was so sudden and jerky, on the spot I thought that another car had rammed into mine. Within a fraction of a second I was down from 50 to 30mph. The car didn’t come to a full stop. Luckily the car behind me was not tailgating, because I do not think that any human being would have fast enough reflexes to brake as fast.”²⁸
- June 2017: “I was driving down a straight road, two lanes on each side. I was in the center lane, going about 35mph, no car in front of me for at least a

²⁶ <https://www.audiworld.com/forums/s6-c7-platform-discussion-199/pre-sense-braking-out-control-leave-turn-off-2850036/>

²⁷ <https://www.audiworld.com/forums/a4-b9-platform-discussion-212/scary-audi-pre-sense-moment-2904914/>

²⁸ <https://www.audiworld.com/forums/a4-b9-platform-discussion-212/pre-sense-almost-caused-accident-2916611/>

hundred feet, a couple of cars in the outside lane, but nothing really close there either. All of a sudden the brake slammed automatically and the presense triangle was displayed on the dash. I looked around and could not figure out what possibly could have caused it.”²⁹

- December 2017: “Anyone else had issues with the audi pre-sense feature? I was sitting at a stop light Sunday AM, when all of sudden my seat belt was tensioned 3 times, really hard each time (hurt my shoulder). Each time the display said Audi Pre-Sense on it. No one was moving around me, I had been stopped for a minute. I took it in to the dealer, they can’t find anything wrong. They said when the audi pre-sense activates it makes a log, but no log entries exist! Really weird as it seems like my car attacked me.”³⁰
- December 2017: “The problem, and it is a problem, is the pre sense feature (PS) which seems to be the nanny of all nannies. A few days ago, when backing up, with absolutely NOTHING behind me, that is, no kid, no car, no tree, no anything behind me, the car suddenly braked itself, shaking and shuttering the car and, frankly, I thought I surely must have backed into something. I got out, checked, and there was nothing there. I thought this to be strange, but just let it go as I did not have the time to try to figure out what had happened. This morning, the same thing happened again....nothing behind me, the car suddenly and violently braked itself.”³¹
- July 2018: “I have had my car for a week and it triggered on me twice scaring me to an almost heart attack. I have friends who told me this is happening to them and I didn’t believe them but now I have had the honor to experience it myself. I am not in favor of this system at all and unless Audi is willing to

²⁹ <https://www.audiworld.com/forums/q5-sq5-mkii-discussion-218/presense-false-activation-2927676/>

³⁰ <https://www.audiforums.com/forum/audi-q5-76/2018-q5-audi-pre-sense-problems-226620/>

³¹ <https://www.audiworld.com/forums/s4-b9-platform-discussion-214/pre-sense-issue-2938388/>

1 make changes and get rid of these false triggers, I am turning Pre Sense off
 2 every time I start the car.”³²

- 3 • September 2018: “I am currently dealing with the same thing. Within the
 4 first 2 months of owning my new 2018 Q7 I was stopped at a light, not
 5 moving, and with no cars around me and the system scared my mother and I
 6 to death shutting down and nearly knocking the wind out of us with belts
 7 tightening. No real response that is adequate from my dealer. Just a “we
 8 can’t find anything”. To top it off a month after that the ‘Drive system failure
 9 light” came on too. Again, they have no idea. Very frustrated-- seems a
 10 system problem to me. Crossing my fingers it stops and nothing serious
 11 happens.”³³
- 12 • April 2019: “Mine has gone off several times also, the garage told me that
 13 anything could trigger it including leaves if it’s windy. It is a huge shock
 14 when it happens to you though, I gave the guy a scare behind me once when
 15 it happened. If he hadn’t reacted quickly enough and smalled his own brakes
 16 on, I’m not sure where I’d sit liability wise?!?!?”
- 17 • August 2019: “Reading this forum a few weeks too late....just got a new 2019
 18 Q5. Happily driving around then...wham! Seatbelt and brakes. I was in my
 19 own lane and wondered what the heck just happened?! Turns out a passing
 20 bus can trigger the pre-sense. In what world would engineers decide that
 21 close city driving merits an anxiety causing dangerous situation? Same thing
 22 happened with a passing bike. Then parking the car.”³⁴

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 26 ³² <https://www.audiworld.com/forums/s4-b9-platform-discussion-214/audi-pre-sense-scared-sh%2At-out-me-2953219/>

27 ³³ <https://www.audiforums.com/forum/audi-q5-76/2018-q5-audi-pre-sense-problems-226620/>

28 ³⁴ <https://www.audiforums.com/forum/audi-q5-76/2018-q5-audi-pre-sense-problems-226620/>

73. Examples of some of the many complaints from VW owners about the AEB Defect in their cars follow:

- August 2014: “Today I had my first error from Front Assist at what couldn’t have been a worse moment....at 75mph in the fast lane passing a juggernaut. There was nothing unusual about the situation. Clear blue skies, dry motorway, lorry in his own lane, reasonably close to the line but not overlapping it, nothing in front of me at all. I was already about a car’s length past him when suddenly Front Assist gave the audible warning and slammed on the brakes. Being a system with which one has no immediate override at all, other than to obey, I realised within that second that the best thing I could do was in fact to brake in order to let it know that I’d seen whatever it thought I was about to hit. Indeed it did release the brakes, but not before the cars behind me had nearly piled into the back of me for my sudden unexplained braking.”³⁵
- October 2014: “Twice now the front assist has kicked in due to someone pulling off to the left in front of me The third was a bit different, around 40mph traveling along a busy road with nothing in front of me, nothing coming towards me and a couple of cars behind me, the car decided to slam on the brakes, throw up the front assist warning in my face and give it death with the beeping carry on. All this time my foot was on the accelerator, both hands on the wheel, my girlfriend went mental because she thought I’d done it on purpose?”³⁶
- March 2015: “Yesterday I was driving on a small road into works and when approaching a metal plate to cover some works on the road, the car suddenly applied full brakes, showing the front assist symbol in the display. It was raining, with cars coming from front in the other lane but no one in front of

³⁵ <https://www.vwroc.com/forums/topic/6069-front-assist-error-motorway-warning-for-all/>

³⁶ <https://www.vwroc.com/forums/topic/6697-another-front-assist-problem/#comments>

me in my direction. I was driving slow because of works and I was going to brake a bit to reduce speed to pass over the metal plate, but then the car applied full brakes with no apparent reason and no beep before. I get frightened, as a car coming in the rear almost hits me, and I've no vehicle in the front to justify the intervention by Front Assist."³⁷

- March 2016: "Today, with no car in front of me (open road), warning AND brakes kicked in."³⁸
- August 2018: "Hi, I've been in some dangerous situations since purchasing our Atlas in February. The front assist system will break almost every time I come out of a parking lot. It's so strange and scary. I have reached out to VW and they said there is no way to permanently disable this feature, so I need to remember to deactivate in the car settings every time I drive which I don't always remember to do. Is this happening to anybody else?!"³⁹
- November 2018: "Had my Polo beats for about a week now. Loving it, apart from the 'front assist' which is scaring the bejesus out of everyone."⁴⁰

4. Customer Complaints To NHTSA

74. There have also been an unusually high number of complaints to NHTSA about the AEB Defect. The VW Defendants monitor those complaints as part of its online reputation management and/or to identify potential defects in its vehicles. Monitoring complaints to NHTSA also serves as an early warning mechanism to spot defects that cause safety hazards.

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³⁷ <https://www.golfmk7.com/forums/showthread.php?t=13018>

³⁸ <https://forums.vwvortex.com/showthread.php?p=8110049-Front-Assist-kicked-in-with-no-car-in-front-of-me>

³⁹ <https://www.vwatlasforum.com/forum/170-volkswagen-atlas-complaints-issues-problems/2571-front-assist-system-breaking-when-shouldn-t.html>

⁴⁰ <https://uk-polos.net/viewtopic.php?t=72177>

a. Complaints Concerning Audi Vehicles

75. The earliest Audi complaints first appeared on NHTSA's website in approximately April 2015 and are reproduced below:

• **April 21, 2015**

AUDI BRAKE GUARD ACTIVATED SPONTANEOUSLY BECAUSE THE CAR SENSED AN IMPENDING IMPACT WITH A VEHICLE IN FRONT OF ME. HOWEVER, THERE WAS NO VEHICLE IN FRONT OF ME, BUT THE BRAKE GUARD APPLIED STRONG BRAKING ACTION ON AN OPEN ROAD, BRINGING ME TO AN IMMEDIATE STOP. HAD THERE BEEN A CAR BEHIND ME, IT WOULD HAVE LIKELY HIT MY VEHICLE, SINCE I CAME TO A SUDDEN STOP ON AN UNOBSTRUCTED ROADWAY FOR NO REASON.

76. Complaints for the 2017 Audi A3 are similar:

• **June 1, 2017**

ON ANOTHER OCCASION A PRE SENSE MALFUNCTION OCCURRED WHERE THE CAR SLAMMED ON ITS BRAKES IN TRAFFIC AND ALMOST CAUSED A REAR END COLLISION. THE DEALERSHIPS HAVE NO ANSWERS FOR THE FIRST PART, BUT CLAIM A BUG ON THE SENSORS CAUSED THE CAR TO SLAM ON ITS BRAKES.

77. Complaints for the 2017 Audi A4 are similar:

• **November 8, 2016**

A FEW DAYS AGO I HAD AN ACCIDENT. I MADE A LEFT TURN ONTO THE EXPRESSWAY RAMP AT 42 MPH. THE ROAD WAS WET AND AUDI IN THE MIDDLE OF THE TURN ACTIVATED "PRECRASH SENSORS" AND BEGAN TO BRAKE HARD AND THE SYSTEM LOCKED THE STEERING WHEEL. THE CAR WAS COMPLETELY UNCONTROLLABLE AND CRASHED THE FRONT WHEEL INTO THE HIGH CURB, WHICH DAMAGED THE WHEELS, RIM AND AXLES.

THE AUDI EXCHANGE DEALERSHIP IN IL CHECKED AND THE SENSORS ARE FUNCTIONING PROPERLY. THEY CLAIMED THAT I IMAGINE THINGS THAT DO NOT EXIST AS THEY SAID IT WAS IMPOSSIBLE FOR THE CAR TO TAKE CONTROL AND TO BRAKE THE CAR. THEY ALSO SAID I DO NOT HAVE THESES FEATURE ON THE CAR, BUT THE CAR IS SO EQUIPPED WITH THIS TECHNOLOGY. (BECAUSE MANY TIMES IT HAPPENED TO ME OUT OF THE CAR STARTED TO BRAKE WITHOUT A REASON TO BRAKE, WHEN I TRIED TO GO AROUND BIKERS AT THE SAFE DISTANCE, OR WHEN PARKING. WHEN I MADE THE COMPLAINT IN THE AUDI DEALER THEY TOLD ME THAT THIS IS NOT POSSIBLE, AND LAUGHED IN JUNE).

1 • **May 13, 2018**

2 AFTER HAVING THIS VEHICLE FOR 18 MONTHS THE CAR BEGAN TO
3 FREEZE WHILE BACKING UO. THERE ARE NO OBJECTS, CARS OR
4 HUMANS ANYWHERE AROUND THE VEHICLE WHEN THIS OCCURS.
5 THE CAR WAS MOVING AT A VERY LOW SPEED WHEN ALL OF A
6 SUDDEN THE AUTO LOCKS UP AND THE BRAKES ENGAGE, YOU HAVE
7 TO STEP ON THE BRAKE IN ORDER TO RELEASE THE VEHICLE. THIS
8 OCCURS WHILE BACKING OUT OF A PARKING SPACE, MY GARAGE
9 WHERE THERE IS NOTHING NEAR THE VEHICLE. I HAVE TAKEN THE
10 CAR TO AUDI 3 TIMES AND EACH TIME THEY TELL ME THERE IS
11 NOTHING WRONG WITH THE VEHICLE. I HAVE ALSO CONTACTED
12 AUDI USA NUMEROUS TIMES AND WAS AGAIN TOLD THERE IS
13 NOTHING WRONG WITH THE VEHICLE. I CONTACTED AUDI'S
14 EXECUTIVE OFFICES AS WELL.

15 • **July 27, 2018**

16 THE FRONT CRASH MITIGATION SYSTEM CALLED AUDI PRESENCE
17 DOES NOT WORK ON MY CAR. I BOUGHT AN AUDI CERTIFIED
18 PREOWNED VEHICLE THAT WAS SUPPOSED TO HAVE ORIGINAL
19 WINDSHIELD TO FIND OUT 6 MONTHS AFTER I OWN CAR THAT
20 WINDSHIELD WAS REPLACED AND PRESENCE DOES NOT WORK. THIS
21 IS A REQUIRED SAFETY SYSTEM IN MY CAR AND WILL COST 1700 TO
22 REPAIR. AUDI OF AMERICA REFUSES TO FIX THIS UNDER WARRANTY
23 DESPITE THIS BEING A FAULTY SYSTEM. THEY WILL NOT EVEN
24 RETURN MY CALLS OR EMAILS. THE PRESENCE SYSTEM STOPS THE
25 CAR SO AN ACCIDENT DOES NOT OCCUR

26 78. Complaints for the 2019 Audi A4 are similar:

27 • **April 25, 2019**

28 ON APRIL 25, 2019 I WAS DRIVING ON A CITY STREET AND THE AUDI
PRE SENSE UNEXPECTEDLY ACTIVATED QUITE VIOLENTLY FOR
ABOUT 2 SECONDS AND THEN TURNED OFF. WHILE IT DID NOT STOP
THE CAR COMPLETELY IT DID REDUCE MY SPEED SIGNIFICANTLY. AT
THE TIME I WAS THE ONLY CAR ON THE ROAD; THAT IS, THERE WERE
NO OTHER CARS WITHIN SIGHT OF MINE. THERE WAS NO DAMAGE
THAT I CAN SEE TO THE CAR BUT I TRUST YOU CAN UNDERSTAND
THAT THIS COULD HAVE BEEN A MUCH WORSE SITUATION IF
SOMEONE HAD BEEN FOLLOWING CLOSELY BEHIND ME. I ALSO
TRUST YOU UNDERSTAND THAT THIS UNEXPECTED BRAKING IS
UNACCEPTABLE. THE AUDI SERVICE ADVISOR TOLD ME HE HAS SEEN
THIS PHENOMENON BEFORE BUT AUDI HAS NO EXPLANATION OR
SOLUTION TO THE PROBLEM

79. Complaints for the 2018 Audi S5 are similar:

- **January 26, 2018**

FORWARD COLLISION WARNING AND MITIGATION SYSTEM (PRE SENSE CITY) DID NOT WORK TO PREVENT AN ACCIDENT WHERE I REAR ENDED A CAR THAT WAS STATIONARY. NO WARNING OR ACTION WAS TAKEN BY THE CAR. POLICE REPORT ATTACHED.

80. Complaints for the 2018 Audi Q5 are similar:

- **April 3, 2019**

AUDI PRE-SENSE ACTIVATED WHILE VEHICLE WAS STATIONARY, IN DRIVE, WITH DRIVERS FOOT ON THE BRAKE. THIS OCCURRED WHILE WAITING IN THE LEFT TURN LANE OF A TRAFFIC LIGHT. THE SEAT BELT PRE-TIGHTENED SUDDENLY, AND FORCEFULLY. WHILE THE VEHICLE IS STOPPED AT A LIGHT THE OCCUPANTS COULD BE EXPECTED TO BE LEANING OVER, LOOKING IN THE GLOVE BOX ETC., AND THE PRE-TIGHTENING OF THE SEAT BELT COULD CAUSE AN INJURY. THIS IS ALSO STARTLING, SINCE IT SEEMS INDICATIVE OF A COLLISION, AND COULD CAUSE THE DRIVER TO REMOVE THEIR FOOT FROM THE BRAKE LOSING CONTROL OF THE VEHICLE. THE PRE-SENSE SYSTEM IS SUPPOSED TO ONLY BE ACTIVE ABOVE 20MPH. ITS ACTIVATION WHEN THE VEHICLE IS STOPPED IMPLIES A SERIOUS SAFETY DEFECT. COULD THIS DEFECT CAUSE OTHER SAFETY RELATED SYSTEMS TO ACTIVATE INCORRECTLY LIKE THE AIR BAGS?

81. Complaints for the 2018 Audi SQ5 are similar:

- **October 1, 2018**

THE CONTACT OWNS A 2018 AUDI SQ5. WHILE DRIVING APPROXIMATELY 25 MPH, THE COLLISION AVOIDANCE SYSTEM ERRONEOUSLY ACTIVATED AND CAUSED THE VEHICLE TO ABRUPTLY STOP. THERE WERE NO OTHER VEHICLES IN THE VICINITY AT THE TIME OF THE FAILURE. THE CONTACT INDICATED THAT THE FAILURE ALSO OCCURRED WHILE DRIVING IN REVERSE. THE FAILURE WAS NOT DIAGNOSED OR REPAIRED. THE LOCAL DEALER (BELL AUDI, 782 US1, EDISON, NJ) WAS NOTIFIED OF THE FAILURE. THE MANUFACTURER WAS NOT NOTIFIED. THE FAILURE MILEAGE WAS 1,500.

82. Complaints for the 2017 Audi Q7 are similar:

- **September 15, 2017**

HAD SENT CAR IN DEALERSHIP TWO TIMES TO REPAIRING AUTO BRAKE PROBLEMS (THIS CAR DID NOT STOP BUT SPEED UP EVEN FRONT CAR VERY CLOSE, I NEED USE BRAKE TO PREVENT FORWARD COLLISION MULTIPLE TIMES), STILL DID NOT FIXED, WENT ON 7/8/2017 WITHOUT APPOINTMENT, DEALER SCHEDULE FULL.

- **August 22, 2018**

PRE-SENSE SYTSTEM NEARLY CAUSED ACCIDENT ON TWO OCCASIONS WHERE THERE WAS NO REASON FOR IT TO STOP THE CAR... CAR SUDDENLY CUT FUEL AND BRAKED TO A STOP.

- **August 31, 2018**

I WAS ACCELERATING TO ENTER ONTO INTERSTATE I-30 AT 9:00AM ON A NICE SUNNY DAY, THERE WERE NO OTHER VEHICLES WITHIN 200' OF MY VEHICLE AND THE "PRE-SENSE" SYSTEM CAUSED THE BRAKES TO AUTOMATICALLY SLAM ON (TWICE) TO STOP THE CAR. OUT OF THE CORNER OF MY EYE I SAW A PIECE OF PAPER FLOATING ACROSS THE FRONT OF MY CAR AND WONDERED IF THAT WAS WHAT THE CAR "SAW" OR SENSED THAT CAUSED IT TO BRAKE. THANK GOODNESS NO ONE WAS BEHIND ME!

83. Complaints for the 2018 Audi Q7 are similar:

- **April 9, 2018**

THE CAR WOULD FLAG AUDI PRE SENSE WARNINGS AND FORCE THE CAR TO STOP IN THE MIDDLE OF INTERSECTIONS, MID TURN. ONCOMING TRAFFIC WAS ESTIMATED AT 150 YARDS FROM THE INTERSECTION WHEN THE CAR JAMMED TO A STOP. THE SENSORS APPEAR TO STOP THE CAR AFTER IDENTIFYING A FALSE READ. THE CAR IS THEN STALLED IN THE MIDDLE OF AN INTERSECTION CAUSING SIGNIFICANT SAFETY RISK.

- **August 1, 2018**

THE CONTACT STATED THAT THE AUTONOMOUS BRAKE ASSIST FUNCTION ENGAGED MORE THAN TWICE WITHOUT WARNING. THE FAILURE OCCURRED WHILE AT AN INTERSECTION AND UPON MAKING A LEFT TURN. THE VEHICLE HAD COME TO A COMPLETE STOP WHEN A RED WARNING INDICATOR ILLUMINATED AND INDICATED TO TAKE THE VEHICLE TO THE DEALER FOR SERVICING. THE CONTACT WAS UNCERTAIN IF THE DRIVER ASSIST FUNCTION WAS FAULTY AND COULD CAUSE A CRASH. AUDI ASHEVILLE (621 BREVARD RD, ASHEVILLE, NC 28806, (828) 232-4000) INITIALLY INDICATED THAT THIS WAS A NORMAL CONDITION. AFTER THE FAILURE RECURRED, THE VEHICLE WAS TAKEN BACK TO THE DEALER FOR FURTHER DIAGNOSTIC TESTING. THE MANUFACTURER WAS NOTIFIED AND THE CONTACT WAS WAITING TO DETERMINE IF THEY HAD A REMEDY. THE FAILURE MILEAGE WAS NOT AVAILABLE.

- **April 2, 2019**

AUDI HAS A PRE SENSE FEATURE THAT WILL AUTOMATICALLY SLAM ON THE BRAKES. IT FAILS CONSTANTLY AND SLAMS ON THE BRAKES AT VARIOUS TIMES. SO FAR IT HAS BEEN AT SLOW SPEEDS, BUT SOMEONE IS GOING TO GET KILLED BY THIS FEATURE. THERE IS NO

WAY TO AUTOMATICALLY TURN IT OFF, AND IT TURNS ON EVERY TIME YOU RESTART THE CAR

84. Complaints for the 2019 Audi Q7 are similar:

- **March 22, 2019**

FRONT BRAKES ENGAGED WHILE DRIVING WITHOUT WARNING. REAR BRAKES OK. FRONT BRAKES OVERHEATED BEFORE I COULD SAFELY STOP. SMOKE FROM FRONT BRAKES EVIDENCED THE OVERHEATING. TOWED TO DEALERSHIP WHO COULD NOT DUPLICATE THE PROBLEM.

85. Complaints for the 2019 Audi A7 are similar:

- **June 17, 2019**

PURCHASED 2019 AUDI A7 BRAND NEW. CURRENTLY HAVE APPROXIMATELY 2800 MILES (2 MONTH OLD CAR). HAS PRESTIGE PACKAGE WITH DRIVER ASSISTANCE OPTION. THERE HAVE BEEN MULTIPLE INSTANCES WHERE THE DRIVER ASSISTANCE SUDDENLY AND SIGNIFICANTLY SLOWS THE CAR WITHOUT ANY CAR/OBJECT IN FRONT. THIS HAS HAPPENED TO ME ON MULTIPLE OCCASIONS ON LOCAL ROADS (HASN'T HAPPENED ON FREEWAY SPEEDS YET). USUALLY HAPPENS 30-50MPH LOCAL ROADS. THE CAR/DRIVER ASSISTANCE "SLAMS ON THE BRAKES." THIS CAN BE SCARY AND VERY DANGEROUS ESPECIALLY WHEN A CAR IS BEHIND.

b. Complaints Concerning Volkswagen Vehicles

86. The earliest complaints for VW Class Vehicles first appeared on NHTSA's website in approximately January 2016 as shown below starting with the 2016 VW Passat:

- **January 12, 2016**

MY 2016 VOLKSWAGEN PASSET SE MODEL CAR APPLIES THE BRAKES WHILE IN MOTION ON ITS OWN. THIS HAS OCCURRED 6 TIMED OVER THE PAST 7 MONTHS. I BOUGHT THIS VEHICLE ON DECEMBER 12 2015. IT IS GETTING WORSE EACH TIME. ONE TIME IT HAPPENED AS I WAS ABOUT 100 FEET FROM A INTERSECTION. NO ONE WAS IN FRONT OF ME. I WAS THE ONLY ONE ON THE ROAD AT THE TIME. I WAS DURING THE DAY AND THEN ALL OF A SUDDEN THE BREAK APPLIED. REALLY SCARED ME. ANOTHER TIME IT HAPPENED APPROACHING RAILROAD TRACKS. THIS TIME THE BRAKES APPLIED REALLY HARD. IT WAS BAD EVERY THING FLEW AROUND THE CAR. A COUPLE OF TIMES I HEARD A BEEPING NOISE. LIKE A WARNING BEEP. THERE IS A ILLUMINATED CAR ON A CURVY RAD ON THE DASH WHEN THIS HAPPENS. THIS IS A VERY DANGEROUS CAR. I AM AFRAID THIS WILL HAPPEN WHEN I AM DRIVING AT HIGH RATES OF SPEED. I HAVE CONTACTED VW ABOUT THIS ISSUE AND THEY DO NOT SEEM VERY CONCERNED. I AM SHOCKED AT THERE OUTCOME. IT HAS BEEN IN THE SHOP FOR 3 WEEKS NOW. I TOOK IT IN ON JUNE 22 2016. THEY WANT ME TO PICK

UP ON JULY 12 2016. IT HAS BEEN THERE 3 WEEKS. I AM VERY AFRAID OF THE VEHICLE PLEASE HELP ME WITH THIS ISSUE. LIKE I SAID EARLIER IN THIS NOTE. IT HAS HAPPENED 6 TIMES AND WILL CONTINUE TO HAPPEN. VW TOLD ME THAT IT WILL CONTINUE TO HAPPEN. PLEASE MAKE THEM RECALL THIS ISSUE.

- **June 1, 2017**

I HAVE A 2016 VOLKSWAGEN PASSAT SE THAT I LEASED ABOUT A YEAR AND A HALF AGO. A LITTLE OVER A MONTH AGO THE CAR BRAKED ON ITS OWN WITH MYSELF, MY MOTHER, SISTER, AND MY 2 YEAR OLD SON IN THE CAR FOR ABSOLUTELY NO REASON GOING 45 MILES PER HOUR. THE NEXT INCIDENT THE CAR DECIDED IT WAS NOT GOING TO BRAKE AND WE HAD TO STEP ON THE BRAKES SO HARD TO GET ANY KIND OF REACTION, ALMOST CAUSING AN ACCIDENT. AT THIS POINT WE TOOK IT TO VW AND THEY ARE CLAIMING THERE IS NO ISSUES WITH THE CAR; I BEG TO DIFFER! YESTERDAY AGAIN THE CAR BRAKED ON ITS OWN GOING 30 MILES AN HOUR FOR ABSOLUTELY NO REASON. TOOK THE CAR TO MY PERSONAL MECHANIC PRIOR TO TAKING IT TO VW AND A PIC OF WHAT CAME UP ON THEIR DIAGNOSTIC COMPUTER IS UPLOADED. THE VW DEALERSHIP I TOOK IT TO AFTER KEEPING IT TWO WEEKS CLAIM THERE IS NOTHING WRONG WITH THE CAR; HOWEVER, THEY RESET MY COMPUTER IN THE CAR AND NOW THE CAR IS SHOWING NO CODES.

THERE WAS A SIMILAR INCIDENT REPORTED ON CARCOMPLAINT.COM SAME YEAR, MODEL AND TRIM AS MINE.

- **February 12, 2018**

AT SPEED OF 40-60 MPH, WITH THE ADAPTIVE CRUISE CONTROL ENGAGED, THE CAR WILL BRING THE CAR TO 5-10 MPH RAPIDLY, BY SLAMMING ON THE BRAKES WITH NO OTHER VEHICLE IN FRONT OF IT. THIS HAS OCCURRED MULTIPLE TIMES, AND HAS BEEN REPORTED, BUT NOT DUPLICATED AT THE DEALER. THE CAR HAS ALSO SLOWED ITSELF, UNDER THE ADAPTIVE CRUISE CONTROL, IN OTHER SITUATIONS WHERE THERE WAS NO VEHICLE IN FRONT OF IT.

- **June 5, 2018**

I OFTEN WILL BE DRIVING AND CAR SLAMS ON BRAKES BY ITSELF CAUSING ME TO NEARLY WRECK AND ALSO TWICE I'VE HAD AIR BAG LIGHTS APPEAR AND CLICKING STEERING WHEEL

87. Complaints for the 2017 VW Passat are similar:

- **March 8, 2017**

THE CONTACT OWNS A 2017 VOLKSWAGEN PASSAT. WHILE DRIVING 45 MPH, THE BRAKE PEDAL INDEPENDENTLY ENGAGED AND THE

1 TRACTION CONTROL WARNING INDICATOR ILLUMINATED. THE
2 CONTACT STATED THAT THE FAILURE RECURRED MULTIPLE TIMES.
3 THE VEHICLE WAS NOT DIAGNOSED OR REPAIRED. THE
4 MANUFACTURER WAS NOTIFIED OF THE FAILURE. THE FAILURE
5 MILEAGE WAS 400.

6 • **November 21, 2017**

7 I OWN A 2017 VOLKSWAGEN PASSAT SEL PREMIUM.

8 ONE OF MY PRIMARY CONCERNS IS THAT THE AUTONOMOUS
9 EMERGENCY BRAKING SYSTEM DOES NOT FUNCTION ACCORDING TO
10 PAGE 271 OF THE OWNER'S MANUAL, OR AS PROMOTED BY THEIR
11 DEALERS, AND IN TV COMMERCIALS.

12 I TOOK MY PASSAT TO TWO DEALERS, BOTH SUPPOSEDLY CHECKED
13 IT AND SAID IT TESTED 100%

14 A WEEK LATER, THE CAR DID NOT SLOW AT ALL WHEN I WAS CLOSE
15 TO A VEHICLE IN FRONT OF ME GOING 65 MILES AND HOUR AND IT
16 SLAMMED ON ITS BRAKES. IF I HAD NOT BEEN PAYING ATTENTION, A
17 SERIOUS ACCIDENT WOULD HAVE OCCURRED.

18 I WROTE A LETTER REGARDING MY CONCERNS TO MR. HINRICH
19 WOEBCKEN, CEO OF VW OF AMERICA. THE RESPONSE FROM VW WAS
20 THAT MY SYSTEM WORKS FINE ACCORDING TO THEIR DEALERS, AND
21 THEY WILL DO NOTHING FURTHER FOR ME!

22 AFTER THAT, I DID SOME RESEARCH AND DISCOVERED THE RESULTS
23 OF FRONT COLLISION PREVENTION TESTING THAT WAS DONE BY THE
24 INSURANCE INSTITUTE FOR HIGHWAY SAFETY. THEIR TESTS ON 2017
25 CARS INCLUDED THOSE OF OVER 20 MANUFACTURERS.

26 THERE ARE 3 DIFFERENT PARTS TO THE TEST:

27 FORWARD COLLISION WARNING (ON THE PASSAT THIS IS A TWO CAR
28 SYMBOL IN THE INSTRUMENT CLUSTER)

LOW SPEED AUTO BRAKE (THIS IS FOR SPEED UNDER 12 MPH)

HIGH-SPEED AUTO BRAKE (THIS IS FOR SPEEDS OVER 25 MPH)

THE RESULTS OF THESE TESTS SHOWS THAT ALL COMPARABLE
MANUFACTURER'S SEDANS EITHER SCORED 2 OR 3 POINTS ON THE
HIGH-SPEED AUTO BRAKE TEST. HOWEVER THE VW PASSAT SCORED
"0" POINTS, AND WAS UNABLE BRAKE THE CAR OR REDUCE THE CAR
SPEED AT ALL! THE 2017 VW TOUAREG ALSO FAILED THE HIGH- SPEED
AUTO BRAKE PORTION OF THE TEST.

I FEEL THAT VW NEEDS TO INFORM OWNERS, AND STOP ADVERTISING THAT THEIR CARS HAVE A FUNCTIONING HIGH-SPEED AUTO BRAKING, AS THEY DO NOT! THEY SHOULD QUICKLY COME UP WITH A FIX, AND RECALL ALL 2016 TO 2018 PASSATS, AND OTHER MODELS THAT HAVE THIS FAULTY SYSTEM!

DRIVERS HAVE A FALSE SENSE OF SECURITY FOR A SYSTEM THAT DOES NOT WORK!

- **July 13, 2019**

THE CONTACT OWNS A 2017 VOLKSWAGEN PASSAT. WHILE DRIVING APPROXIMATELY 45 MPH WITH NO OTHER VEHICLES CLOSE TO THE CONTACT'S VEHICLE, THE AUTONOMOUS BRAKING SYSTEM ENGAGED AND THE VEHICLE BRAKED SUDDENLY. THE MANUFACTURER WAS NOTIFIED OF THE FAILURE. THE VEHICLE WAS NOT DIAGNOSED OR REPAIRED. THE DEALER WAS NOT CONTACTED. THE APPROXIMATE FAILURE MILEAGE WAS 39,090.

88. Complaints for the 2017 VW Golf are similar:

- **May 27, 2019**

WHILE IN THE NUMBER 2 LANE ON THE FREEWAY, USING CRUISE CONTROL, WE APPROACHED A SEMI TRUCK IN THE NUMBER 3 LANE. WE WERE MOVING MORE QUICKLY THAN THE SEMI TRUCK AND DID NOT CHANGE LANES NOR DID THE SEMI TRUCK. THE FREEWAY WAS STRAIGHT. THE AUTOMATIC BRAKING SYSTEM TURNED ON AND ENGAGED THE BRAKES WHEN OUR CAR REACHES APPROXIMATELY THE REAR AXLE OR IS NEXT TO THE BACK MIDDLE OF THE SEMI TRUCK. BRAKES ENGAGE IN THE SAME FASHION THEY DO AS IF THERE WAS A HAZARD IN FRONT OF US. TO BE CLEAR, NOTHING AT ALL IS IN FRONT OF US, JUST THE SEMI TRUCK TO OUR RIGHT.

89. Complaints for the 2018 VW Golf are similar:

- **March 1, 2019**

THE "FRONT ASSIST" SYSTEM ON A 2018 VW GOLF R IS PRONE TO MAKING UNSAFE ABRUPT STOPS IN TRAFFIC.

IF A LEADING CAR MAKES AN ABRUPT STOP, THE FRONT ASSIST SYSTEM APPLIES INSTANT HEAVY BRAKING EVEN WHEN THE DRIVER IS ALREADY BRINGING THE CAR TO A SMOOTH STOP AT A SAFE DISTANCE. THIS DOUBLE-BRAKING RESULTS IN UNEXPECTED SKIDDING AND RISKS A REAR-END COLLISION WITH FOLLOWING CARS.

90. Complaints for the 2018 VW Atlas are similar:

- **December 13, 2017**

I CAME TO A FULL STOP AS I WAS ABOUT TO EXIT A DRIVEWAY. SINCE THERE WERE NO VEHICLES APPROACHING FROM EITHER DIRECTION AND THERE WERE NO OBSTACLES IN FRONT OF ME, I STATED TO PULL OUT OF THE DRIVEWAY WHEN THE AUTONOMOUS EMERGENCY BRAKING SYSTEM SUDDENLY AND ABRUPTLY STOPPED MY VEHICLE WITH NO JUSTIFICATION. THIS TYPE OF SYSTEM FAILURE CAN RESULT IN INJURY.

- **March 1, 2018**

THE CONTACT OWNS A 2018 VOLKSWAGEN ATLAS. WITHIN WEEKS OF OWNING THE VEHICLE, THERE WAS A FAILURE WITH THE STRUT MOUNTED SYSTEM. FURTHERMORE, AN ABNORMAL RATTLING NOISE WAS HEARD ON BOTH SIDES OF THE FRONT END OF THE VEHICLE. IN ADDITION, THE FRONT ASSIST WITH AUTONOMOUS EMERGENCY BRAKING SYSTEM ENGAGED SEVERAL TIMES WITHOUT WARNING. THE FAILURE CAUSED THE VEHICLE TO SEIZE WHILE IN MOTION WITH NO OTHER VEHICLE NEARBY. THE DEALER (DANBURY VOLKSWAGEN, 29 SUGAR HOLLOW RD, DANBURY, CT 06810, (203) 744-5201) HAD THE VEHICLE FOR OVER TWO MONTHS FOR SERVICING. THE CAUSE OF THE FAILURES WAS NOT DETERMINED. THE MANUFACTURER WAS NOTIFIED. THE FAILURE MILEAGE WAS NOT AVAILABLE.

- **April 15, 2018**

WHEN DESCENDING AN INCLINE AT SLOW SPEED TO TURN ONTO A ROADWAY THE SENSOR PERCEIVES THE ROAD AS AN OBSTACLE WHICH CAUSES THE CAR TO AUTO-STOP PARTIALLY IN THE ROAD. I THEN HAVE TO DISENGAGE THE EMERGENCY BRAKE AND BEGIN AGAIN. THIS IS TOTALLY UNSAFE. IT HAS HAPPENED 10 TIMES WHEN LEAVING MY OWN DRIVEWAY.

- **May 24, 2018**

THE DRIVER SIDE, FRONT WHEEL SUSPENSION SYSTEM HAS BEEN REPLACED TWICE DUE LOUD VIBRATION NOISES, RATTLING NOISES, AND REPEATED STEERING ISSUES. THE STEERING WHEEL VIOLENTLY JERKS TO THE RIGHT OR LEFT AND PULLS THE CAR OUT OF THE DESIRED DIRECTION OF TRAVEL. THE VW ATLAS IS AT THE DEALERSHIP SERVICE DEPARTMENT FOR A THIRD TIME SINCE DATE OF PURCHASE (FEB 2018) FOR THE SAME STEERING ISSUES AND NOISE ISSUES.

THE "AUTO-BRAKING" SYSTEM THAT'S DESIGNED TO PREVENT REAR END COLLISIONS HAS MALFUNCTIONED ON TWO SEPARATE OCCASIONS. BOTH MALFUNCTIONS WERE WHEN PULLING OUT OF A PARKING LOT WITH A DOWNGRADED SLOPE TOWARD THE STREET. ON BOTH OCCASIONS, AS I WAS PULLING OUT OF THE PARKING LOT

TO MERGE INTO MOVING TRAFFIC, THE ELECTRONIC BRAKING SYSTEM ENGAGED AS THE CAR WAS MOVING DOWN THE SLOPED PARKING LOT EXIT LEAVING THE VW ATLAS FROZEN IN PLACE AS STREET TRAFFIC WAS RAPIDLY APPROACHING. I HAD TO PUT THE VW ATLAS IN "PARK" AND BACK IN "DRIVE" IN ORDER TO RELEASE THE ELECTRONIC BREAK SYSTEM. THIS AUTO-BREAKING FEATURE HAS CREATED TO SAFETY SITUATIONS WHERE MY VW ATLAS WAS COMPLETELY STOPPED WHILE ATTEMPTING TO MERGE WITH MOVING TRAFFIC, NEARLY CAUSING ACCIDENTS IN BOTH SITUATIONS.

- **May 30, 2018**

2018 ATLAS SEL, EQUIPPED WITH AUTONOMOUS BREAKING TO "PREVENT" COLLISIONS. WHEN VEHICLES TRAVEL DOWN AN INCLINE LIKE A DRIVEWAY, THE EMERGENCY BREAKING FEATURE WILL UNEXPECTEDLY ENGAGED, CAUSING THE VEHICLE TO COME TO A COMPLETE AND SUDDEN STOP. WHEN THIS OCCURS, I HAVE NO CONTROL OVER THE CONTINUED MOVEMENT OF THE VEHICLE. I AM REQUIRED TO CHANGE GEARS AND/OR RESTART THE VEHICLE IN ORDER TO MOVE THE VEHICLE AGAIN. THIS POSES A EXTREME SAFETY ISSUE AS THE VEHICLE WILL SHUT DOWN WHEN YOU ARE ATTEMPTING TO PULL OUT OF A PRIVATE DRIVE AND ON TO A ACTIVE ROADWAY, INCREASING THE RISK OF A SIDE ON VEHICLE COLLISION. ISSUE WAS REPORTED TO VW SERVICE DEPARTMENT. SERVICE MANAGER WAS ABLE TO DUPLICATE THE ISSUE. SERVICE MANAGER ALSO TESTED ANOTHER VW ATLAS ON THE SALE LOT WITH THE SAME FEATURE. STRIVE MANAGER REPORTED THAT THE SAME ISSUE OCCURRED WITH THE OTHER ATLAS AS WELL. SERVICE DEPARTMENT WAS UNABLE TO CORRECT THE ISSUE, REPORTING THE VEHICLE IS "OPERATING AS DESIGNED." ISSUE WAS REPORTED TO VOLKSWAGEN. AFTER A THREE WEEK PERIOD, VOLKSWAGEN REPORTED THAT THEY WERE DECLINING TO TAKE FURTHER ACTION ON THE ISSUE, STATING THE VEHICLE WAS 'OPERATING AS DESIGNED.' THIS ISSUE POSES A MAJOR SAFETY ISSUE NO ONLY TO THE DRIVER AND OCCUPANTS OF THE VEHICLE, BUT TO OTHER MOTORISTS ON THE ROAD. VOLKSWAGEN HAS BEEN GIVEN NOTICE OF THE ISSUE AND REFUSES TO ACKNOWLEDGE OF TAKE ACTION.

- **June 25, 2018**

I HAVE HAD THIS CAR TWO MONTHS AND IT HAS NOW BEEN IN SERVICE TWICE. AS OF TODAY THEY HAVE HAD IT FOR TWO WEEKS. THE AUTONOMOUS BREAK SYSTEM IS WAY TOO SENSITIVE AND THE CAR STOPS GOING DOWN STEEP INCLINES OR GOING OVER POT HOLES WHILE IN MOTION. THE CAR HAS STOPPED IN THE MIDDLE OF DRIVING AT LEAST 7 TIMES. I TAKE IT TO SERVICE, THEY SAY THERE IS NO RECORD IN THE CARS COMPUTER OF THE INCIDENT. THE FRONT SENSORS ARE ALWAYS BEEPING. I PULL UP TO A STOP SIGN, THE SENSORS GO OFF. I DO A U-TURN AND THE SENSORS GO OFF. SOME DAYS WAY TOO EXCESSIVELY, SOME DAYS NOT AT ALL. IT SCARES

ME TO DEATH AND I SLAM ON MY BRAKES BECAUSE I AM AFRAID I AM GOING TO HIT SOMETHING. I TAKE IT TO SERVICE, THEY SAY THERE IS NO RECORD OF IT IN THE CARS COMPUTER. FRONT END COLLISION ALERT, I WAS DRIVING DOWN THE ROAD AND WAS THE ONLY ONE ON THE ROAD AND THE FRONT END COLLISION ALERT WENT OFF. I OF COURSE SLAM ON THE BRAKES IN THE MIDDLE OF THE ROAD WITH NO TRAFFIC, THANK GOD NO ONE WAS BEHIND ME. I TAKE IT TO SERVICE, THEY SAY THERE IS NO RECORD IN THE CARS COMPUTER OF IT. SERVICE HAS BEEN ABLE TO RECREATE THE ISSUE WITH THE FRONT SENSORS, BUT SAYS THERE IS NO FIX. THE CUSTOMER CARE REP FOR VW STATED TODAY ON THE PHONE THAT THEY RECOGNIZE THERE IS AN ISSUE WITH THE SENSITIVITY OF THE AUTONOMOUS BRAKING BUT HAS NO FIX FOR IT SO I WILL HAVE TO DEAL WITH IT. I LIVE IN HOUSTON, I WILL DIE IF I HIT A POT HOLE AND STOP. IT'S UNACCEPTABLE AND A HUGE SAFETY HAZARD. I AM READING ALL OVER THE INTERNET ABOUT THIS ISSUE WITH THE AUTONOMOUS BRAKING PROBLEMS. IT SHOULD NOT BE ALLOWED TO CONTINUE. SOMEONE IS GOING TO DIE. I WAS ABLE TO VIDEO THE ISSUE WITH THE SENSORS AND VW HAS THE VIDEO AND RECOGNIZES A PROBLEM BUT STATES THAT'S JUST THE WAY THE CAR IS GOING TO WORK. STATES THEY SEE THE ISSUE THERE TOO, BUT THERE IS NO FIX.

- **July 2, 2018**

THE AUTO BRAKING AND WARNING SENSORS GO OFF WHEN YOU ARE DRIVING FROM AN INCLINED DRIVEWAY TO A ROADWAY. THIS HAS HAPPENED TO US MULTIPLE TIMES, THE MOST RECENT WAS ON 7-2-2018, AND IT BRINGS THE VEHICLE TO A COMPLETE STOP. THIS IS SUPPOSED TO BE A SAFETY FEATURE THAT WAS AN EXTRA COST, BUT THIS IS GOING TO CAUSE A CRASH IF NOT RECTIFIED. I HAVE TAKEN THE VEHICLE IN FOR THIS ISSUE, AND MULTIPLE OTHER ISSUES AND ALL I GET BACK IS "SYSTEM IS PERFORMING AS DESIGNED." IF THE SYSTEM IS PERFORMING AS DESIGNED, THE SYSTEM NEEDS TO BE CHANGED. THIS IS WITHOUT A DOUBT A SAFETY ISSUE IN ITSELF.

THERE ARE MULTIPLE OTHER OWNERS ON MESSAGE BOARDS THAT ARE HAVING THE SAME ISSUES AND HAVING THE SAME ANSWERS FROM THE DEALERSHIPS. ON ONE OF THE MESSAGE BOARDS, THERE IS ACTUALLY A VIDEO OF THE VEHICLE COMING TO A COMPLETE STOP DRIVING FROM A BANK PARKING LOT TO A MAIN ROAD.

- **July 3, 2018**

AUTOMATIC BRAKING SYSTEM IS FAULTY. WHEN I PULL OUT OF DRIVEWAYS OR PARKING LOTS THE SENSORS ARE ACTIVATING AND THE MANEUVER BRAKING IS APPLIED AND THE CAR COMES TO AN ABRUPT STOP IN THE MIDDLE OF THE ROAD. EVERYTIME THIS HAS OCCURED THERE HAS NOT BEEN AN OBJECT OR CAR PRESENT. THIS SYSTEM IS FAULTY AND DANGEROUS. I HAVE 3 CHILDREN IN THE

1 BACK SEAT AND THIS MAKES ME VERY CONCERNED FOR THEIR
2 SAFETY WHEN I DRIVE THIS VEHICLE. VW SERVICE IS LOOKING INTO
3 THE ISSUE AND HAS GIVEN ME A LOANER ATLAS THAT IS DOING THE
EXACT SAME THING. I HAVE A VIDEO OF THE ISSUE OCCURING.

4 • **July 23, 2018**

5 I'M CONTACTING YOU WITH AN ISSUE THAT NEEDS IMMEDIATE
6 ATTENTION. THERE IS A SERIOUS DEFECT WITH THE VW ATLAS WE
7 LEASED 2 MONTHS AGO. THE AUTOMATIC BRAKING SYSTEM
8 DEPLOYS AT UNEXPECTED AND INAPPROPRIATE TIMES PRODUCING A
LIFE THREATENING SITUATION.

9 THE AUTOMATIC BRAKING SYSTEM HAS ACTIVATED, DANGEROUSLY
10 AND INAPPROPRIATELY, SEVERAL TIMES, USUALLY WHEN PULLING
11 OUT OF A DRIVEWAY AND ATTEMPTING TO ENTER A LANE.
12 ALTHOUGH THERE IS NO OBSTRUCTION OR RISK OF COLLISION, THE
CAR SENSES THE INSIGNIFICANT CHANGE IN SLOPE FROM DRIVEWAY
TO ROAD AND SLAMS ON THE BRAKES CAUSING THE DRIVER TO LOSE
ALL CONTROL. THE CAR IS THEN STALLED IN THE MIDDLE OF
ONCOMING TRAFFIC.

13 RECENTLY, MY WIFE AND TWO CHILDREN PULLED OUT OF THE
14 DRIVEWAY OF OUR LOCAL SUPERMARKET AND MADE A LEFT TURN.
15 THE AUTOMATIC BREAKING SYSTEM WAS ACTIVATED AND SHE WAS
16 LEFT STALLED IN THE MIDDLE OF ONCOMING TRAFFIC. ANOTHER
DRIVER BARELY AVOIDED COLLIDING INTO OUR REAR SIDE DOOR
WHERE OUR 3 YEAR OLD SON'S CAR SEAT IS LOCATED.

17 WE HAVE TAKEN THIS ISSUE TO OUR LOCAL DEALERSHIP, AND THEY
18 CHECKED THE SYSTEM, AND TOLD US "IT IS PERFORMING AS THE
19 MANUFACTURE INTENDED IT TO". THIS IS A SERIOUS DESIGN ISSUE
20 AND ITS ONLY A MATTER OF TIME BEFORE IT RESULTS IN A MAJOR
ACCIDENT AND I CAN ONLY PRAY THAT MY YOUNG CHILDREN
AREN'T MAIMED OR KILLED.

21 THE VW SERVICE PEOPLE HAVE SHOWN US A COMPLICATED WAY TO
22 TURN OFF THE AUTOMATIC BRAKING SYSTEM IN THE CAR, HOWEVER
23 THIS NEEDS TO BE DONE EVERY TIME YOU START THE CAR.

24 I FEEL ITS INEVITABLE THAT A BUSY MOTHER DOING CHORES WITH
25 TWO TODDLERS WILL FORGET TO TURN OFF THE SYSTEM AT SOME
POINT.

26 THIS MATTER NEEDS TO BE RESOLVED BEFORE DISABILITY OR LOSS
27 OF LIFE OCCURS. THERE NEEDS TO BE A WAY TO FIX THE SYSTEM OR
28 PERMANENTLY DISABLE IT. WE ASKED VW TO PERMANENTLY
DISABLE THE SYSTEM BUT THEY DECLINED.

1 WE LOOK FORWARD TO YOUR PROMPT REPLY

2
3 THANK YOU.

4 GURPREET MUNDI, MD

5 • **August 18, 2018**

6 THE AUTONOMOUS BREAKING SYSTEM AND PEDIATRIAN WARNING
7 SENSORS ARE MALFUNCTIONING MAKING MY CAR UNSAFE TO
8 DRIVE.

9 SINCE IT'S PURCHASE IN JANUARY 2018, THE BRAKES HAVE LOCKED
10 UP AT LEAST 10 TIMES UNDER NORMAL DRIVING CONDITIONS.

11 I CAN RE-CREATE THE PROBLEM WHEN I AM MOVING SLOWLY ON AN
12 UNEVEN ROAD SURFACE.

13 IN ADDITION, AS I SLOW DOWN TO APPROACH A STOP SIGN OR A RED
14 LIGHT, THE ALARMS GO OFF SUGGESTING THAT THERE IS SOMETHING
15 IN THE ROADWAY AT LEAST HALF OF THE TIME.

16 I HAVE BEEN TOLD BY MY LOCAL VW SERVICE STATION THAT THERE
17 ARE NO ERRORS BEING RECORDED BY THE CAR'S SYSTEM THAT CAN
18 BE CORRECTED AND AT THIS TIME ALL ATLAS CARS THAT THEY
19 HAVE TESTED ON THE LOT ARE HAVING DOING THE SAME THING.
20 THEY WERE ABLE TO RECREATE THE AUTO-BRAKING ON A HILL ON
21 THEIR LOT, BUT HAVE NO WAY TO STOP IT FROM HAPPENING.

22 ON SATURDAY, 8/18/2019 WHILE I WAS SLOWLY PULLING OUT OF A
23 LOCAL SHOPPING CENTER, MAKING A LEFT HAND TURN DOWN AN
24 INCLINE THE CAR BRAKES LOCKED UP AFTER I ENTERED THE ACTIVE
25 ROADWAY- AS A RESULT I WAS NEARLY T-BONED BY A CAR THAT
26 HAD JUST MAKE A RIGHT HAND TURN ONTO THE SAME ROADWAY. BY
27 THE GRACE OF GOD, THAT DRIVER WAS MOVING SLOW ENOUGH TO
28 STOP. I IMMEDIATELY CALLED VW CAR NET, I WAS CONNECTED TO
MY DEALER, AND THEY TOOK THE CAR IN FOR INSPECTION. AS I
MENTIONED ABOVE, AFTER 5 DAYS THEY WERE NOT ABLE TO
RESOLVE THE PROBLEM.

I HAVE INITIATED A COMPLAINT WITH VW OF AMERICA AND AM
WRITING TO TELL YOU THAT I DO NOT FEEL SAFE DRIVING A CAR
THAT WILL STOP ME IN THE MIDDLE OF A ROAD WAY. I DO NOT WANT
MY FAMILY TO BE THE VICTIMS OF A PREVENTABLE ACCIDENT AND
WANT THIS PROBLEM FIXED BEFORE THERE IS A CATASTROPHE FOR
ME OR ANOTHER ATLAS OWNER.

PLEASE ME KNOW HAVE OTHER INFORMATION I CAN GIVE YOU SO THAT YOU CAN PROPERLY INVESTIGATE THIS PROBLEM.

- **October 20, 2018**

WHEN VEHICLE TRAVEL DOWN AN INCLINE LIKE A DRIVEWAY, THE EMERGENCY BRAKING FEATURE WILL UNEXPECTEDLY ENGAGED, CAUSING THE VEHICLE TO COME TO A COMPLETE AND SUDDEN STOP. WHEN THIS OCCURS, I HAVE NO CONTROL OVER THE CONTINUED MOVEMENT OF THE VEHICLE. I AM REQUIRED TO CHANGE GEARS AND/OR RESTART THE VEHICLE IN ORDER TO MOVE THE VEHICLE AGAIN. THIS POSES A EXTREME SAFETY ISSUE AS THE VEHICLE WILL SHUT DOWN WHEN YOU ARE ATTEMPTING TO PULL OUT OF A PRIVATE DRIVE AND ON TO A ACTIVE ROADWAY, INCREASING THE RISK OF A SIDE ON VEHICLE COLLISION. ISSUE WAS REPORTED TO VW SERVICE DEPARTMENT. SERVICE MANAGER WAS ABLE TO DUPLICATE THE ISSUE. SERVICE MANAGER ALSO TESTED ANOTHER VW ATLAS ON THE SALE LOT WITH THE SAME FEATURE. SERVICE MANAGER REPORTED THAT THE SAME ISSUE OCCURRED WITH THE OTHER ATLAS AS WELL. SERVICE DEPARTMENT WAS UNABLE TO CORRECT THE ISSUE, REPORTING THE VEHICLE IS "OPERATING AS DESIGNED." THIS ISSUE POSES A MAJOR SAFETY ISSUE NO ONLY TO THE DRIVER AND OCCUPANTS OF THE VEHICLE, BUT TO OTHER MOTORISTS ON THE ROAD. VOLKSWAGEN HAS BEEN GIVEN NOTICE OF THE ISSUE AND REFUSES TO ACKNOWLEDGE OF TAKE ACTION.

- **November 27, 2018**

2018 VOLKSWAGEN ATLAS SEL HAS A SAFETY SYSTEM CALLED MANEUVER BRAKING. THE FUNCTION OF THE BRAKING IS "MANEUVER BRAKING PROTECTS THE DRIVER FROM A COLLISION. IT PREVENTS UNPLEASANT DAMAGE TO THE BUMPER, AND TO ANY OBJECTS NEAR THE VEHICLE," SAYS DEVELOPER LYNN BRENNECKE. I WAS EXITING A PARKING LOT MAKING A LEFT HAND TURN ACROSS 4 LANES OF TRAFFIC. IT WAS NIGHTTIME, MY HEADLIGHTS WERE ON, CLEAR WEATHER, AROUND 70 DEGREES. THE AREA WAS A RESIDENTIAL/INDUSTRIAL MIX. THE PARKING LOT EXIT HAD A SLIGHT SLOPE. WHEN THE TRAFFIC WAS CLEAR I ACCELERATED TO ENTER THE TRAVEL LANES AND THE ATLAS ACTIVATED THE "MANEUVER BRAKING" THEREFORE BRINGING THE CAR TO A COMPLETE STOP AND THE ENGINE TURNED OFF. I WAS WELL INTO THE SECOND TRAVEL LANE WHEN THIS OCCURRED. THERE WERE NO OBSTACLES SUCH AS OTHER VEHICLES, TRAFFIC CONES, ANIMALS, BRANCHES ETC. THIS COULD HAVE BEEN A DEADLY, WHAT IF THE BREAK IN TRAFFIC WAS NOT LARGE ENOUGH FOR THE VEHICLE TO STOP COMPLETELY AND RESTART BEFORE TRAFFIC ARRIVED. I HAVE NO IDEA WHEN THE ATLAS WILL SUDDENLY DECIDE IT IS TIME FOR A "MANEUVER BRAKING" EPISODE. THIS IS A HUGE SAFETY ISSUE.

1 • **January 28, 2019**

2 THE AUTOMATIC EMERGENCY BRAKING SYSTEM KEEPS ACTIVATING
3 WITHOUT REASON, SLAMMING ON THE BRAKES, WHEN THERE ARE NO
4 OBSTACLES IN FRONT OF THE VEHICLE. THIS HAPPENS EVEN WHEN
5 “FRONT ASSIST” AND “LANE ASSIST” ARE SWITCHED OFF. DURING
6 OUR TRIP FROM TEXAS TO ARIZONA AND BACK, THIS HAS HAPPENED
7 MORE THAN 10 TIMES. IT ALWAYS OCCURS WHEN THE CRUISE
8 CONTROL IS SWITCHED ON, WHILE IN THE LEFT LANE, PASSING A
9 SEMI TRUCK. EACH TIME, THE ATLAS WAS CLEARLY IN OUR LANE
10 AND THE TRUCK WAS DEFINITELY IN ITS LANE, NOT WANDERING
11 OVER THE LANE DIVIDER. IT HAS HAPPENED WHEN ON A STRAIGHT
12 AWAY AND ALSO WHEN PASSING A TRUCK ON A LEFT CURVE. THIS IS
13 A SIGNIFICANT SAFETY HAZARD. IF ANY VEHICLE HAD BEEN CLOSE
14 BEHIND US WHEN IT ACTIVATED, IT WOULD HAVE SLAMMED INTO
15 THE BACK OF US.

16 • **February 20, 2019**

17 2/20/2019 AT 16:19 PST - I WAS DRIVING ON A CLOUDY AFTERNOON,
18 APPROACHING A RAILROAD CROSSING, ABOUT 100 FT AWAY. MY
19 ATLAS’ RADAR WAS TRIPPED BY SOMETHING AND THE CAR
20 SLAMMED THE BRAKES TO AVOID A CRASH. EXCEPT THERE WAS
21 NOTHING ON THE ROAD. I AM GLAD THERE WERE NO CARS AROUND
22 ME OTHERWISE I WOULD HAVE BEEN INVOLVED IN A CRASH.

23 • **March 5, 2019**

24 WAS DRIVING DOWN MY DRIVEWAY AND THE ELECTRONIC BRAKE
25 ALL OF A SUDDEN MALFUNCTIONED AND TURNED ON, AND LOCKED
26 UP ALL MOVEMENT. THE SYSTEM WAS SCREAMING ELECTRONIC
27 BRAKE MALFUNCTION, DO NOT DRIVE, BRAKE IS ACTIVATED. I WAS
28 ABLE TO EVENTUALLY PUT IT BACK UP NEAR MY HOUSE IN THE
29 PARKING PORTION OF THE DRIVEWAY. THIS IS NOT THE FIRST TIME
30 THAT THE BRAKE HAS MALFUNCTIONED HOWEVER IT IS THE FIRST
31 TIME THAT IT HAS DONE IT WHILE I WAS DRIVING, NORMALLY I CAN
32 TURN OFF THE CAR WAIT ABOUT 5 MINUTES OR SO AND THEN IT’LL
33 STOP MALFUNCTIONING HOWEVER THIS TIME THE BRAKES LOCKED
34 UP AND THE CAR WOULD NOT MOVE. I COULD NOT GET THE BRAKE
35 TO TURN OFF. HAD THE CAR TOWED TO THE DEALERSHIP (STILL
36 SHOWING A MALFUNCTION AFTER VEHICLE WAS OFF ALL DAY). AT
37 THE DEALER FOR SEVERAL DAYS, THEY SAID THEY COULD NOT
38 REPLICATE THE INCIDENT AND THE CAR DOES NOT KEEP A LOG OF
39 MALFUNCTIONS INTERNALLY SO THERE WAS NOTHING TO BE DONE.

40 I HAVE A LONG LIST OF PROBLEMS WITH SENSORS, CAMERA
41 SYSTEMS, AND OTHER ELECTRONIC FAILURES GOING BACK THROUGH
42 AUGUST 2018

1 • **April 8, 2019**

2 WHILE DRIVING YESTERDAY I WAS EXITING A SHOPPING PLAZA ON A
3 CITY STREET AND TURNED RIGHT AND MY CAR COMPLETELY
4 STOPPED IN THE MIDDLE OF TRAFFIC. MANY CARS WERE COMING
5 AND HAD TO SLAM ON THEIR BREAKS THANKFULLY AVOIDING A
6 COLLISION. THIS IS BECAUSE OF THE MANEUVER BREAKING SENSORS.
7 I DRIVE AND CONSTANTLY HEAR BEEP BEEP BEEP FROM THEM
8 SENSING SOMETHING, WHEN IN FACT NOTHING IS EVEN NEAR MY
9 CAR. THIS IS A SERIOUS FLAW. PLEASE DO A RECALL ASAP TO FIX
10 THIS.

11 • **June 10, 2019**

12 ON MONDAY 6/10/2019 AT 18:10, I WAS DRIVING WEST ON CALIFORNIA
13 HIGHWAY 91 IN RIVERSIDE CALIFORNIA. I WAS ON THE PHONE WITH
14 MY WIFE, THE CAR WAS ON CRUISE CONTROL, GOING 65 MPH. THERE
15 WERE NO CARS IN FRONT OF ME, I WAS DRIVING IN THE SECOND
16 LANE FROM THE RIGHT.

17 MY CAR APPROACHED AN 18 WHEELER TRUCK AND IT WAS PASSING
18 THE TRUCK. THE TRUCK WAS ON THE RIGHT LANE, MY CAR
19 APPROACHED ON THE NEXT LANE TO THE LEFT. THE CAR WAS STILL
20 ON CRUISE CONTROL AND I WAS STILL ON THE PHONE WITH MY WIFE.
21 AS THE CAR WAS PASSING THE TRUCK, THE VW ATLAS EXECUTES AN
22 EMERGENCY BRAKE AS IF SOMETHING WAS IN MY WAY. THE CAR
23 GAVE NO WARNINGS BEFORE APPLYING THE BRAKES HARD.

24 • **June 20, 2018**

25 ON MULTIPLE OCCASIONS OUR 2018 VW ATLAS HAS HAD ITS
26 EMERGENCY BRAKING FEATURE ENGAGE IN AN UNEXPECTED AND
27 DANGEROUS WAY. SPECIFICALLY, DURING URBAN DRIVING WHEN
28 HAVING TO TRAVERSE THE NORMAL DIP FROM DRIVEWAY TO
29 STREET, ACROSS A GUTTER OR OTHER LOW POINT, THE EMERGENCY
30 BRAKING SYSTEM ABRUPTLY HALTS THE VEHICLE AND DISABLES
31 MOVEMENT. WHEN THIS OCCURS IT IS EXTREMELY JARRING AND
32 SHUTS DOWN NORMAL OPERATION, REQUIRING SOME SORT OF GEAR
33 CHANGE OR RESTART. IT OCCURS MORE FREQUENTLY WHEN
34 ACCELERATING FASTER OVER THE DIP RESULTING IN A MORE BUMPY
35 MOVEMENT. IT IS A MAJOR PROBLEM WHEN YOU[']RE ATTEMPTING
36 TO TURN INTO MOVING TRAFFIC QUICKLY. IT LEAVES THE VEHICLE
37 AND PASSENGERS ESPECIALLY VULNERABLE AS WE[']RE
38 PERPENDICULAR TO ONCOMING TRAFFIC. AS A MOTHER OF 3 SMALL
39 CHILDREN IN CAR SEATS, I AM EXTREMELY CONCERNED.

40 • **July 2, 2019**

41 AS I WAS GOING STRAIGHT THROUGH A BUSY INTERSECTION THE
42 CAR AUTOMATIC BRAKING TURNED ON AND CAUSED THE CAR TO
43 STOP IN THE MIDDLE OF THE INTERSECTION. I WAS ALMOST T-BONED

1 BY ANOTHER CAR. THERE ARE NOTHING IN FRONT OF ME. CLEAR
2 DAY. 85 DEGREES. 9 AM.

3 • **August 6, 2019**

4 HI MY WIFE DRIVES A 2018 ATLAS AS OUR FAMILY CAR. WE HAVE
5 HAD SEVERAL INCIDENTS WHERE THE AUTOMATIC BRAKING HAS
6 SUDDENLY ENGAGED WHEN THERE WERE NO CARS NEAR THE
7 VEHICLE. THIS HAS HAPPENED WHILE PARKING ON FLAT SURFACES
8 IN AN EMPTY LOT, PARKING IN EMPTY LOT ON A VERY SLIGHTLY
9 INCLINE, AND WHILE CRUISING WITHIN A HIGHWAY LANE WITHOUT
10 A CAR IMMEDIATELY IN FRONT OR BEHIND US.

11 UNPREDICTABLE UNCONTROLLED SUDDEN BRAKING IS DANGEROUS
12 AND CAN ACTUALLY CAUSE COLLISIONS. THE ATLAS IS A VEHICLE
13 WHICH IS COMMONLY USED TO TRANSPORT FAMILIES AND THEIR
14 CHILDREN. I HOPE A NHTSA RECALL CAN BE ISSUED TO ADDRESS
15 THIS PROBLEM.

16 • **August 13, 2019**

17 MY 2018 VW ATLAS BRAKE SENSORS THAT ACTIVATE WHEN THEY SEE
18 SOMETHING THAT MAY CAUSE A CRASH SLAMMING THE BRAKES ON.
19 THAT WOULD BE GOOD IF IT WAS REASONABLE BUT WHAT HAPPENS
20 IS THE BRAKES SLAM ON JUST DRIVING OUT OF A DRIVEWAY!! I HAVE
21 TAKEN IT TO VW AND THEY CAN'T DO ANYTHING BECAUSE IT WAS
22 WITHIN THE DESIGN SETTINGS. IT ALWAYS DOES IT WHEN YOU LEAST
23 EXPECT IT SO WHEN PULLING OUT OF A DRIVEWAY IT IS A CRAP
24 SHOOT WHETHER IT WILL ACTIVATE THE BRAKES OR NOT, AND IT IS
25 GOING TO CAUSE A ACCIDENT BECAUSE YOU DON'T KNOW WHEN OR
26 WHERE IT IS GOING TO HAPPEN. I WROTE A COMPLAINT AT CAR
27 COMPLAINTS.COM AND I SAW SEVERAL OTHER PEOPLE HAVING THE
28 SAME PROBLEM. I WORRY ABOUT THE SNOW AND WHAT WOULD
HAPPEN IT IS A VERY UNSAFE CONDITION PLEASE HELP WITH
GETTING VW TO FIX THIS ISSUE. THANK YOU

• **August 13, 2019**

WHEN EXITING A DRIVEWAY INTO TRAFFIC, IF THERE IS A DECLINE
OR HILL, THE AUTOMATIC BREAKING CAUSES THE CAR TO STALL IN
THE MIDDLE OF THE ROAD. THIS HAS HAPPENED SEVERAL TIMES
NOW IN 2 DIFFERENT PLACES. THE SENSORS START BEEPING AND THE
CAR WILL SHUT DOWN WHERE YOU HAVE NO CONTROL. YOU HAVE
TO PUT THE CAR BACK IN GEAR AND RESTART THE ENGINE. THIS IS
VERY DANGEROUS. I LET THE SERVICE DEPARTMENT AT VW IN
DEVON KNOW AND THEY SAID THEY COULDN'T FIND ANYTHING
WRONG WITH IT AFTER RUNNING DIAGNOSTICS.

91. Complaints for the 2019 VW Atlas are similar:

- **March 29, 2019**

THE CONTACT OWNS A 2019 VOLKSWAGEN ATLAS. THE CONTACT STATED THAT THE BRAKE SAFETY FEATURE ENGAGED WHEN DRIVING ON AN INCLINE OR OVER BUMPS IN THE ROAD. THE SAFETY FEATURE CAUSED THE VEHICLE TO COME TO A COMPLETE STOP. THE CONTACT STATED THAT THE ENGINE AREA EMITTED A BEEPING AND GRINDING NOISE WHEN THE ENGINE SHUT DOWN. THE CONTACT HAD TO PLACE THE GEAR INTO PARK, THEN REVERSE, AND THEN RESTART THE ENGINE TO REGAIN NORMAL FUNCTION. THE CONTACT SPOKE WITH LARRY H. MILLER VOLKSWAGEN (10205 WEST PAPAGO FWY, AVONDALE, AZ 85323, (480) 865-3991) AND WAS INFORMED THAT THE VEHICLE WAS PERFORMING NORMALLY AND THE SAFETY FEATURE ENGAGED WHEN IT SENSED AN INCLINE. THE DEALER ADVISED THE CONTACT THAT THE MANEUVER BRAKING SYSTEM COULD BE DISENGAGED TO STOP THE INCLINE DETECTION. THE VEHICLE WAS NOT REPAIRED. THE MANUFACTURER WAS NOT CONTACTED. THE FAILURE MILEAGE WAS 1,500.

- **April 25, 2019**

CAR BRAKES BY ITSELF THINKING THERE IS ANOTHER VEHICLE IN FRONT OF IT. THIS HAS HAPPENED ON 3 OCCASIONS TOOK IT INTO THE DEALER AND THEY SAY EVERYTHING IS OK DONT FOLLOW TO CLOSE. THEY SEEM TO NOT UNDERSTAND THAT THERE IS NO VEHICLE IN FRONT OF OUR CAR. THIS COULD BE A PRETTY BAD SITUATION IF THE VEHICLE DESIDES TO SLAM ON THE BRAKES WITH A SEMI TRUCK BEHIND YOU.

- **June 14, 2019**

AUTO BRAKING SYSTEM CAUSES CAR TO BRAKE WHEN EXITING A DRIVEWAY. ALERTS TO THE ROAD AS AN OBSTACLE WHEN GOING DOWN AN INCLINE. THE SYSTEM READS ROAD AS AN OBSTACLE, LIKE A PERSON OR CAR. BRAKING SYSTEM CAUSES CAR TO BRAKE LEAVING DRIVEWAYS. CAR COMES TO A COMPLETE STOP, ENGINE CUTS OFF WITH CAR IN TRAFFIC - ONCOMING TRAFFIC. THIS IS THE BRAKE MANUEVERING SYSTEM - READS ROAD AS A HAZARD CAUSING THE CAR TO AUTOMATICALLY APPLY THE BRAKES. BRAKES ARE APPLIED SUDDENLY AND THE FORCE IS AS IF I AM BEING HIT AT A HIGH SPEED FROM BEHIND. THAT IS WHAT I THOUGHT HAPPENED. TAKES 15-20 SECONDS TO RESTART THE CAR, DURING WHICH TIME I 'M IN TRAFFIC OR HALF IN TRAFFIC AND HALF IN THE DRIVEWAY SUBJECT TO GREAT BODILY HARM FROM OTHER CARS THOSE THAT DO NOT EXPECT ME TO BE STOPPED THERE OR FROM CARS BEHIND ME THIS PLACES ME, MY FAMILY, PASSENGERS AND OTHER DRIVERS AT GREAT RISK OF HARM.

THIS HAS HAPPENED NUMEROUS TIMES AND AT NUMEROUS

1 DIFFERENT SPEEDS. EACH TIME I HAVE BEEN LUCKY TO HAVE
 2 AVOIDED BEING HIT. I HAVE BEEN TOLD THAT THIS IS HOW THE CAR
 3 IS DESIGNED AND THAT THERE IS NO FIX FOR THIS EXCEPT TO TURN
 4 OFF THE SYSTEM WHICH ALSO TURNS OFF THE SYSTEM SHOULD A
 5 HAZARD APPEAR BEFORE MY VEHICLE. I WAS REQUIRED TO TURN
 6 OFF THE SYSTEM MYSELF BECAUSE VW HAS STATED IT IS A
 7 LIABILITY FOR THEM TO TURN IT OFF. THE DATE LISTED IS THE FIRST
 8 TIME IT HAPPENED BUT IT HAS HAPPENED CLOSE TO A DOZEN TIMES.
 9 I HAVE TAKEN THE CAR IN TWICE ONLY TO BE TOLD THAT THERE IS
 10 NOTHING THEY CAN DO AS THE SYSTEM IS OPERATING AS DESIGNED.
 11 VW HAS TOLD ME THAT THE SYSTEM CANNOT DIFFERENTIATE AND
 12 TO ENSURE THE BRAKING DOES NOT GO ON (ALTHOUGH IT WILL
 13 STILL BEEP AND ALERT) I MUST EXIT ALL DRIVEWAYS NO FASTER
 14 THAN 3 MPH. WHEN EXITING INTO HIGH TRAFFIC AREAS, SUCH AS
 15 WHERE I LIVE THIS WILL PLACE ME AT GRAVE DANGER.

16 • **June 19, 2019**

17 THE CAR IS 6 MONTHS OLD. WE HAVE 5 DOCUMENTED CASES OF THE
 18 VEHICLE STOPPING/BRAKING ON IT'S OWN FOR NO REASON. THE
 19 DEALER AND VW CORPORATE DO NOT HAVE A FIX AND SUGGESTED
 20 WE KEEP DRIVING IT TO GET MORE DOCUMENTED OCCURRENCES.
 21 THE VEHICLE POSES AN EXTREME SAFETY RISK AT THIS TIME DUE TO
 22 FAULTY BRAKING ASSIST MECHANISMS. 2 OF THE 5 OCCURRENCES
 23 INVOLVED IT THROWING THE PARKING BRAKE ON BY ITSELF AND
 24 THE OTHER 3 WERE DRASTIC SLOW DOWNS WITH NOTHING AROUND.

25 ALL INCIDENTS REPORTS ARE ATTACHED AND ARE EXACTLY WHAT
 26 WAS TURNED INTO THE DEALER AND VW CORPORATE.

27 • **July 1, 2019**

28 1) RADAR AUTO-BRAKE: WHEN PARALLEL PARKING AND BACKING (GOING IN REVERSE) PARALLEL TO THE CURB, AT MAYBE 2 MPH AND 10 INCHES FROM CURB, I GOT YELLOW STOP, STOP !!!!!!! MESSAGE FOLLOWED BY SENSATION OF HITTING AN OBJECT AND BEING THROWN INTO THE SEAT. ONLY THERE WAS NO OBJECT. RAN OUT OF A CAR, NOTHING AND NOBODY THERE, AT LEAST FOR 50 YARDS. AN AUTO-BRAKE ENGAGED.

• **July 3, 2019**

FROM THE PARKING LOT OF A LARGE SHOPPING CENTER WE TRIED TO TURN ONTO THE MAIN ROAD. WE PRESSED THE GAS PEDAL AND STARTED TO ACCELERATE, WENT A FEW FEET AND THEN THE CAR SLAMMED ON THE BRAKES ITSELF WHEN WE WERE ABOUT HALFWAY INTO THE LANE. WE THEN HAD TO PRESS ON THE ACCELERATOR A FEW TIMES AND IT FINALLY KICKED IN AND STARTED MOVING AGAIN. THANKFULLY NO ONE WAS COMING IN THAT LLANE AS WE WERE STOPPED HALFWAY IN IT. THE SAME EXACT THING HAPPENED

THE NEXT DAY AND THEN IT ALSO HAPPENED TWO TIMES IN REVERSE BACKING OUT OF A DRIVEWAY.

- **July 26, 2019**

VEHICLE HAS A FAULTY FRONT FACING CAMERA THAT HAS OR HAD A DATA ISSUE THAT CAUSES THE VEHICLE TO IMMEDIATELY STOP WITHOUT WARNING AND THE PARKING BRAKE TO ENGAGE. I TOOK THE VEHICLE TO TOM WOOD VOLKSWAGEN WHERE THEY CONFIRMED THE ISSUE, AND SAID IT HAD HAPPENED SOME PLACE ELSE AS WELL. THIS WILL EASILY CAUSE REAR IMPACT CRASHES BECAUSE THE VEHICLE ABRUPTLY STOPS IN THE MIDDLE OF THE ROAD WITHOUT WARNING.

- **August 1, 2019**

THE CONTACT OWNS A 2019 VOLKSWAGEN ATLAS. WHILE DRIVING UP AN INCLINED ROAD AND MAKING A LEFT TURN, THE COLLISION AVOIDANCE SYSTEM BEEPED WHILE ERRONEOUSLY SENSING SOMETHING WAS AHEAD OF THE VEHICLE. ALSO, WHILE THE VEHICLE WAS IN REVERSE, THE BACK-UP CAMERA DID NOT IMMEDIATELY DISPLAY THE PERSON WALKING BEHIND THE VEHICLE. THE PERSON WAS NOT DISPLAYED ON THE CAMERA UNTIL THEY WERE IN THE MIDDLE OF THE SCREEN. THE CAUSE OF THE FAILURES WAS NOT DETERMINED. NORM REEVES VOLKSWAGEN (20 AUTO CENTER DR, IRVIN, CA) WAS NOTIFIED OF THE FAILURE AND STATED THAT THE VEHICLE OPERATED NORMALLY. THE MANUFACTURER WAS ALSO CONTACTED. THE FAILURE MILEAGE WAS 800.

- **August 7, 2019**

AUTOMATIC COLLISION BRAKING SYSTEM ENGAGES IN SUDDEN AND UNEXPECTED BRAKING WHEN THERE IS NO OBSTACLE (OR CARS) NEAR VEHICLE. AUTOMATIC BRAKES HAVE STOPPED CAR TO A HALT WITHOUT WARNING WHEN DRIVING ON OR TURNING ON SLIGHT SLOPE CITY STREET THAT LEVELS OUT TO THE ROAD. THE SUDDEN BRAKING HAS ALMOST CAUSED COLLISIONS AS VEHICLE STOPS FOR NO REASON WITHOUT WARNING IN MIDDLE OF STREET/TRAFFIC. VERY CONCERNED AS NO WAY TO TURN OFF SYSTEM AND AFRAID TO DRIVE VEHICLE FOR FEAR IT WILL STOP AUTOMATICALLY FOR NO REASON IN HEAVIER TRAFFIC OR ON BRIDGE WHERE ANGLE OF ROAD/BRIDGE MAY SLOPE. THE SUDDEN BRAKING HAS OCCURRED TWICE THIS WEEK AT LOCATION I HAVE TO DRIVE TO EVERY DAY AND CANNOT BYPASS.

- **August 15, 2019**

I WAS DRIVING DOWN A ROAD GOING 35 MPH AND SUDDENLY THE AUTOMATIC BRAKING SYSTEM ENGAGED CAUSING THE VEHICLE TO SLAM ON ITS BRAKES ALMOST COMPLETELY STOPPING. THERE WAS NO ADVANCE WARNING THAT THIS WAS GOING TO OCCUR (E.G. SOUND OR DASHBOARD ALERT). FURTHER THERE WERE NO CARS IN

FRONT OF ME, NO PEDESTRIANS, OR ANYTHING ELSE THAT COULD HAVE CAUSED THE FRONT COLLISION AUTOMATIC BRAKING TO ENGAGE. THANKFULLY THERE WAS NO VEHICLE IMMEDIATELY BEHIND ME OR THEY WOULD HAVE SURELY CRASHED INTO ME.

C. The VW Defendants Had A Duty To Disclose The AEB Defect

92. The VW Defendants had – and continue to have – a duty to fully disclose the true nature of the AEB Defect to Class Vehicle owners, among other reasons, because the AEB Defect poses an unreasonable safety hazard; because the VW Defendants had and have exclusive knowledge or access to material facts about the Class Vehicles’ AEB Systems that were and are not known to or reasonably discoverable by Plaintiffs and Class members; and because the VW Defendants have actively concealed the AEB Defect from its customers at the time of purchase or repair and thereafter.

93. The VW Defendants also had a duty to disclose because they made and continue to make partial representations about the AEB Systems on Monroney window stickers, which are affixed to the window of every VW and Audi Class Vehicle at the time of sale, and which uniformly tout AEB Systems as a “safety/convenience” feature without disclosing the AEB Defect. For example, the Audi Monroney sticker described Audi pre sense basic as “preventative occupant protection” and Audi pre sense city is described as “low speed collision assist.”

94. Just like the Monroney stickers on every other Audi and VW Class Vehicle, the VW Defendants never disclosed the AEB Defect or otherwise directed Class members to the relevant portions of the owner’s manuals.

95. For VW vehicles, the Monroney sticker describes the AEB Systems as “Forward Collision Warning & Autonomous Emergency Braking (Front Assist).” Like Audi, VW’s Monroney window stickers never disclosed the AEB Defect or otherwise directed Class members to the relevant portions of the owner’s manuals.

96. The VW Defendants also had a duty to disclose because they made and continue to make partial representations about the AEB Systems on their online marketing. For Audi cars, the VW Defendants maintain a website called “Audi Technology Portal” that describes Audi pre sense

1 in detail, and displays videos explaining how the system is intended to work.⁴¹ Similarly, on
 2 audiusa.com, Audi touts that the pre sense system “can help detect potential threats and aid by
 3 initiating preventative measures, helping to protect you from the world around.”

4 97. Similarly for VW cars, the VW Defendants maintain a website called “Newsroom”
 5 and posted a YouTube video that describes the VW Front Assist system in detail.⁴² Despite this,
 6 the VW Defendants do not disclose on any website that the system is prone to false activations that
 7 can cause the car to suddenly stop or slow down for no good reason.

8 **VI. INADEQUATE REMEDY AT LAW**

9 98. “A claimant otherwise entitled to a remedy for unjust enrichment, including a
 10 remedy originating in equity, need not demonstrate the inadequacy of available remedies at law.”
 11 Restatement (Third) of Restitution, § 4(2).

12 99. Nonetheless, Plaintiff Sharma has no adequate remedy at law. VW has admitted
 13 that the written warranties associated with Plaintiffs’ vehicles do not cover design defects, and thus
 14 Plaintiffs have no claim for breach of express warranty. *See* ECF No. 34, at 9 (“Plaintiffs’ express
 15 warranty claims must be dismissed because the warranties involved here “do not cover design
 16 defects.”); *see also id.* (“Plaintiffs’ claim that the same alleged common defect exists in the Bosch
 17 radar sensor modules in all putative class vehicles is a claim of design defect that is not covered
 18 under the [warranties].”); *id.* at 22 (“Plaintiffs have failed to establish a valid warranty claim under
 19 state law....”). Thus, given that by Defendants’ own admissions the warranties are not applicable
 20 here, Plaintiff Sharma lacks an adequate remedy at law.

21 100. Alternatively, legal remedies available to Plaintiffs are inadequate because they are
 22 not “equally prompt and certain and in other ways efficient” as equitable relief. *American Life Ins.*
 23 *Co. v. Stewart*, 300 U.S. 203, 214 (1937); *see also U.S. v. Bluit*, 815 F. Supp. 1314, 1317 (N.D.
 24 Cal. Oct. 6, 1992 (“the ‘mere existence’ of a possible legal remedy is not sufficient to warrant
 25 denial of equitable relief”); *Quist v. Empire Water Co.*, 2014 Cal. 646, 643 (1928) (“The mere fact

26 ⁴¹ [https://www.audi-technology-portal.de/en/electrics-electronics/safety-systems/adaptive-restraint-](https://www.audi-technology-portal.de/en/electrics-electronics/safety-systems/adaptive-restraint-system/specials1/audi-prologue-piloted-driving_en/audi-pre-sense_en)
 27 [system/specials1/audi-prologue-piloted-driving_en/audi-pre-sense_en](https://www.audi-technology-portal.de/en/electrics-electronics/safety-systems/adaptive-restraint-system/specials1/audi-prologue-piloted-driving_en/audi-pre-sense_en)

28 ⁴² [https://newsroom.vw.com/vehicles/technology/helping-you-on-the-road/;](https://newsroom.vw.com/vehicles/technology/helping-you-on-the-road/)
<https://www.youtube.com/watch?v=fvVGPNGwpZE>

1 that there may be a remedy at law does not oust the jurisdiction of a court of equity. To have this
 2 effect, the remedy must also be speedy, adequate, and efficacious to the end in view ... It must
 3 reach the whole mischief and secure the whole right of the party in a perfect manner at the present
 4 time and not in the future”).

- 5 a. Damages are not equally certain as restitution because the standard that governs
 6 ordering restitution is different than the standard that governs damages. Hence, the
 7 Court may award restitution even if it determines that Plaintiffs fail to sufficiently
 8 adduce evidence to support an award of damages.
- 9 b. Damages and restitution are not necessarily the same amount. Unlike damages,
 10 restitution is not limited to the amount of money defendant wrongfully acquired plus
 11 the legal rate of interest. Equitable relief, including restitution, entitles the plaintiff
 12 to recover all profits from the wrongdoing, even where the original funds taken have
 13 grown far greater than the legal rate of interest would recognize. Plaintiffs seek
 14 such relief here.
- 15 c. Legal claims for damages are not equally certain as restitution because claims under
 16 the CLRA, UCL and unjust enrichment entail few elements.
- 17 d. Plaintiffs also lack an adequate remedy at law to prevent future harm.

18 **VII. PRE-SUIT NOTICE**

19 101. On August 2, 2019, Stephen Moonesar sent a letter via certified mail notifying Audi
 20 of America and Volkswagen Group of America of the AEB Defect in Audi cars and demanding
 21 they institute of a recall program and make full restitution to all purchasers. The notice letter was
 22 sent on behalf all individuals in the United States who purchased 2015-2019 model year Audi cars
 23 equipped with the AEB System. The notice letter specifically provided notice of California’s
 24 Consumer Legal Remedies Act, and any applicable California or New Jersey consumer statutes.

25 102. On October 1, 2019, Neeraj Sharma sent a substantially similar letter pertaining to
 26 2015-2019 model year Audi cars and VW cars equipped with the AEB System via certified mail or
 27 federal express to Audi of America and Volkswagen Group of America.
 28

VIII. TOLLING OF THE STATUTE OF LIMITATIONS

103. Any applicable statute of limitations has been tolled by the deceptive conduct alleged herein. Through no fault or lack of diligence, Plaintiffs and Class members were deceived regarding the AEB Defect and could not reasonably discover the latent nature of the defect.

104. Plaintiffs and Class members could not reasonably discover Defendants' deception with respect to the AEB Defect in the Class Vehicles prior to experiencing a failure and/or being informed of the reason for the failure. Within the time period of any applicable statutes of limitations, Plaintiffs and Class members could not have discovered through the exercise of reasonable diligence that Defendants were concealing the AEB Defect.

105. Plaintiffs and Class members did not discover and did not know of any facts that would have caused a reasonable person to suspect that Defendants were concealing a latent defect and/or that the Class Vehicles contained defective AEB systems that are a safety risk. As alleged herein, the existence of the AEB Defect and safety risk were material to Plaintiffs and Class members at all relevant times.

106. At all times, Defendants are and were under a continuous duty to disclose to Plaintiffs and Class members the true standard, quality, and grade of the Class Vehicles and to disclose the AEB Defect and potential safety risk associated therewith.

107. Defendants knowingly, actively and affirmatively concealed the facts alleged herein including the AEB Defect. Plaintiffs and Class members reasonably relied on Defendants' knowing, active, and affirmative concealment.

108. For these reasons, all applicable statutes of limitation have been tolled based on the discovery rule and Defendants' fraudulent concealment and Defendants are estopped from relying on any statutes of limitations in defense of this action.

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IX. CLASS ACTION ALLEGATIONS

109. Plaintiffs bring this action pursuant to Federal Rules of Civil Procedure 23(a) and 23(b)(1), (b)(2) and/or (b)(3) on behalf of the following Classes:

- **Nationwide:** All persons in the United States who purchased or leased a Class Vehicle with an AEB System supplied by Bosch (the “Nationwide Class” or “Class”);
- **Multi-state:** All persons in California, Florida, Illinois, Massachusetts, Michigan, Minnesota, Missouri, New Jersey, New York, and Washington who purchased or leased a Class Vehicle with an AEB System supplied by Bosch (the “Multi-State Consumer Fraud Class”);⁴³
- **New Jersey:** All persons in New Jersey who purchased or leased a Class Vehicle with an AEB System supplied by Bosch (The “New Jersey Subclass”); and
- **California:** All persons in California who purchased or leased a Class Vehicle with an AEB System supplied by Bosch (the “California Subclass”).

110. Subject to additional information obtained through further investigation and discovery, the above-described Classes may be modified in an amended complaint or at class certification, or additional subclasses may be added.

111. Specifically excluded from the Classes are Defendants, Defendants’ officers, directors, agents, trustees, parents, children, corporations, trusts, representatives, employees, principals, servants, partners, joint ventures, or entities controlled by Defendants, and their heirs, successors, assigns, or other persons or entities related to or affiliated with Defendants and/or Defendants’ officers and/or directors, the judge assigned to this action, and any member of the judge’s immediate family.

⁴³ Fraud laws under the facts of this case: California (Cal. Bus. & Prof. Code § 17200, *et seq.*); Florida (Fla. Stat. § 501.201, *et seq.*); Illinois (815 Ill. Comp. Stat. 505/1, *et seq.*); Massachusetts (Mass. Gen. Laws Ch. 93A, *et seq.*); Michigan (Mich. Comp. Laws § 445.901, *et seq.*); Minnesota (Minn. Stat. § 325F.67, *et seq.*); Missouri (Mo. Rev. Stat. § 407.010, *et seq.*); New Jersey (N.J. Stat. § 56:8-1, *et seq.*); New York (N.Y. Gen. Bus. Law § 349, *et seq.*); and Washington (Wash. Rev. Code § 19.86.010, *et seq.*).

112. **Numerosity.** The members of the proposed Classes are geographically dispersed throughout the United States and are so numerous that individual joinder is impracticable. Upon information and belief, Plaintiffs reasonably estimate that there are tens of thousands of individuals that are members of the proposed Classes. Although the precise number of proposed members is unknown to Plaintiffs, the true number of Class members is known by Defendants. More specifically, the VW Defendants and their network of authorized dealers maintains databases that contain the following information: (i) the name of each Class member that leased or purchased a Class Vehicle; and (ii) the address of each Class member. Thus, Class members may be identified and notified of the pendency of this action by first class mail, electronic mail, and/or published notice, as is customarily done in consumer class actions.

113. **Existence and predominance of common questions of law and fact.** Common questions of law and fact exist as to all Class members and predominate over any questions affecting only individual Class members. These common legal and factual questions include, but are not limited to, the following:

- Whether the Class Vehicles are equipped with AEB Systems;
- Whether the Class Vehicles suffer from the AEB Defect;
- Whether the Class Vehicles contain a design defect and/or a defect in material, manufacturing and/or workmanship;
- Whether the AEB Defect constitutes an unreasonable safety hazard;
- Whether Defendants knew or should have known about the AEB Defect and, if so, how long Defendants have known of the AEB Defect;
- Whether Defendants had a duty to disclose that the Class Vehicles suffer from the AEB Defect;
- Whether Defendants breached their duty to disclose that the Class Vehicles suffer from the AEB Defect;
- Whether Defendants intentionally and knowingly concealed, suppressed and/or omitted material facts including the fact that the Class Vehicles suffered from the AEB Defect;

- Whether Defendants violated applicable state consumer protection statutes;
- Whether Defendants have been unjustly enriched; and
- Whether Plaintiffs and the Classes are entitled to damages, restitution, equitable, injunctive, compulsory, or other relief.

114. **Typicality.** Plaintiffs' claims are typical of the claims of the other Class members in that Plaintiffs sustained damages arising out of the same illegal actions and conduct by Defendants.

115. **Adequacy of Representation.** Plaintiffs will fairly and adequately protect the interests of Class members. Plaintiffs have retained counsel who are highly experienced in complex consumer class action litigation, and Plaintiffs intend to vigorously prosecute this action on behalf of the Classes. Furthermore, Plaintiffs have no interests that are antagonistic to those of the Classes.

116. **Superiority.** A class action is superior to all other available means for the fair and efficient adjudication of this controversy. The damages or other financial detriment suffered by Class members is relatively small compared to the burden and expense of individual litigation of their claims against Defendants. It would thus be virtually impossible for Class members, on an individual basis, to obtain effective redress for the wrongs committed against them. Furthermore, even if Class members could afford such individualized litigation, the court system could not. Individualized litigation would create the danger of inconsistent or contradictory judgments arising from the same set of facts. Individualized litigation would also increase the delay and expense to all parties and the court system from the issues raised by this action. By contrast, the class action device provides the benefits of adjudication of these issues in a single proceeding, economies of scale, and comprehensive supervision by a single court, and presents no unusual management difficulties under the circumstances.

117. In the alternative, the Classes may also be certified because the prosecution of separate actions by individual members of the Classes would create a risk of inconsistent or varying adjudication with respect to individual Class members that would establish incompatible standards of conduct for the Defendants. The prosecution of separate actions by individual Class

members also would create a risk of adjudications with respect to them that would, as a practical matter, be dispositive of the interests of other members of the Classes not parties to the adjudications, or substantially impair or impede their ability to protect their interests. Finally, Defendants have acted or refused to act on grounds generally applicable to the Classes whole, thereby making appropriate final declaratory and/or injunctive relief with respect to the members of the Classes as a whole.

X. CLAIMS FOR RELIEF

COUNT I Unjust Enrichment

118. Plaintiffs incorporate and reallege each preceding paragraph as though fully set forth herein.

119. Plaintiffs bring this claim on behalf of themselves and the members of the Nationwide Class and the Subclasses against all Defendants.

120. To the extent required by law, Plaintiff Moonesar's claim for unjust enrichment is alleged in the alternative to his legal claim, as permitted under Rule 8.

121. Defendants have benefitted by selling defective AEB Systems, or by selling and leasing Class Vehicles equipped with the defective AEB Systems, which resulted in Class members overpaying for their vehicles.

122. Defendants have received and retained unjust benefits from Plaintiffs and Class members, and inequity has resulted.

123. It is inequitable and unconscionable for Defendants to retain these benefits.

124. Because Defendants failed to disclose and concealed the AEB Defect, Plaintiffs and Class members were not aware of the true facts concerning the Class Vehicles and did not benefit from Defendants' misconduct.

125. Defendants knowingly accepted the unjust benefits of their conduct.

126. The relationship between Defendants on the one hand, and Plaintiffs and Class members on the other, is sufficient to support a claim for unjust enrichment. Defendants, acting in concert, failed to disclose the AEB Defect to improve retail sales, which in turn improved

1 wholesale sales. Conversely, Defendants knew that disclosure of the AEB Defect would suppress
 2 retail and wholesale sales of the Class Vehicles, suppress leasing of the Class Vehicles, and would
 3 negatively impact the reputation of Defendants' brands among Plaintiffs and Class members.
 4 Defendants also knew their concealment and suppression of the AEB Defect would discourage
 5 Plaintiffs and Class members from seeking replacement or repair of the AEB Systems, thereby
 6 increasing profits and/or avoiding the cost of such replacement or repairs.

7 127. As a result of Defendants' misconduct, the amount of their unjust enrichment should
 8 be disgorged and returned to Plaintiffs and Class members, in an amount to be proven at trial.

9 **COUNT II**
 10 **Unfair Competition Law, Bus. & Prof. Code § 17200 *et seq.* ("UCL")**

11 128. Plaintiffs incorporate and reallege each preceding paragraph as though fully set
 12 forth herein.

13 129. The UCL has extraterritorial application where the defendant's wrongful conduct
 14 emanated in part from California. Accordingly, Plaintiff Sharma brings this claim under the UCL
 15 against all Defendants on behalf of himself and the putative Nationwide Class, the Multi-State
 16 Consumer Fraud Class, and the California Subclass.

17 130. California Business & Professions Code Section 17200 prohibits acts of "unfair
 18 competition," including any "unlawful, unfair or fraudulent business act or practice" and "unfair,
 19 deceptive, untrue or misleading advertising."

20 131. Defendants knew that the Class Vehicles' AEB Systems suffered from an inherent
 21 defect, were defectively designed and/or manufactured, would fail prematurely, and/or were not
 22 suitable for their intended use.

23 132. In failing to disclose the AEB Defect, Defendants knowingly and intentionally
 24 concealed material facts and breached their duty to disclose the AEB Defect, thereby engaging in a
 25 fraudulent business act or practice within the meaning of the UCL.

26 133. Defendants were under a duty to disclose the defective nature of the Class Vehicles'
 27 AEB Systems because: a) Defendants were in a superior position to know the true state of facts
 28 about the safety defect in the Class Vehicles' AEB Systems and actively concealed the defective

1 nature of the Class Vehicles' AEB Systems. In addition, the VW Defendants made partial
2 disclosures about the Class Vehicles without revealing the defective nature of the AEB Systems.

3 134. The AEB Defect is a safety hazard, and a reasonable person would have considered
4 the AEB Defect to be important in deciding whether or not to purchase or lease the Class Vehicles,
5 or to pay less for them. Had Plaintiffs and other Class members known that the Class Vehicles
6 suffered from the AEB Defect described herein, they would not have purchased or leased the Class
7 Vehicles or would have paid less for them.

8 135. Defendants continued to conceal the defective nature of the Class Vehicles and their
9 AEB Systems even after consumers began to report problems. Defendants continue to cover up
10 and conceal the true nature of this systematic problem today.

11 136. Defendants' conduct, as set forth herein, also constitute "unfair" business acts and
12 practices within the meaning of the UCL, in that Defendants' conduct was injurious to consumers,
13 offended public policy, and was unethical and unscrupulous. This conduct includes rushing unsafe
14 AEB Systems to market and withholding material information about the dangers of the AEB
15 System from consumers.

16 137. Defendants' conduct, as set forth herein, also constitute unlawful business acts or
17 practices because they violate consumer protection laws and the common law as set forth herein.

18 138. Thus, by their conduct, Defendants have engaged in unfair competition and
19 unlawful, unfair, and fraudulent business practices.

20 139. Defendants' unfair or deceptive acts or practices occurred repeatedly in Defendants'
21 trade or business and were capable of deceiving a substantial portion of the purchasing public.

22 140. As a direct and proximate result of Defendants' unfair and deceptive practices,
23 Plaintiff and the other Class members suffered and will continue to suffer actual damages.

24 141. Plaintiff Sharma seeks restitution and injunctive relief individually and on behalf of
25 the putative Classes.

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COUNT III

Consumer Legal Remedies Act, Cal. Civ. Code § 1750 *et seq.* (“CLRA”)

142. Plaintiffs incorporate and reallege each preceding paragraph as though fully set forth herein.

143. Plaintiff Sharma brings this claim on behalf of himself, the Nationwide Class, and California Subclass against the VW Defendants.

144. Each Defendant is a “person” as defined by California Civil Code § 1761(c).

145. Plaintiffs and the other California Subclass members are “consumers” within the meaning of California Civil Code § 1761(d).

146. By failing to disclose and concealing the AEB Defect, Defendants violated California Civil Code § 1770(a)(5), (7) and (9).

147. Defendants’ unfair and deceptive acts or practices occurred repeatedly in Defendants’ trade or business, were capable of deceiving a substantial portion of the purchasing public, and imposed a serious safety risk on the public.

148. Defendants knew that the Class Vehicles’ AEB Systems suffered from an inherent defect, were defectively designed or manufactured, would fail prematurely, and were not suitable for their intended use.

149. Defendants were under a duty to disclose the defective nature of the Class Vehicles’ AEB Systems and/or the associated repair costs because: a) Defendants were in a superior position to know the true state of facts about the safety defect contained in the Class Vehicles’ AEBs; b) Plaintiffs and the other Class members could not reasonably have been expected to learn or discover that their Class Vehicles were defective prior to purchase; and c) Defendants knew that Plaintiff and the other Class members could not reasonably have been expected to learn about or discover the AEB Defect.

150. By failing to disclose the AEB Defect, Defendants knowingly and intentionally concealed material facts and breached their duty not to do so.

151. The facts concealed or not disclosed by Defendants to Plaintiffs and the other Class members are material because a reasonable consumer would have considered them to be important

1 in deciding whether or not to purchase the Class Vehicles, or to pay less for them. Had Plaintiffs
 2 and other class members known that the Class Vehicles were defective, they would not have
 3 purchased the Class Vehicles or would have paid less for them.

4 152. Plaintiffs and other Class members are reasonable consumers who do not expect that
 5 their vehicles will suffer from an AEB Defect.

6 153. As a result of Defendants' misconduct, Plaintiffs and other Class members have
 7 been harmed and have suffered actual damages in that the Class Vehicles and their AEB Systems
 8 are defective and require repairs or replacement.

9 154. As a direct and proximate result of Defendants' unfair or deceptive acts or practices,
 10 Plaintiffs and other Class members have suffered and will continue to suffer actual damages.

11 155. Plaintiff Sharma provided pre-suit notice as required under California Civil Code
 12 § 1782.

13 156. Plaintiff Sharma seeks restitution, injunctive relief, punitive damages, and attorney's
 14 fees under the CLRA.

15 **COUNT IV**

16 **Violation Of The New Jersey Consumer Fraud Act ("NJCFA")**

17 157. Plaintiffs incorporate and reallege each preceding paragraph as though fully set
 18 forth herein.

19 158. Plaintiff Moonesar brings this claim on behalf of himself and a putative Class of
 20 New Jersey consumers against the VW Defendants.

21 159. Plaintiff Moonesar and New Jersey Subclass members have suffered an injury in
 22 fact and lost money or property as a result of Defendants' violations of New Jersey's Consumer
 23 Fraud Act ("NJCFA").

24 160. The NJCFA protects consumers from "any unconscionable commercial practice,
 25 deception, fraud, false pretense, false promise, misrepresentation, or the knowing, concealment,
 26 suppression, or omission, in connection with the sale or advertisement of any merchandise...."
 27 N.J. Stat. Ann. § 56:8-2.
 28

1 161. Plaintiff Moonesar and New Jersey Subclass members are consumers who
2 purchased and/or leased Class Vehicles for personal, family or household use.

3 162. Defendants have engaged in conduct that is unlawful, unfair and offends public
4 policy by rushing unsafe AEB Systems to market and withholding material information about the
5 dangers of the AEB System from consumers.

6 163. Defendants did not fully and truthfully disclose to their customers the true nature of
7 the AEB Defect in the Class Vehicles, nor was this defect readily discoverable at the time of
8 purchase or lease.

9 164. Defendants intended that Plaintiffs and the Class members rely on their
10 misrepresentation and/or acts of concealment and omission, so that they would purchase and/or
11 lease the Class Vehicles.

12 165. Accordingly, the VW Defendants have engaged in unfair and deceptive trade
13 practices, including representing that the Class Vehicles have characteristics, uses, benefits, and
14 qualities which they do not have; representing that the Class Vehicles are of a particular standard
15 and quality when they are not; advertising Class Vehicles with the intent to not sell them as
16 advertised; and otherwise engaging in conduct likely to deceive. Further, Defendants' acts and
17 practices described herein offend established public policy because of the harm they cause to
18 consumers, motorists, and pedestrians outweighs any benefit associated with such practices, and
19 because Defendants fraudulently concealed the defective nature of the Class Vehicles from
20 consumers.

21 166. Defendants' actions as set forth above occurred in the conduct of trade or
22 commerce.

23 167. By engaging in the above-described practice and the actions and omissions herein
24 alleged, Defendants have committed one or more unlawful acts in violation of the NJCFA.

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XI. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, individually and on behalf of all others similarly situated, respectfully asks this Court to enter judgment against Defendants and in favor of Plaintiffs and the Classes, and award the following relief:

- A. An order certifying this action as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure, declaring Plaintiffs representatives of the Classes, and Plaintiffs' counsel as counsel for the Classes;
- B. An order awarding declaratory relief and enjoining Defendants from continuing the unlawful, deceptive, fraudulent, harmful, and unfair business conduct and practices alleged herein;
- C. Injunctive and equitable relief in the form of a comprehensive program to repair the AEB Defect, and/or buyback all Class Vehicles, and to fully reimburse and make whole all Class and Subclass members for all costs and economic losses;
- D. A declaration that Defendants are financially responsible for all Class notice and the administration of Class relief;
- E. An order awarding to the extent available under governing law, restitution, disgorgement, punitive damages, treble damages, exemplary damages and statutory damages; and compensatory damages for economic loss and out-of-pocket costs in an amount to be determined at trial;
- F. A declaration that Defendants are required to engage in corrective advertising;
- G. An order requiring Defendants to pay both pre- and post-judgment interest on any amounts awarded;
- H. An award of costs, expenses, and attorneys' fees as permitted by law; and
- I. Such other or further relief as the Court may deem appropriate, just, and equitable.

XII. DEMAND FOR TRIAL BY JURY

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiffs demand a trial by jury of any and all issues in this action so triable of right.

1 Dated: July 31, 2020

BURSOR & FISHER, P.A.

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