UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

IN RE: TAKATA AIRBAG PRODUCT LIABILITY LITIGATION

This Document Relates to All Economic Loss Class Actions and:

Stephanie Puhalla, et al., individually and on behalf of all others similarly situated,

Plaintiffs,

v.

VOLKSWAGEN GROUP OF AMERICA, AUDI OF AMERICA, LLC, and MERCEDES-BENZ USA, LLC,

Defendants.

MDL No. 2599

Master File No.15- MD 2599-FAM

S.D. Fla. Case No. 1:14-cv-24009-FAM

JURY TRIAL DEMANDED

SECOND AMENDED CONSOLIDATED CLASS ACTION COMPLAINT

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Plaintiffs, based on personal knowledge as to themselves, and upon information and belief as to all other matters, allege as follows:

NATURE OF CLAIMS

1. The things meant to protect us should not be made in a way that harms or even kills us. This is particularly true of cars because they are a tool millions of people use every day. People trust that their cars are designed and built to keep them safe; and they expect that automakers (also known as "original equipment manufacturers" or "OEMs") take every reasonable step to make sure that nothing in their cars endangers their lives, or those of any passengers who ride in them.

2. This action concerns defective airbags manufactured by Takata Corporation and its related entities, including TK Holdings, Inc. ("Takata"), which contain inflators using the notoriously volatile and unstable compound, ammonium nitrate. These defective airbags were nevertheless equipped in vehicles that Defendants Volkswagen, Mercedes, and their related entities (collectively "Defendants"), [1] manufactured, sold, or leased—and knowingly misrepresented as safe, when in fact they carried devices that could explode and maim or kill drivers and passengers.

3. An airbag is a critical safety feature of any motor vehicle. Airbags are meant to prevent occupants from striking hard objects in the vehicle, such as the steering wheel, dashboard, or windshield. An airbag's inflator, as its name suggests, is supposed to rapidly inflate the airbag upon vehicle impact. In the milliseconds following a crash, the inflator ignites a propellant to produce gas that is released into the airbag cushion, causing the airbag cushion to expand and

[1] The Court dismissed all claims against Volkswagen AG, Audi AG, and Daimler AG (the "foreign entities") for lack of personal jurisdiction (ECF No. 3406), and the Court's Order authorizing an amended complaint directed that "only jurisdictional allegations with respect to **domestic** defendants should be amended" (ECF No. 3983 at 2), which the Court indicated at a recent hearing means that Plaintiffs are not permitted to assert claims against the foreign entities. In accordance with the Court's Orders, Plaintiffs are not including claims in this amended pleading against the foreign entities. Nonetheless, as argued in Plaintiffs' pending motion for clarification (ECF No. 3984), as well as Plaintiffs' prior motions for leave to amend, Plaintiffs respectfully submit that the proposed jurisdictional allegations Plaintiffs sought to include in the amended pleading are sufficient to establish specific jurisdiction over the foreign entities. Of course, if the Court ultimately grants Plaintiffs' pending motion for clarification, Plaintiffs will amend the pleading to include Plaintiffs' claims against the foreign entities. And Plaintiffs do not waive any claims against the foreign entities by not including them in this amended pleading, per the Court's Orders.

deploy. The term "airbag" shall be used herein to refer to the entire airbag module, including the inflator.

4. All Takata airbags at issue in this litigation share a common, uniform defect: the use of ammonium nitrate, a notoriously volatile and unstable compound, as the propellant in Defendants' defectively designed inflators (the "Inflator Defect"). Under ordinary conditions, including daily temperature swings and contact with moisture in the air, Takata's ammonium nitrate propellant transforms and destabilizes, causing irregular and dangerous behavior, resulting in violent combustion. Ammonium nitrate is well-known for its explosive power. Indeed, it is the very explosive that Timothy McVeigh and Terry Nichols used in April 1995, to bomb the Alfred P. Murrah Federal Building in downtown Oklahoma City. Likewise, in 2006, a Takata factory suffered a severe explosion because of ammonium nitrate—a fact known to its automaker clients, including Defendants. In August 2016, a truck carrying Takata airbag parts crashed on a Texas road, detonating the ammonium nitrate it carried in an immense blast, destroying a home, killing its elderly owner, and injuring four of her visitors.

5. Because of the common, uniform Inflator Defect, Takata airbags often fail to perform as they should. Instead of protecting vehicle occupants from bodily injury during accidents, the defective Takata airbags too often violently explode, sometimes expelling metal debris and shrapnel to unsuspecting drivers and passengers. As of February 2018, Takata airbags have been responsible for at least 22 deaths, and hundreds of serious injuries, worldwide.

6. In the late 1990s, when Takata shelved a safer propellant in favor of the far cheaper ammonium nitrate, it was aware of these risks and did so over the objections and concerns of its engineers in Michigan. Tellingly, Takata is the only major airbag manufacturer that used ammonium nitrate as the primary propellant in its airbag inflators.

7. Defendants were intimately involved in the design and testing of the airbags that contained the Inflator Defect. When the Defendants approved Takata's airbags and purchased them for installation in their vehicles, they were aware that the airbags used the volatile and unstable ammonium nitrate as the primary propellant in the inflators.

8. Volkswagen knew not only that the airbags used ammonium nitrate propellant, but that propellant degradation could cause a loss of the inflator's structural integrity. Nevertheless, it approved the airbags for use in its vehicles.

9. Persistent quality problems and disturbing test results provided further warning to Volkswagen, including a number of inflators coming apart during testing in 2004, and ruptures during testing in February 2009. This pattern was punctuated by a rupture in April 2009 that led Volkswagen and Takata to directly discuss precisely the failure mechanisms and risks that have led to a series of the largest recalls in history—and that should have led to immediate recalls, and the use of a safer propellant long ago.

10. Before it began equipping its vehicles with defective Takata airbags, Mercedes likewise expressed concern over clear signs of overpressurization, module cover tearing, cushion tearing, output variability, and module integrity during post-deployment—all signs of potentially serious inflator and propellant problems.

11. Despite these concerns, and despite its knowledge that Takata's airbags could not meet a key set of industry standards, Mercedes approved multiple models of ammonium-nitrate inflators. Indeed, it went so far as to waive key performance variables and accept deviations from important safety standards in order to push the airbags through the approval process.

12. Apart from the notice and warnings they received through their internal review and testing, as well as interactions with Takata, Defendants Volkswagen and Mercedes also belong to a German car consortium that—no later than 2007 (and likely well before)—was discussing the risks of ammonium-nitrate inflators with Takata.

13. All of this was against the backdrop of Defendants' knowledge that the Takata airbags were experiencing the same problems in other automakers' vehicles. Takata and its automaker customers first received word of startling airbag failures in the field no later than 2003, when a Takata inflator ruptured in the vehicle of Defendants' consortium partner, BMW. Other ruptures and injuries took place in Honda vehicles in 2004 and 2007. After years of downplaying the danger, Honda issued a public recall in the United States in 2008, putting all automakers,

including Defendants, on even greater notice of the danger. The alarm bells should have only grown louder in the coming years, as Honda and Takata issued further United States recalls of airbags with the Inflator Defect in 2009, 2010, 2011, and 2013, leading up to the record-breaking recalls that followed from 2014 onward. Yet, despite the repeated recalls of others in the auto industry, and their independent concerns arising out of the use of these dangerous inflators, Defendants utterly failed to take reasonable, let alone sufficient, measures to investigate the issue or protect purchasers, lessees, or the general public. Indeed, even as other automakers began taking proactive, remedial measures (however belated and ineffective), Defendants remained silent and on the sidelines.

14. By May 2015, Takata had filed Defect Information Reports ("DIRs") admitting the defect and continued to add inflator models through additional DIRs in subsequent years. Despite overwhelming evidence of the defect, Defendants did not issue recalls, warn consumers, or otherwise protect them from the risk, through, for example, systematic loaner vehicle programs. Indeed, in correspondence with the National Highway Traffic Safety Administration ("NHTSA") in early 2016, Volkswagen went so far as to try to *avoid* a recall, even as other automakers were undertaking their own and moving ahead. Additionally, in correspondence to Plaintiffs and consumers, in December 2017 and January 2018, Mercedes acknowledged that "the availability of replacement parts [was] taking longer than anticipated." It also indicated that it needed to obtain an extension of time from NHTSA to provide replacement parts, and that for certain vehicle owners belonging to a particular priority group established by NHTSA, replacement parts would not be expected to be available until March 31, 2018. The Defendants' delay is consequential—it exposes purchasers, lessees, drivers, passengers, and, indeed, the general public, to an ongoing and unnecessary risk of harm.

15. Plaintiffs and consumers are in the frightening position of having to drive dangerous vehicles for many months or years while they wait for Defendants to replace the defective airbags in their cars. They are effectively left without safe vehicles to take them to and

from work, pick up their children from schools or daycares, or, in the most urgent of situations, transport themselves or others to hospitals.

16. Even more troubling—many of the replacement airbags that Takata and the automakers are using to "repair" recalled vehicles suffer from the same common, uniform defect that plagues the airbags being removed; they continue to use unstable and dangerous ammonium nitrate as the propellant—a fact that Takata's representative admitted at a Congressional hearing in June 2015. Takata's representative also repeatedly refused to provide assurances that Takata's replacement airbags were safe and defect-free.

17. Defendants knew, and certainly should have known, that the Takata airbags installed in millions of vehicles were defective. By concealing their knowledge of the nature and extent of the defect from the public, while continuing to advertise their products as safe and reliable, Defendants demonstrated a blatant disregard for public welfare and safety. Moreover, Defendants violated their affirmative duty, imposed under the Transportation Recall Enhancement, Accountability, and Documentation Act (the "TREAD Act"), to promptly advise customers about known defects.

18. As a result of this misconduct, Plaintiffs and members of the proposed Classes were harmed and suffered actual damages. Plaintiffs and the Classes did not receive the benefit of their bargain; rather, they purchased or leased vehicles that are of a lesser standard, grade, and quality than represented, and they did not receive vehicles that met ordinary and reasonable consumer expectations regarding safe and reliable operation. Purchasers and lessees of the Class Vehicles paid more, either through a higher purchase price or higher lease payments, than they would have had the Inflator Defect been disclosed. Plaintiffs and the Classes were deprived of a safe, defect-free airbag installed in their vehicles, and Defendants unjustly benefited from their unconscionable delay in recalling their defective products, as they simultaneously avoided incurring the costs associated with recalls and installing replacement parts for many years.

19. Plaintiffs and the Classes also suffered damages in the form of out-of-pocket and loss-of-use expenses and costs, including, but not limited to, expenses and costs associated with

taking time off from work, paying for rental cars or other transportation arrangements, and child care. Also, as a direct result of misconduct by Defendants, each Plaintiff and Class member has out-of-pocket economic damage by virtue of having incurred the expense of taking the time to bring vehicles in for recall repairs.

20. Plaintiffs and the Classes also suffered damages as a result of Defendants' concealment and suppression of the facts concerning the safety, quality, and reliability of their vehicles with defective Takata airbags. Defendants' false representations and omissions concerning the safety and reliability of those vehicles, and their concealment of the known safety defects plaguing their vehicles and brands, caused certain Plaintiffs and Class members to purchase or retain vehicles of diminished value.

JURISDICTION AND VENUE

21. Jurisdiction is proper in this Court pursuant to the Class Action Fairness Act, 28 U.S.C. § 1332(d), because members of the proposed Plaintiff Class are citizens of states different from Defendants' home states, and the aggregate amount in controversy exceeds $5,000,000, exclusive of interest and costs. Also, jurisdiction is proper in this Court pursuant to 28 U.S.C. § 1331, because Plaintiffs' former Magnuson-Moss and RICO claims arise under federal law. This Court has supplemental jurisdiction over Plaintiffs' state law claims under 28 U.S.C. § 1367.

22. This Court has personal jurisdiction over Plaintiffs because Plaintiffs submit to the Court's jurisdiction.

23. For the duration of the MDL pretrial proceedings, as to Plaintiffs' claims against the Volkswagen and Mercedes Defendants, Plaintiffs intend for this consolidated complaint, as well as any amended version, to serve as a legally operative pleading that has consolidated, merged, amended, and superseded actions transferred into the MDL, including *Maestri v. Mercedes-Benz USA, LLC*, No. 18-cv-01070 (N.D. Ga.), *McBride v. Audi of America, LLC*, No. 18-cv-00284 (E.D. Va.), *Krmpotic v. Takata Corp.*, No. 17-cv-04771 (D.N.J.), and *Alters v. Volkswagen Group of America, Inc.*, No. 17-cv-05863 (D.N.J.).

24. For jurisdictional and venue purposes, the claims of non-Florida Plaintiffs asserted in this consolidated complaint against Mercedes are intended to amend and supersede the claims and complaint originally filed in *Maestri v. Mercedes-Benz USA, LLC, et al.,* No. 18-cv-01070 (N.D. Ga.), in the Northern District of Georgia and transferred to this Court for consolidated pretrial proceedings. Standing in the shoes of the Northern District of Georgia, this Court, as an MDL transferee Court, may exercise general jurisdiction over Mercedes-Benz USA, LLC, which is "at home" in the Northern District of Georgia, where its principal place of business is located, and specific jurisdiction over Daimler AG, which carries out United States activities through Mercedes-Benz USA, its agent, in the Northern District of Georgia.

25. For jurisdictional and venue purposes, the claims asserted in this consolidated complaint by non-Florida Plaintiffs who purchased or leased VW Class Vehicles are intended to amend and supersede the complaint originally filed in *Alters v. Volkswagen Group of America, Inc.*, No. 17-cv-05863 (D.N.J.), in the District of New Jersey and transferred to this Court for consolidated pretrial proceedings. Standing in the shoes of the District of New Jersey, this Court, as an MDL transferee Court, may exercise general jurisdiction over Volkswagen Group of America, which is "at home" in the District of New Jersey because it is incorporated in New Jersey.

26. For jurisdictional and venue purposes, the claims asserted in this consolidated complaint by non-Florida Plaintiffs who purchased or leased Audi Class Vehicles are intended to amend and supersede the complaint originally filed in *McBride v. Audi of America, LLC*, No. 18-cv-00284 (E.D. Va.), in the Eastern District of Virginia and transferred to this Court for consolidated pretrial proceedings. Standing in the shoes of the Eastern District of Virginia, this Court, as an MDL transferee Court, may exercise general jurisdiction over Audi of America and Volkswagen Group of America, which are "at home" in the Eastern District of Virginia, where their principal places of business are located.

27. For jurisdictional and venue purposes, the claims asserted in this consolidated complaint by Florida Plaintiffs who purchased or leased their Class Vehicles in Florida are, per

the Court's Orders, "Direct-File" claims to be litigated in this Court, both during and after pretrial proceedings.

28. This Court has personal jurisdiction over Defendants, pursuant to the long-arm statutes of Florida (Fla. Stat. §§ 48.193(1)), New Jersey (N.J. Ct. R. 4:4-4), Virginia (Va. Code Ann. § 8.01–328.1), Georgia (O.C.G.A. § 9-10-91), and any other applicable jurisdiction. Defendants conduct substantial business in this District and the jurisdictions in which Transferor Courts sit, New Jersey, Virginia, and/or Georgia ("Transferor Jurisdictions"), and some of the conduct giving rise to the Complaint took place in this District and/or Transferor Jurisdictions. Plaintiffs' claims arise out of Defendants, directly or by an agent, operating, conducting, engaging in, or carrying on a business or business venture in this state or Transferor Jurisdictions; or having an office or agency in this state or Transferor Jurisdictions; or committing a tortious act in this state or Transferor Jurisdictions; or causing injury to property in this state or Transferor Jurisdictions arising out of Defendants' acts and omissions outside this state or Transferor Jurisdictions, and at or about the time of such injuries Defendants were engaged in solicitation or service activities within this state or Transferor Jurisdictions, or products, materials, or things processed, serviced, or manufactured by Defendants anywhere were used or consumed within this state or Transferor Jurisdictions in the ordinary course of commerce, trade, or use, or Defendants derived substantial revenue from goods used or consumed or services rendered in this state or Transferor Jurisdictions. This Court also has personal jurisdiction over Defendants because they consented to jurisdiction by registering to do business in Florida or the Transferor Jurisdictions. This Court has pendant or supplemental personal jurisdiction over the claims of Plaintiffs who purchased Class vehicles outside this District or outside the Transferor Jurisdictions.

29. This Court has personal jurisdiction over the Defendants under 28 U.S.C. § 1407, by standing in the shoes of Transferor Courts that have transferred actions to this MDL. To the extent necessary for personal jurisdiction purposes, any claims asserted in this consolidated complaint, including the claims of Florida Plaintiffs, may be deemed to have been filed in a transferor court that may exercise personal jurisdiction over Defendants for such claims.

30. As alleged throughout this consolidated complaint, including in paragraphs 34-95 below, the Volkswagen and Mercedes Defendants have targeted and purposely availed themselves of the U.S. market and the markets of Transferor Jurisdictions for their cars, and Plaintiffs' claims arise out of the resulting sale of their cars, specifically including the Class Vehicles, in these markets and their contacts with the United States and the Transferor Jurisdictions.

31. Directly, and among their American subsidiaries, the Volkswagen and Mercedes Defendants have a widespread operational presence in the United States, with, *inter alia*, administrative offices, storage and distribution centers, and manufacturing plants employing tens of thousands of personnel. MBUSA, for example, operate a parts distribution center in Jacksonville, Florida that supports authorized dealerships throughout the region; corporate headquarters in Georgia; and a customer service center, a learning and performance center, and a parts distribution center in New Jersey. Likewise, the VW Defendants operate a parts distribution center in Jacksonville, Florida that supports sales and service of VW and Audi vehicles by authorized dealerships in the region; corporate headquarters in Virginia; and a parts distribution center and a technical center in New Jersey. Through marketing, distributing, warranting, selling, and leasing Class Vehicles in the United States, this District, and Transferor Jurisdictions, the Volkswagen and Mercedes Defendants have deliberately taken affirmative steps to make VW-, Audi-, and Daimler-designed vehicles available to consumers, including Plaintiffs and Class Members, in the United States, this District, and Transferor Jurisdictions; created continuing obligations between themselves and residents of the United States, this District, and Transferor Jurisdictions; and purposefully availed themselves of the benefits and protections of conducting business in the United States generally, this District, and Transferor Jurisdictions.

32. Defendants' unlawful conduct and practices were committed within the United States, this District, and Transferor Jurisdictions.

33. Plaintiffs' claims arise out of and relate to the Volkswagen and Mercedes Defendants' contacts with the United States, this District, and Transferor Jurisdictions, particularly in that Plaintiffs could not even have purchased or leased their Class Vehicles if not for these

Defendants' intentional acts of designing the Class Vehicles, equipping them with Defective Airbags, and distributing them for sale to customers in the United States, this District, and Transferor Jurisdictions.

34. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(a), because a substantial part of the events or omissions giving rise to these claims occurred in this District, Defendants have caused harm to Class members residing in this District, and Defendants are residents of this District under 28 U.S.C. § 1391(c)(2), because they are subject to personal jurisdiction in this District. Also, venue is proper in this District pursuant to 28 U.S.C. § 1407.

THE PARTIES

I. Defendants

Volkswagen Defendants

35. Volkswagen Group of America ("VW America") is a New Jersey corporation doing business throughout the United States. VW America's corporate headquarters is located in Herndon, Virginia. VW America is a wholly owned U.S. subsidiary of Volkswagen Aktiengesellschaft ("VW AG"), and it engages in business activities in furtherance of the interests of VW AG, including the advertising, marketing, and sale of Volkswagen automobiles in all 50 states. VW America is VW AG's principal North American subsidiary. It has approximately 6,000 employees in the United States and sells its vehicles through a 1,000-dealer network. VW America renders services on behalf of VW AG that are sufficiently important to VW AG and its sale of vehicles in the United States that VW AG would perform those services itself if VW America did not exist. In consumer transactions, like those with Plaintiffs, VW AG's unified brand and logo serve as its and VW America's official seal and signature as to consumers.

36. Audi of America, LLC ("Audi America") is a limited liability company or operating unit within VW America, with its principal place of business located at 2200 Ferdinand Porsche Drive, Herndon, Virginia 20171. Audi America is a wholly owned U.S. subsidiary of Audi Aktiengesellschaft ("Audi AG"), and it engages in business, including the advertising, marketing

and sale of Audi automobiles, in all 50 states. Audi America renders services on behalf of Audi AG that are sufficiently important to Audi AG and its sale of vehicles in the United States that Audi AG would perform those services itself if Audi America did not exist. In consumer transactions, like those with Plaintiffs, Audi AG's unified brand and logo serve as its and Audi America's official seal and signature as to consumers.

37. As used in this Complaint, unless otherwise specified, "Audi" and "Audi Defendants" refer to Audi America, and "Volkswagen" and "Volkswagen Defendants" refer collectively to VW America and Audi America, and their related entities.

38. The Volkswagen Defendants engineered, designed, developed, manufactured, or installed the Defective Airbags in the Volkswagen- and Audi-branded Class Vehicles (defined below), and approved the Defective Airbags for use in those vehicles. They also developed, reviewed, and approved the marketing and advertising campaigns designed to sell these Class Vehicles in the United States, this District, and Transferor Jurisdictions.

39. In 2018 alone, the Volkswagen Defendants sold more than 620,000 vehicles in the United States, generating more than $20 billion in revenue. The Volkswagen Defendants sold more than 1,000,000 Class Vehicles in the United States equipped with Defective Airbags.

40. Volkswagen has engaged in substantial business in the Transferor Jurisdictions and Florida—among other things, advertising, selling, and servicing the models of vehicles that Plaintiffs here claim are defective.

41. Volkswagen encourages a resale market for its vehicles in the Transferor Jurisdictions and Florida: almost all of its authorized dealerships buy and sell used VW and Audi vehicles, as well as selling new ones.

42. Volkswagen engages in wide-ranging promotional activities, including television, print, online, and direct-mail advertisements in the Transferor Jurisdictions and Florida. By every means imaginable—among them billboards, TV and radio spots, print ads, and direct mail—Volkswagen urges residents of the Transferor Jurisdictions and Florida to buy its vehicles, including the Class Vehicles.

43. VW and Audi cars—including the Class Vehicles—are available for sale, whether new or used, throughout the Transferor Jurisdictions and Florida.

44. Volkswagen provides original parts to its dealerships, auto supply stores, and repair shops in the Transferor Jurisdictions and this District to ensure that consumers can keep their vehicles running long past the date of sale.

45. Volkswagen's own network of dealers offers an array of maintenance and repair services, thus fostering an ongoing relationship between Volkswagen and its customers. There are at least 42 Volkswagen- or Audi-authorized dealerships in Florida, all of which sold new and used Class Vehicles.

46. Florida Plaintiffs suffered economic harm, loss, and damages in Florida as a result of purchasing the VW and Audi Class Vehicles in Florida. Likewise, Plaintiffs in Transferor Jurisdictions suffered economic harm, loss, and damages in the Transferor Jurisdictions from purchasing VW and Audi Class Vehicles in the Transferor Jurisdictions.

47. The Volkswagen Defendants developed the owner's manuals, warranty booklets, product brochures, advertisements, and other promotional materials relating to the VW and Audi Class Vehicles sold in the United States, with the intent that these documents would be distributed in all 50 states and caused those materials to be disseminated throughout the United States, this District, and Transferor Jurisdictions.

48. The Volkswagen Defendants acknowledged in a recent annual report that the United States is a key sales market for Volkswagen vehicles. Volkswagen's sales in the United States, the Transferor Jurisdictions, and this District are voluntary, intentional, and regular.

49. The Volkswagen Defendants designed and/or manufactured the Class Vehicles, including Plaintiffs' vehicles, for sale in the United States, this District, and Transferor Jurisdictions. The United States and its constituent states have a collection of federal and state laws that require manufacturers to build their passenger vehicles specifically to meet the standards established by those laws. The Volkswagen Defendants specifically designed Plaintiffs' Audi and

VW Class Vehicles to meet federal and state regulations and standards, including the Federal Motor Vehicle Safety Standards.

50. The Volkswagen Defendants certified to U.S. government officials that Audi and VW Class Vehicles met U.S. federal requirements and standards so that the vehicles could be sold in the United States, this District, and Transferor Jurisdictions. Employees of the Volkswagen Defendants or their related entities also affixed labels to the engines of Audi and VW Class Vehicles to disclose to U.S. Customs and Border Protection agents that the vehicles were covered by valid certificates for the United States.

51. The Volkswagen Defendants established channels for marketing Class Vehicles and providing regular advice to owners and lessees of Class Vehicles, including Plaintiffs, in the United States, this District, and Transferor Jurisdictions, by licensing their trademarks to dealerships and authorizing dealerships to sell their vehicles.

52. The Volkswagen Defendants marketed Class Vehicles, including Plaintiffs' vehicles, through affiliated distributors, in the United States, this District, and Transferor Jurisdictions.

53. The Volkswagen Defendants directly or indirectly, engaged in the financing of authorized dealerships throughout the United States, this District, and Transferor Jurisdictions.

54. The Volkswagen Defendants created or controlled the distribution network that brought Class Vehicles, including Plaintiffs' vehicles, to the United States, this District, and Transferor Jurisdictions. The Volkswagen Defendants regularly transported and distributed for sale tens of thousands of Class Vehicles to authorized dealerships in United States, this District, and Transferor Jurisdictions to facilitate the sale of such Class Vehicles to consumers in United States, this District, and Transferor Jurisdictions. For example, the Volkswagen Defendants shipped Plaintiff Busto's 2014 Volkswagen CC to Rick Case Volkswagen, a VW-authorized dealership, in Weston, Florida, in or around April 2014, which led to Mr. Busto leasing the vehicle in Florida in May 2014. Similarly, the Volkswagen Defendants shipped Plaintiff Gil's 2014 Volkswagen Passat to Esserman International Acura VW, a VW-authorized dealership in Doral,

Florida, in or around October 2013, which resulted in Ms. Gil leasing the vehicle from the authorized dealership in December 2013. These types of transactions involving Class Vehicles, for the Volkswagen Defendants' pecuniary benefit, occurred tens of thousands of times during the relevant time period with respect to the sale of Class Vehicles in in the United States, this District, and Transferor Jurisdictions.

55. The Volkswagen Defendants were involved in providing information to train personnel in the United States, this District, and Transferor Jurisdictions in the repair, servicing, and preparation of Class Vehicles, including Plaintiffs' Vehicles.

56. VW and Audi Class Vehicles, including Plaintiffs' vehicles, were the subject of nationwide advertising campaigns that were intended to reach and did reach this District and Transferor Jurisdictions, that advertised and promoted the alleged safety of Class Vehicles, and that were controlled, directed, funded, and/or approved by the Volkswagen Defendants. None of these advertisements or marketing materials disclosed that Plaintiffs' vehicles or Class Vehicles were equipped with defective Takata inflators.

57. From 2004 through the present, the Volkswagen Defendants regularly communicated with authorized dealerships in the United States, this District, and Transferor Jurisdictions to facilitate the sale and service of Class Vehicles, including Plaintiffs' vehicles, in the United States, this District, and Transferor Jurisdictions. The Volkswagen Defendants managed, marketed, and directed the VW- and Audi-Certified Pre-Owned Vehicle programs, through their continuous contacts with authorized dealerships in the United States, this District, and Transferor Jurisdictions, to encourage consumers, including Class Members, to purchase used Class Vehicles from VW- and Audi-authorized dealerships. This resulted in the sale, for example, of the 2010 VW GTI to Plaintiff Ignacio, as a VW-Certified pre-owned vehicle from O'Steen VW, a VW-authorized dealership in Jacksonville, Florida. These types of transactions involving Class Vehicles, for the Volkswagen Defendants' pecuniary benefit, occurred tens thousands of times during the relevant time period with respect to the sale of certified pre-owned Class Vehicles in in the United States, this District, and Transferor Jurisdictions.

58. From 2004 through the present, employees of the Volkswagen Defendants regularly travelled throughout the United States and to Transferor Jurisdictions and this District to facilitate the sale and service of Class Vehicles, including Plaintiffs' vehicles, in the United States, this District, and Transferor Jurisdictions.

59. The websites Volkswagen and Audi, from 2005 through the present, have been accessible and accessed in the United States, this District, and Transferor Jurisdictions. These websites solicit the sale of VW and Audi vehicles and connect U.S. customers with VW and Audi authorized dealers.

60. Volkswagen Defendants solicited the sale or lease of Class vehicles, including Plaintiffs' vehicles, in the United States, this District, and Transferor Jurisdictions. Volkswagen Defendants also market vehicles in the United States, Transferor Jurisdictions, and this District by regularly attending trade shows in the United States, Transferor Jurisdictions, and this District every year.

61. Volkswagen and Audi entities have, as recently as 2018, brought litigation in U.S. courts to protect their "distinctive and world-famous trademarks" from infringement and counterfeiting. The protection afforded their trademarks and patents under U.S. law enabled Volkswagen to sell Class Vehicles in the United States, this District, and Transferor Jurisdictions and to Plaintiffs.

62. In a recent complaint to enforce its trademark rights, an Audi entity represented that it "sells Audi automobiles and genuine parts and accessories through a network of licensed Audi dealerships." It also conceded that it operates an interactive website through which consumers can purchase accessories and parts directly from Audi.

63. From 1960 through the present, an Audi entity has registered and maintained registrations with the U.S. government for trademarks associated with its vehicles and parts, which it uses to identify and distinguish its vehicles and parts in the United States, this District, and Transferor Jurisdictions.

64. Volkswagen admitted in a recent trademark infringement complaint that it sells VW automobiles through a network of licensed VW dealerships, and that it operates an interactive website through which consumers can purchase goods and parts.

65. From 1957 through the present, a Volkswagen entity has registered and maintained registrations with the U.S. government for trademarks associated with its vehicles and parts, which it uses to identify and distinguish its vehicles and parts in the United States. Volkswagen considers the "VW brand" to be a core component of the company, and claims that the "Audi and VW Marks are invaluable assets of substantial and inestimable worth to Audi and VW."

66. The Volkswagen Defendants use the VW and Audi trademarks to promote the sale of VW and Audi vehicles in the United States, this District, and Transferor Jurisdictions.

Mercedes

67. Mercedes-Benz USA, LLC ("MBUSA") is a Delaware limited liability corporation, whose principal place of business is 303 Perimeter Center North, Suite 202, Atlanta, Georgia 30346. Until approximately July 2015, Mercedes's principal place of business was 1 Mercedes Drive, Montvale, New Jersey 07645. MBUSA is a wholly owned subsidiary of Daimler Aktiengesellschaft ("Daimler AG") and engages in business, including the advertising, marketing, and sale of Mercedes-Benz automobiles, including Class Vehicles, in all 50 states, in furtherance of the interests of Daimler AG. MBUSA employs over 1,600 workers in the U.S. MBUSA is Daimler AG's principal North American subsidiary. MBUSA renders services on behalf of Daimler AG that are sufficiently important to Daimler AG and its sale of vehicles in the United States that Daimler AG would perform those services itself if MBUSA did not exist. In consumer transactions, like those with Plaintiffs, Daimler AG's unified brand and logo serve as its and MBUSA's official seal and signature as to consumers.

68. There are approximately 380 authorized Mercedes dealerships in the U.S. In fiscal year 2018 alone, MBUSA sold more than 320,000 vehicles in the United States, generating more than $10 billion in revenue. And MBUSA sold more than 1 million Class Vehicles in the United States equipped with Defective Airbags.

69. MBUSA has engaged in substantial business in the Transferor Jurisdictions and this District—among other things, advertising, selling, and servicing the models of vehicles that Plaintiffs here claim are defective.

70. MBUSA encourages a resale market for its vehicles in the Transferor Jurisdictions and this District: almost all of its authorized dealerships buy and sell used Mercedes vehicles, as well as selling new ones.

71. MBUSA engages in wide-ranging promotional activities, including television, print, online, and direct-mail advertisements in the Transferor Jurisdictions and this District. By every means imaginable—among them billboards, TV and radio spots, print ads, and direct mail—MBUSA urges residents of the Transferor Jurisdictions and Florida to buy its vehicles, including the Class Vehicles.

72. Mercedes cars—including the Class Vehicles—are available for sale, whether new or used, throughout the Transferor Jurisdictions and Florida.

73. MBUSA provides original parts to its dealerships, auto supply stores, and repair shops in the Transferor Jurisdictions and this District to ensure that consumers can keep their vehicles running long past the date of sale.

74. MBUSA's own network of dealers offers an array of maintenance and repair services, thus fostering an ongoing relationship between MBUSA and its customers. There are at least 30 Mercedes-authorized dealerships in Florida, all of which sold new and used Class Vehicles to Florida Class Members.

75. Florida Plaintiffs suffered economic harm, loss, and damages in Florida as a result of purchasing the Mercedes Class Vehicles in Florida. Likewise, Plaintiffs in Transferor Jurisdictions suffered economic harm, loss, and damages in the Transferor Jurisdictions from purchasing Mercedes Class Vehicles in the Transferor Jurisdictions.

76. MBUSA and its related entities are collectively referred to as "Mercedes." Mercedes holds itself out as Mercedes-Benz, a single entity that caters to American consumers and purposely avails itself of the United States market for automobiles. Mercedes also advertises its

connection to Florida on its website, representing that its Jacksonville, Florida parts distribution center "supports dealers in the region with parts supply and houses parts inventory."

77. Mercedes engineered, designed, developed, manufactured, or installed the Defective Airbags in the Mercedes-branded Class Vehicles, and approved the Defective Airbags for use in those vehicles and for sale in the United States, this District, and Transferor Jurisdictions. MBUSA also developed, reviewed, and approved the marketing and advertising campaigns designed to sell these Class Vehicles in the United States, this District, and Transferor Jurisdictions.

78. MBUSA developed the owner's manuals, warranty booklets, product brochures, advertisements, and other promotional materials relating to the Mercedes Class Vehicles sold in the United States, with the intent that these documents would be distributed in all 50 states and caused those materials to be disseminated throughout the United States, this District, and Transferor Jurisdictions.

79. MBUSA acknowledged in a recent annual report that the United States is a key sales market for it. MBUSA's sales in the United States, the Transferor Jurisdictions, and this District are voluntary, intentional, and regular.

80. Mercedes designed and/or manufactured the Class Vehicles, including Plaintiffs' vehicles, for sale in the United States, this District, and Transferor Jurisdictions. The United States and its constituent states have a collection of federal and state laws that require manufacturers to build their passenger vehicles specifically to meet the standards established by those laws. Mercedes specifically designed Plaintiffs' Mercedes Class Vehicles to meet federal and state regulations and standards, including the Federal Motor Vehicle Safety Standards.

81. Mercedes supervisors certified to U.S. government officials that Mercedes Class Vehicles met U.S. federal requirements and standards so that the vehicles could be sold in the United States. Mercedes employees also affixed labels to the engines of Mercedes Class Vehicles to disclose to U.S. Customs and Border Protection agents that the vehicles were covered by valid certificates for the United States.

82. MBUSA established channels for marketing Class Vehicles and providing regular advice to owners and lessees of Class Vehicles, including Plaintiffs, in the United States, this District, and Transferor Jurisdictions by licensing its trademarks to dealerships and authorizing dealerships to sell its vehicles.

83. MBUSA marketed Class Vehicles, including Plaintiffs' vehicles, through affiliated distributors in the United States, Transferor Jurisdiction, and this District. MBUSA also markets vehicles in the United States, Transferor Jurisdictions, and this District by regularly attending trade shows in the United States, Transferor Jurisdictions, and this District every year.

84. MBUSA, directly or indirectly, engaged in the financing of authorized dealerships throughout the United States, this District, and Transferor Jurisdictions.

85. MBUSA created or controlled the distribution network, including the 380 authorized dealerships, that brought Class Vehicles, including Plaintiffs' vehicles, to the United States, this District, and Transferor Jurisdictions for sale or lease. MBUSA regularly transported and distributed for sale tens of thousands of Class Vehicles to authorized dealerships in United States, this District, and Transferor Jurisdictions to facilitate the sale of such Class Vehicles to consumers in United States, this District, and Transferor Jurisdictions. For example, MBUSA shipped Plaintiff Kaufman's 2011 Mercedes-Benz E350 to Mercedes-Benz of Delray, a Mercedes-authorized dealership, in Delray, Florida, in or around July 2010, which led to the first sale or lease of the Class Vehicle in Florida in August 2010 and a subsequent sale to Plaintiff Kaufman from the same authorized dealership in May 2013. These types of transactions involving Class Vehicles, for MBUSA's pecuniary benefit, occurred tens of thousands of times during the relevant time period with respect to the sale of Class Vehicles in in the United States, this District, and Transferor Jurisdictions.

86. MBUSA was involved in providing information to train personnel in the United States, this District, and Transferor Jurisdictions in the repair, servicing, and preparation of Class Vehicles, including Plaintiffs' Vehicles.

87. Mercedes Class Vehicles, including Plaintiffs' vehicles, were the subject of nationwide advertising campaigns that were intended to reach and did reach this District and Transferor Jurisdictions, that advertised and promoted the alleged safety of Class Vehicles, and that were controlled, directed, funded, and/or approved by MBUSA. None of these advertisements or marketing materials disclosed that Plaintiffs' vehicles or Class Vehicles were equipped with defective Takata inflators.

88. From 2004 through the present, MBUSA regularly communicated with authorized dealerships in the United States, this District, and Transferor Jurisdictions to facilitate the sale and service of Class Vehicles, including Plaintiffs' vehicles, in the United States, this District, and Transferor Jurisdictions. MBUSA, managed, marketed, and directed the Mercedes-Benz Certified Pre-Owned Vehicle program, through their continuous contacts with authorized dealerships in the United States, this District, and Transferor Jurisdictions, to encourage consumers, including Class Members, to purchase used Class Vehicles from Mercedes-authorized dealerships. This resulted in the sale, for example, of the 2011 Mercedes-Benz E350 to Plaintiff Kaufman, as a Mercedes-Benz Certified pre-owned vehicle from Mercedes-Benz of Delray, a Mercedes-authorized dealership in Delray Beach, Florida. These types of transactions involving Class Vehicles, for MBUSA's pecuniary benefit, occurred tens thousands of times during the relevant time period with respect to the sale of certified pre-owned Class Vehicles in in the United States, this District, and Transferor Jurisdictions.

89. From 2004 through the present, employees, managers, and officers of MBUSA regularly travelled throughout the United States and to the Transferor Jurisdictions and this District to facilitate the sale and service of Mercedes vehicles, including Class Vehicles and Plaintiffs' vehicles, in the United States, this District, and Transferor Jurisdictions.

90. The Mercedes website, from 2005 through the present, has been accessible and accessed in the United States, this District, and Transferor Jurisdictions. The website solicits the sale of Mercedes vehicles and connects U.S. customers with Mercedes authorized dealers.

91. MBUSA solicited the sale or lease of Class vehicles, including Plaintiffs' vehicles, in the United States, this District, and Transferor Jurisdictions.

92. Mercedes entities have, at least as recently as 2016, brought litigation in U.S. courts to protect Mercedes trademarks from infringement and counterfeiting. The protection afforded its trademarks and patents under U.S. law enabled Mercedes to sell Class Vehicles in the United States, this District, and Transferor Jurisdictions, and to Plaintiffs.

93. A Mercedes entity owns all rights, title, and interest in U.S. Trademark Registration No. 657,386 for MERCEDES-BENZ, which is a word mark for goods including automobiles, motor trucks, and parts thereof. The MERCEDES-BENZ Mark was registered on January 21, 1958 based on a corresponding German trademark registered on October 10, 1927. A Mercedes entity also has registered and maintains registration with the U.S. government trademarks for the design of its distinctive emblem, the three-pointed star.

94. In a recent complaint to enforce its trademark rights, Mercedes conceded its direct role in controlling advertisements and marketing of its vehicles in the United States, stating that it has "expended millions of dollars in advertising across the country in connection with the MERCEDES-BENZ Mark," which has "established the MERCEDES-BENZ mark as famous and/or well-known among U.S. purchasers of motor vehicles and wheels, as well as among the general members of the U.S. public."

95. Mercedes licenses the use of the Mercedes trademarks to authorized dealerships to promote the sale of Mercedes-Benz vehicles in the United States, this District, and Transferor Jurisdictions.

II. Plaintiffs

96. Unless otherwise indicated, all Plaintiffs identified below purchased their Class Vehicles primarily for personal, family, and household use. All Plaintiffs identified below and the proposed Classes were harmed and suffered actual damages. The defective Takata airbags significantly diminish the value of the vehicles in which they are installed. Such vehicles have

been stigmatized as a result of being recalled and equipped with Takata airbags and the widespread publicity of the Inflator Defect.

97. Further, Plaintiffs and the proposed Classes did not receive the benefit of their bargain; rather, they purchased and leased vehicles that are of a lesser standard, grade, and quality than represented, and did not receive vehicles that met ordinary and reasonable consumer expectations regarding safe and reliable operation. All Plaintiffs identified below and the Classes, either through a higher purchase price or higher lease payments, paid more than they would have had the Inflator Defect been disclosed. All Plaintiffs identified below and the Classes were deprived of having safe, defect-free airbags installed in their vehicles, and Defendants unjustly benefited from their unconscionable delay in recalling their defective products, as they avoided incurring the costs associated with recalls and installing replacement parts for many years.

98. All Plaintiffs identified below, and the proposed Classes, also suffered damages in the form of out-of-pocket and loss-of-use expenses and costs, including, but not limited to, expenses and costs associated with taking time off from work, paying for rental cars or other transportation arrangements, and child care.

99. All Plaintiffs identified below, and members of the proposed Classes, who have brought their vehicles to dealerships, have suffered out-of-pocket economic damage by virtue of their having incurred the expense of taking the time to bring their car in for repairs.

100. The defective Takata airbags create a dangerous condition that gives rise to a clear, substantial, and unreasonable danger of death or personal injury to all identified Plaintiffs below, and the proposed Classes.

101. Plaintiff April Rockstead Barker resides in Waukesha, Wisconsin. Plaintiff owned a 2012 Volkswagen Passat, which she purchased used in or about 2014 for approximately $12,000 from Hall Volkswagen in Brookfield, Wisconsin, an authorized Volkswagen dealer. Plaintiff's 2012 Volkswagen Passat was covered by a written warranty. Prior to purchasing the vehicle, Plaintiff viewed and heard commercials that touted Volkswagen's long record of durability and safety. Plaintiff contacted Hall Volkswagen to inquire about scheduling a repair or replacement of

the airbags in her 2012 Volkswagen Passat after she heard the news reports, and was initially told that the repair or replacement parts were not yet available. Later, on August 14, 2017, the airbag in Plaintiff's 2012 Volkswagen Passat was replaced. The value of Plaintiff's vehicle has been diminished as a result of the Inflator Defect. If Plaintiff had known about the Inflator Defect, she either would have not purchased the vehicle, or would not have paid as much as she did for it. On or about November 17, 2017, Plaintiff's 2012 Volkswagen Passat was declared a total loss as a result of an accident.

102. Plaintiff Ericka Black resides in Boston, Massachusetts. Plaintiff Black owned a 2013 Mercedes C-250, which she purchased used on July 1, 2017 for approximately $15,497 from Imotobank Dealership in Walpole, Massachusetts. Prior to purchasing the vehicle, Plaintiff viewed or heard commercials through radio, television, and the internet that touted Mercedes's positive reputation for manufacturing safe and dependable vehicles. To Plaintiff Black's knowledge, the airbags in her 2013 Mercedes C-250 have not been repaired or replaced. The value of Plaintiff's vehicle has been diminished as a result of the Inflator Defect. If Plaintiff had known about the Inflator Defect, she either would have not purchased the vehicle, or would not have paid as much as she did for it.

103. Plaintiff Tiffany Bolton resides in Waco, Texas. Plaintiff owns a 2012 Mercedes-Benz GL 450, which she purchased new in October 2012 for $64,640.00 from Mercedes-Benz of Waco in Waco, Texas, an authorized Mercedes dealership. The value of her 2012 Mercedes-Benz GL 450 has been diminished as a result of the Inflator Defect. Prior to purchasing her 2012 Mercedes-Benz GL 450, Plaintiff viewed or heard about the vehicle's safety features through TV advertisements and the Internet. If Plaintiff Bolton had known about the Inflator Defect, she would not have purchased the vehicle or would not have paid as much as she did for it.

104. Plaintiff Darren Boyd resides in New Windsor, New York. Plaintiff owns a 2009 Mercedes ML350, which he purchased used in or about 2010 for approximately $38,000 from the Benzel-Busch Mercedes-Benz dealership in Englewood, New Jersey, an authorized Mercedes dealership. Plaintiff's 2009 Mercedes ML350 was covered by a factory warranty. Prior to

purchasing the vehicle, Plaintiff viewed and heard commercials that touted Mercedes's long record of durability and safety. Plaintiff learned of these recalls when he visited the dealership to potentially trade in the vehicle. Plaintiff visited Benzel-Busch and called Mercedes's corporate office to inquire about scheduling a repair or replacement of the airbags in his 2009 Mercedes ML350, and was told by a Mercedes employee or representative that the repair or replacement parts were not yet available. The value of Plaintiff's vehicle has been diminished as a result of the Inflator Defect. If Plaintiff had known about the Inflator Defect, he either would have not purchased the vehicle, or would not have paid as much as he did for it.

105. Plaintiff Daphne Bridges resides in Charlotte, North Carolina. Plaintiff owned a 2014 Mercedes C-250, which she purchased used in or about April 2015 for approximately $22,019 from Hendrick Motors of Charlotte Mercedes-Benz in Charlotte, North Carolina, an authorized Mercedes dealership. Plaintiff's 2014 Mercedes C-250 was covered by a written warranty. Prior to purchasing the vehicle, Plaintiff viewed and heard advertisements that touted Mercedes's long record of durability and safety generally. The sales representative at Hendrick Motors emphasized the superior features, including safety features of the Mercedes C-250. Plaintiff learned of these recalls through news reports and received a postcard from Mercedes on or about November 1, 2017 regarding the availability of replacement parts. To Plaintiff's knowledge, the airbags in her 2014 Mercedes C-250 have not been repaired or replaced. The value of Plaintiff's vehicle has been diminished as a result of the Inflator Defect. If Plaintiff had known about the Inflator Defect, she either would have not purchased the vehicle, or would not have paid as much as she did for it.

106. Plaintiff Randy Brown resides in Milford, Ohio. Plaintiff Brown owns a 2008 Mercedes C-300, which he purchased new on May 31, 2008, for approximately $38,853 from Mercedes-Benz of West Chester, Ohio, an authorized Mercedes dealership. Plaintiff's Mercedes C-300 is covered by a written warranty, and Plaintiff Brown also purchased an extended warranty. Prior to purchasing the vehicle, Plaintiff viewed or heard commercials through television, magazines, and brochures that touted the safety and dependability of his vehicle and Mercedes

vehicles generally. Plaintiff Brown learned of the recalls from letters he received from Defendant Mercedes in or about May and August 2016, notifying him that the Takata driver-side and passenger-side frontal airbags in Plaintiff's 2008 C-300 were subject to recall. The value of Plaintiff's vehicle has been diminished as a result of the Inflator Defect. If Plaintiff had known about the Inflator Defect, he either would have not purchased the vehicle, or would not have paid as much as he did for it.

107. Plaintiff Bladimir Busto Jr. resides in Miami, Florida. Plaintiff leased a new 2014 Volkswagen CC on May 17, 2014 for $31,070.00 from Rick Case Volkswagen in Weston, Florida, an authorized Volkswagen dealership. Plaintiff's 2014 Volkswagen CC was covered by a written warranty up to 36,000 miles and an extended warranty. Prior to leasing the vehicle, Plaintiff viewed or heard commercials through the Volkswagen website, YouTube and Automobile Blogs that touted the safety and dependability of his vehicle and Volkswagen vehicles generally. Plaintiff contacted Rick Case Volkswagen and Volkswagen of America multiple times to inquire about scheduling a repair or replacement of the airbags in his 2014 Volkswagen CC and was told that the repair or replacement parts were not available. The value of his 2014 Volkswagen CC was diminished as a result of the Inflator Defect. Plaintiff feared driving the vehicle and traded it in on December 31, 2016 for $15,500 although it caused him to be upside down on his payments. If Plaintiff Busto had known about the Inflator Defect, he either would not have leased the 2014 Volkswagen CC or would not have paid as much as he did to lease it.

108. Plaintiff Cheryl Butler-Adams resides in Henderson, Nevada. Plaintiff owns a 2011 Mercedes C-330, which was purchased used in or about November 2015 for approximately $18,988 from Apex Auto of Fremont, California. Plaintiff's 2011 Mercedes C-330 was covered by a written warranty. Prior to purchasing the vehicle, Plaintiff viewed and heard advertisements that touted Mercedes's long record of durability and safety. Plaintiff learned of these recalls through news reports. Plaintiff Butler-Adams also received a letter from Mercedes notifying her that the Takata frontal airbag in her 2011 Mercedes C-330 was subject to recall. Since receiving the notification from Mercedes, Plaintiff called Mercedes every few months to check on the status

of the recall. Mercedes repeatedly told Plaintiff that no repair or replacement parts were available, and that her situation was "not that serious," and "not a priority." The value of Plaintiff's vehicle has been diminished as a result of the Inflator Defect. If Plaintiff had known about the Inflator Defect, she either would have not purchased the vehicle, or would not have paid as much as she did for it.

109. Plaintiff Pattie Byrd resides in Ewing, New Jersey. Plaintiff Byrd owns a 2012 Volkswagen CC Sport, which she purchased new in August 2011 for approximately $20,000 from Hamilton Volkswagen in Hamilton, New Jersey, an authorized Volkswagen dealership. Prior to purchasing the vehicle, Plaintiff viewed advertisements online that touted the safety and dependability of her vehicle and Volkswagen vehicles generally. To Plaintiff Byrd's knowledge, the driver's airbag in her 2012 Volkswagen CC Sport was replaced in August 2017 through the recall. The value of Plaintiff's vehicle has been diminished as a result of the Inflator Defect. If Plaintiff had known about the Inflator Defect, she either would have not purchased the vehicle, or would not have paid as much as she did for it.

110. Plaintiff Paulette Calhoun resides in Atlanta, Georgia. Plaintiff Calhoun owned a 2011 Mercedes C-300, which she purchased used in September 2015 for approximately $16,800 from a private individual in Atlanta, Georgia. Plaintiff Calhoun purchased an extended warranty for her 2011 C-300 from Nations Auto Protection. Prior to purchasing the vehicle, Plaintiff viewed or heard commercials through radio, television, and the internet that touted the safety and dependability of her vehicle and Mercedes vehicles generally. To Plaintiff Calhoun's knowledge, the airbags in her 2011 C-300 have not been repaired or replaced. The value of Plaintiff's vehicle has been diminished as a result of the Inflator Defect. If Plaintiff had known about the Inflator Defect, she either would have not purchased the vehicle, or would not have paid as much as she did for it.

111. Plaintiff Jacqueline Carrillo resides in Miami, Florida. Plaintiff Carrillo owned a 2008 Audi A4, which she purchased used on March 4, 2015 from Lorenzo Bomnin Chevrolet in Miami, Florida. The vehicle was owned until she traded it in on June 17, 2017, causing Plaintiff

to be upside down on her loan payments. Plaintiff felt she could no longer risk her safety, especially in Miami's heat and humidity. To Plaintiff's knowledge, the airbags in her 2008 Audi A4 have never been repaired or replaced. The value of her 2008 Audi A4 was diminished as a result of the Inflator Defect. If Plaintiff Carrillo had known of the Inflator Defect, she would not have purchased the 2008 Audi A4 or would not have paid as much as she did for it.

112. Plaintiff Robert Cervelli resides in Abington, Massachusetts. Plaintiff Cervelli owns a 2010 Mercedes E-350 Coupe, which he purchased used on September 3, 2014, for approximately $32,685 from Midway Automotive in Abington, Massachusetts. Plaintiff Cervelli's 2010 E-350 Coupe was covered by a written warranty at the time that he purchased it. Prior to purchasing the vehicle, Plaintiff viewed advertisements through the internet that touted the safety and dependability of his vehicle and Mercedes vehicles generally. Plaintiff received a recall notice from Mercedes in August 2016, informing him that his 2010 E-350 Coupe contains Takata airbags with the Inflator Defect that are subject to recall. Defendant Mercedes informed Plaintiff Cervelli that it could take up to two years before the parts are available to replace the defective airbags in his 2010 E-350 Coupe. Plaintiff's local Mercedes dealership has refused to accept Plaintiff Cervelli's vehicle as a trade in for full retail value. The value of Plaintiff's vehicle has been diminished as a result of the Inflator Defect. If Plaintiff had known about the Inflator Defect, he either would have not purchased the vehicle, or would not have paid as much as he did for it.

113. Plaintiff Loretta Collier resides in Madison, Alabama. Plaintiff owned a 2013 Mercedes-Benz Sprinter Motor Home, which she purchased new in August 2012 for $102,474.77 from Camping World in Calera, Alabama. To Plaintiff's knowledge, the airbags in her 2013 Mercedes-Benz Sprinter Motor Home have never been repaired or replaced. The value of her 2013 Mercedes-Benz Sprinter Motor Home has been diminished as a result of the Inflator Defect. Plaintiff sold the subject vehicle on August 3, 2016 for $65,000. If Plaintiff Collier had known of the Inflator Defect, she would not have purchased the 2013 Mercedes-Benz Sprinter Motor Home or would not have paid as much as she did for it.

114. Plaintiff Angela Cook resides in Columbus, Ohio. Plaintiff owns a 2009 Volkswagen CC, which she purchased used in or about November 2013 for approximately $19,000 from Hatfield Hyundai in Columbus, Ohio. Plaintiff's 2009 Volkswagen CC was covered by a factory and extended warranty. Plaintiff learned of these recalls through television commercials. To Plaintiff's knowledge, the airbags in her 2009 Volkswagen CC have not been repaired or replaced. The value of Plaintiff's vehicle has been diminished as a result of the Inflator Defect. If Plaintiff had known about the Inflator Defect, she either would have not purchased the vehicle, or would not have paid as much as she did for it.

115. Plaintiff Sherri Cook resides in Addison, Texas. Plaintiff owns a 2009 Mercedes C-300, which she purchased new on November 14, 2008, for $48,005 from Mercedes Ewing Autohaus in Plano, Texas, an authorized Mercedes dealership. Plaintiff's 2009 Mercedes C-300 was covered by a written warranty. Plaintiff Cook also purchased an extended warranty. Prior to purchasing the vehicle, Plaintiff Cook viewed and heard advertisements that touted Mercedes's long record of durability and safety. Plaintiff learned of these recalls from news reports and also from a letter she received from Mercedes in or about August 2016. Since receiving the notification from Mercedes about the Takata airbag recall, Plaintiff has called Mercedes several times, in 2016 and 2017, to check on the status of the recall. Defendant Mercedes has told Plaintiff that no repair or replacement parts are available and, after expressing her concern about the dangerous condition caused by the Takata airbag, Mercedes responded that the "good news is there hasn't been a reported Mercedes airbag problem." In early December 2017, Mercedes told Plaintiff that replacement parts might be available in April 2018. The value of Plaintiff's vehicle has been diminished as a result of the Inflator Defect. If Plaintiff had known about the Inflator Defect, she either would have not purchased the vehicle, or would not have paid as much as she did for it.

116. Plaintiff Chloe Crater resides in Little Rock, Arkansas. Plaintiff owned a 2012 Volkswagen Passat, which she purchased used in or about November 2012 for approximately $21,844 from Owens Murphy Volkswagen in Little Rock, Arkansas, an authorized Volkswagen dealership. Plaintiff's 2012 Volkswagen Passat was covered by a written warranty. In addition,

Plaintiff purchased an extended warranty. Prior to purchasing the vehicle, Plaintiff viewed and heard commercials that touted Volkswagen's long record of durability and safety. Plaintiff also reviewed specifications of the vehicle on the Volkswagen website before purchasing the vehicle. Plaintiff learned of these recalls through news reports and from a recall notice sent to her from Volkswagen. The value of Plaintiff's vehicle has been diminished as a result of the Inflator Defect. If Plaintiff had known about the Inflator Defect, she either would have not purchased the vehicle, or would not have paid as much as she did for it.

117. Plaintiff Dave De King resides in Gilbert, Arizona. Plaintiff owns a 2012 Volkswagen CC, which he purchased new in or about May 2011 for approximately $33,014 from San Tan Volkswagen, in Gilbert, Arizona. Plaintiff's 2012 Volkswagen CC was covered by a written warranty, an authorized Volkswagen dealership. Prior to purchasing the vehicle, Plaintiff viewed Volkswagen promotional materials at the dealership and viewed and heard television commercials that touted Volkswagen's long record of durability and safety. Plaintiff learned of these recalls through news reports. Plaintiff called the San Tan dealership in the Fall of 2016, and twice in 2017, about the Takata airbag recall, and was told that parts were not yet available to correct the recall. The value of Plaintiff's vehicle has been diminished as a result of the Inflator Defect. If Plaintiff had known about the Inflator Defect, he either would have not purchased the vehicle, or would not have paid as much as he did for it.

118. Plaintiff Linda Dean resides in Hazard, Kentucky. Plaintiff owns a 2014 Volkswagen Passat, which she purchased used in November 2014 for $14,500.00 from Tim Short Ford in Hazard, Kentucky. To Plaintiff's knowledge, the airbags in her 2014 Volkswagen Passat have never been repaired or replaced. The value of her 2014 Volkswagen Passat has been diminished as a result of the Inflator Defect. If Plaintiff Dean had known of the Inflator Defect, she would not have purchased the 2014 Volkswagen Passat or would not have paid as much as she did for it.

119. Plaintiff Angela Dickie resides in Mt. Pleasant, South Carolina. Plaintiff owns a 2012 Volkswagen Passat, which she purchased used in June 2015 for $16,750.00 from Low

Country VW in Mt. Pleasant, South Carolina, an authorized Volkswagen dealership. To Plaintiff's knowledge, the airbag in her 2012 Volkswagen Passat has never been repaired or replaced. The value of her 2012 Volkswagen Passat has been diminished as a result of the Inflator Defect. If Plaintiff Dickie had known of the Inflator Defect, she would not have purchased the 2012 Volkswagen Passat or would not have paid as much as she did for it.

120. Plaintiff Jody Dorsey resides in Utica, New York. Plaintiff owns a 2008 Mercedes C-300, which she purchased used in or about June 2015, for approximately $16,867 from Nimey's The New Generation in Utica, New York. Plaintiff's 2008 Mercedes C-300 was covered by a written warranty. Prior to purchasing the vehicle, Plaintiff viewed and heard advertisements that touted Mercedes's long record of durability and safety generally. The sales representative at Nimey's the New Generation emphasized the superior features, including safety features, of the Mercedes C-300. Plaintiff learned of these recalls through news reports, and received postcards from Mercedes in or about April 2016 and August 2016 regarding the availability of replacement parts. The value of Plaintiff's vehicle has been diminished as a result of the Inflator Defect. If Plaintiff had known about the Inflator Defect, she either would have not purchased the vehicle, or would not have paid as much as she did for it.

121. Plaintiff Maureen Dowds resides in Lansdale, Pennsylvania. Plaintiff Dowds owned a 2010 Audi A5 Cabriolet, which she purchased used in October 2010, for $42,000 from Prestige Lexus of New Jersey in New Jersey. Plaintiff Dowds's 2010 Audi A5 was covered by a written warranty. Prior to purchasing the vehicle, Plaintiff viewed or heard commercials through television and radio that touted the safety and dependability of her vehicle and Audi vehicles generally. Plaintiff Dowds learned about the Takata airbag recalls from news reports. During a scheduled maintenance at Audi Conshohocken in or about 2016, Plaintiff asked the service manager about replacing the Takata airbags. She was told that no parts were available. Expressing her concern about driving her car indefinitely while at risk, Plaintiff Dowds then asked to have a "loaner" vehicle until airbag replacements became available. The Audi service manager told Plaintiff Dowds that "no loaner cars were available for the airbag situation," but not to worry,

because "there haven't been any deaths in an Audi." The value of Plaintiff's vehicle has been diminished as a result of the Inflator Defect. If Plaintiff had known about the Inflator Defect, she either would have not purchased the vehicle, or would not have paid as much as she did for it.

122. Plaintiff Antonia Dowling resides in Bluffton, South Carolina. Plaintiff owns a 2009 Volkswagen CC, which she purchased used in July 2012 for $21,938.00 from Stokes Brown Toyota Scion of Hilton Head in Bluffton, South Carolina. To Plaintiff's knowledge, the airbags in her 2009 Volkswagen CC were replaced with a temporary newer version of the same Takata airbag on April 19, 2017. The value of her 2009 Volkswagen CC has been diminished as a result of the Inflator Defect. If Plaintiff Dowling had known of the Inflator Defect, she would not have purchased the 2009 Volkswagen CC or would not have paid as much as she did for it.

123. Plaintiff Michael Farriss resides in Henrico, Virginia. Plaintiff owned a 2005 Audi A4, which he purchased used on April 24, 2007 for approximately $26,000 in a private sale from Brandon Farriss, in Henrico, Virginia. Prior to purchasing the vehicle, Plaintiff viewed and heard commercials that touted Audi's long record of durability and safety. Plaintiff learned about the Takata airbag recalls from a notice he received from Audi in or around July 2016. Upon learning of the problem, Plaintiff Farriss stopped allowing anyone to ride in the passenger seat of his 2005 Audi A4. Hearing nothing further, on June 1, 2017, Plaintiff Farriss communicated with Audi by email to request an update on the status of the recall. Plaintiff Farriss also filed a complaint with NTSB on the same date. Audi responded to Plaintiff's email stating that they had no specific date for the new airbags to be available. In August 2017, Plaintiff Farriss received a notice from Audi about the availability of an interim repair and that Plaintiff would be notified when a final remedy was available. On September 18, 2017, the airbag in Plaintiff's vehicle was replaced at West Broad Audi consistent with the interim remedy offered by Audi. The value of his 2005 Audi A4 has been diminished as a result of the Inflator Defect. If Plaintiff Farriss had known of the Inflator Defect, he would not have purchased the 2005 Audi A4 or would not have paid as much as he did for it.

124. Plaintiff Efrain Ferrer resides in Walnut Creek, California. Plaintiff owned a 2012 Volkswagen CC, which he purchased new in or about 2012 for approximately $37,072.35 from Volkswagen of Oakland in Walnut Creek, California, an authorized Volkswagen dealership. Plaintiff's 2012 Volkswagen CC was covered by a written warranty. Prior to purchasing the vehicle, Plaintiff knew the Volkswagen brand and had viewed and heard commercials that touted Volkswagen's long record of durability and safety. When he learned of the recall, he stopped driving the 2012 Volkswagen CC and ultimately purchased another vehicle costing him $355 a month. To Plaintiff's knowledge, the airbags in his 2012 Volkswagen CC have never repaired or replaced. He sold his 2012 Volkswagen CC at a diminished price as a result of the Inflator Defect. The vehicle was sold through a company named Shift. The car was ultimately sold for $14,350, an amount that Plaintiff believes is much lower than what it would have sold for had it not been affected by the recall. Plaintiff received $13,440 from Shift. If Plaintiff Ferrer had known of the Inflator Defect, he would not have purchased the 2012 Volkswagen CC or would not have paid as much as he did for it.

125. Plaintiff Sam Fragale resides in Dallas, Texas. Plaintiff owns a 2014 Mercedes C-250, which he purchased used in or about October 2014, for approximately $28,950 from eCarOne in Carrollton, Texas. Plaintiff's 2014 Mercedes C-250 was covered by a written warranty. Prior to purchasing the vehicle, Plaintiff viewed and heard advertisements that touted Mercedes's long record of durability and safety. Plaintiff learned of these recalls from news reports. Plaintiff contacted the Mercedes of Plano dealership on October 30, 2017, to check on the status of the recall. The dealership initially told Plaintiff that his car was not part of the recall, and that no repair or replacement parts were available. On or about November 28, 2017, Plaintiff received a notice from Mercedes regarding the airbag recall, stating that replacement parts were not available. The value of Plaintiff's vehicle has been diminished as a result of the Inflator Defect. If Plaintiff had known about the Inflator Defect, he either would have not purchased the vehicle, or would not have paid as much as he did for it.

126. Plaintiff Julius Fulmore resides in Greensboro, North Carolina. Plaintiff owns a 2014 Mercedes-Benz Sprinter Motor Home, which he purchased used in January 2015 for approximately $72,500 from Performance Unlimited in Wolfforth, Texas. The value of his 2014 Mercedes-Benz Sprinter Motor Home has been diminished as a result of the Inflator Defect. If Plaintiff Fulmore had known of the Inflator Defect, he would not have purchased the 2014 Mercedes-Benz Sprinter Motor Home or would not have paid as much as he did for it.

127. Plaintiff Silvia Gil resides in Miami, Florida. Plaintiff Gil leased a 2014 Volkswagen Passat, new in December 2013 for $12,484.92. The vehicle was leased from Esserman International Volkswagen in Miami, Florida, an authorized Volkswagen dealership. The value of her 2014 Volkswagen Passat was diminished as a result of the Inflator Defect. If Plaintiff Gil had known of the Inflator Defect, she would not have leased the 2014 Volkswagen Passat or would not have paid as much as she did for it.

128. Plaintiff William Goldberg resides in Seattle, Washington. Plaintiff owned a 2011 Mercedes-Benz GLK 350, which he purchased new in approximately December 2010 or January 2011 from Barrier Mercedes k/n/a Mercedes-Benz of Bellevue in Bellevue, Washington, an authorized Mercedes dealership. To Plaintiff's knowledge, the airbags in his 2011 Mercedes-Benz GLK 350 have never been repaired or replaced. Plaintiff no longer owns the vehicle, but did receive two recall notices. He contacted Mercedes-Benz of Bellevue after receiving the notices and told them that he was concerned about his wife driving the vehicle. He was told replacement parts were not available and they could not do anything. Plaintiff recalls meeting with the head of the used car department and was informed that the vehicle had no value and that they were not interested in purchasing it. Ultimately, in July 2016, the vehicle was traded in for a new GLC 300 at a diminished value of only $14,000. Plaintiff opted for this option as he did not want his wife driving the vehicle any longer. The dealership informed him that they could not dispose of the vehicle until the airbags were replaced/repaired. Prior to purchasing his 2011 Mercedes-Benz GLK 350, Plaintiff viewed or heard about the vehicle's safety features through TV advertisements, print advertisements, and brochures given to him by his dealer. If Plaintiff Goldberg had known

of the Inflator Defect, he would not have purchased the 2011 Mercedes-Benz GLK 350 or would not have paid as much as he did for it.

129. Plaintiff Melinda M. Harms resides in Bloomington, Illinois. Plaintiff owns a 2008 Mercedes SLK-280, which she purchased new in or about June 2008, for approximately $47,898 from Sud's Motor Car Company Mercedes-Benz in Normal, Illinois, an authorized Mercedes dealership. Plaintiff's 2008 Mercedes SLK-280 was covered by a written warranty. Prior to purchasing the vehicle, Plaintiff viewed and heard advertisements that touted Mercedes's long record of durability and safety. Plaintiff Harms learned of the recall from a letter she received from Mercedes in or about May 2016, notifying her that the Takata driver-side frontal airbag in Plaintiff's 2008 SLK-280 was subject to recall. Plaintiff received a postcard mailer from Mercedes in or about February 2017, stating that Mercedes will notify her when replacement parts become available. The value of Plaintiff's vehicle has been diminished as a result of the Inflator Defect. If Plaintiff had known about the Inflator Defect, she either would have not purchased the vehicle, or would not have paid as much as she did for it.

130. Plaintiff Debrah Henry resides in San Gabriel, California. Plaintiff Henry owned a 2009 Mercedes C-300, which she purchased used on February 22, 2013, for approximately $23,000 from House of Imports Mercedes-Benz in Buena Park, California, an authorized Mercedes dealership. Plaintiff Henry purchased an extended warranty for her vehicle. Prior to purchasing the vehicle, Plaintiff viewed or heard commercials through radio, television, and the internet that touted the safety and dependability of her vehicle and Mercedes vehicles generally. Plaintiff Henry learned of the recalls from letters she received from Mercedes in or about May and August 2016, notifying her that the Takata driver-side and passenger-side frontal airbags in Plaintiff's 2009 C-300 were subject to recall. The value of Plaintiff's vehicle has been diminished as a result of the Inflator Defect. If Plaintiff had known about the Inflator Defect, she either would have not purchased the vehicle, or would not have paid as much as she did for it.

131. Plaintiff Charles Hudson resides in Franklin, Michigan. Plaintiff Hudson owns a 2011 Mercedes GLK-350, which he leased new beginning in or about August 2011, and then

purchased in or about February 2014, for approximately $38,720 from Mercedes of Novi in Novi, Michigan, an authorized Mercedes dealership. Plaintiff Hudson's 2011 Mercedes GLK-350 was covered by a written warranty. Prior to leasing and purchasing the vehicle, Plaintiff viewed or heard commercials through television and print advertisements that touted the safety and dependability of his vehicle and Mercedes vehicles generally. Plaintiff Hudson received a recall notice from Mercedes in February 2016, informing him that the Takata airbags in his 2011 GLK-350 are subject to recall due to the Inflator Defect. Mercedes has told Plaintiff Hudson multiple times via phone and email that there are no parts available to replace the Takata airbags in his vehicle. The value of Plaintiff's vehicle has been diminished as a result of the Inflator Defect. If Plaintiff had known about the Inflator Defect, he either would have not leased the vehicle, or would not have paid as much as he did for it.

132. Plaintiff Ramoncito Ignacio resides in Jacksonville, Florida. Plaintiff Ignacio owned a 2010 Volkswagen GTI, which he purchased used on March 23, 2013, for approximately $21,458 from O'Steen Volkswagen in Jacksonville, Florida, an authorized Volkswagen dealership. He sold the vehicle in or about October 2019. Plaintiff's 2010 Volkswagen GTI was covered by a written warranty. Prior to purchasing the vehicle, Plaintiff viewed and heard commercials through television, radio, internet, brochures and/or pamphlets that touted Volkswagen's long record of durability and safety. Plaintiff Ignacio learned about these recalls on Facebook. To Plaintiff Ignacio's knowledge, the airbags in his 2010 Volkswagen GTI have never been repaired or replaced. The value of Plaintiff's vehicle has been diminished as a result of the Inflator Defect. If Plaintiff had known about the Inflator Defect, he either would have not purchased the vehicle, or would not have paid as much as he did for it.

133. Plaintiff Latecia J. Jackson resides in Wichita Falls, Texas. Plaintiff Jackson owns a 2010 Volkswagen CC Sport, which she purchased used in May 2013, for approximately $21,491 from Patterson Auto Center in Wichita Falls, Texas. Plaintiff Jackson purchased an extended warranty for her 2010 Volkswagen CC Sport. Prior to purchasing the vehicle, Plaintiff viewed or heard commercials through television and radio that touted Volkswagen's long record of durability

and safety. Plaintiff also conducted internet research into the quality, safety, and durability of Volkswagen vehicles. Plaintiff Jackson learned about the Takata airbag recall from news reports, and from a notice from Volkswagen. On or about November 7, 2017, Plaintiff took her vehicle to Herb Easley Motors in Wichita Falls, Texas to have the airbag replaced. The dealership performed a repair to the driver's airbag. The value of Plaintiff's vehicle has been diminished as a result of the Inflator Defect. If Plaintiff had known about the Inflator Defect, she either would have not purchased the vehicle, or would not have paid as much as she did for it.

134. Plaintiff Desiree Jones-Lassiter resides in Durham, North Carolina. Plaintiff Jones-Lassiter owns a 2008 Audi A4, which she purchased used in January 2011, for $25,705 from South States Volkswagen in Durham, North Carolina, an authorized Volkswagen dealership. Plaintiff Jones-Lassiter's 2008 Audi A4 was covered by a written warranty. Prior to purchasing the vehicle, Plaintiff viewed or heard commercials through television and radio that touted the safety and dependability of her vehicle and Audi vehicles generally. In addition, the salesman at South States emphasized the features of the Audi A4, including its superior safety features. Plaintiff Jones-Lassiter learned about the Takata airbag recalls from news reports. The value of Plaintiff's vehicle has been diminished as a result of the Inflator Defect. If Plaintiff had known about the Inflator Defect, she either would have not purchased the vehicle, or would not have paid as much as she did for it.

135. Plaintiff Michael C. Kaufman resides in Boca Raton, Florida. Plaintiff owns a 2011 Mercedes E-350 Cabriolet, which he purchased used in or about May 2013, for approximately $56,000 from Delray Mercedes in Delray, Florida, an authorized Mercedes dealership. Plaintiff's 2011 Mercedes E-350 was covered by a written warranty. Plaintiff Kaufman also purchased an extended warranty. Plaintiff Kaufman has owned Mercedes vehicles in the past, and has viewed and heard Mercedes advertisements touting the safety and durability of Mercedes's vehicles. The sales representative at Delay Mercedes emphasized the safety and quality of the vehicle prior to Plaintiff's purchase. Plaintiff learned of these recalls from news reports, and also from a letter he received from Defendant Mercedes in or about November 2016, notifying him that the Takata

frontal airbags in Plaintiff's 2011 Mercedes E-350 were subject to recall. Plaintiff contacted the Mercedes dealership numerous times to check on the status of the recall, but has consistently been told that no airbag replacement parts are available, and that he must wait. Indeed, the dealership told him not to worry because there is "no record of anyone dying in a Mercedes yet." To Plaintiff's knowledge, the airbags in his 2011 Mercedes E-350 have not been repaired or replaced. The value of Plaintiff's vehicle has been diminished as a result of the Inflator Defect. If Plaintiff had known about the Inflator Defect, he either would have not purchased the vehicle, or would not have paid as much as he did for it.

136. Plaintiff Susan Knapp resides in Van Meter, Iowa. Plaintiff owned a 2011 Mercedes E-550, which she purchased new in June 2011, for approximately $77,420 from a Mercedes-Benz dealership in Des Moines, Iowa, an authorized Mercedes dealership. Plaintiff's 2011 Mercedes E-550 was covered by a written warranty. Prior to purchasing her vehicle, Plaintiff Knapp viewed or heard advertisements that touted Mercedes's long record of durability and safety. Plaintiff Knapp learned of the recall from a letter she received from Mercedes in or about May 2016, notifying her that the Takata driver-side front airbag in Plaintiff's 2011 Mercedes E-550 was subject to recall. Plaintiff also received a postcard mailer from Mercedes in or about September 2016, stating that Mercedes will notify her when replacement parts become available. After receiving the letter, Plaintiff contacted Mercedes about the timing of the airbag replacement, and was told that there was no current plan to begin installing replacement airbags, and that no other information was available regarding the timing or availability of replacement airbags. The value of Plaintiff's vehicle was diminished as a result of the Inflator Defect. On or about November 1, 2017, Plaintiff traded in her 2011 Mercedes E-550 for $22,000. If Plaintiff had known about the Inflator Defect, she either would have not purchased the vehicle, or would not have paid as much as she did for it.

137. Plaintiff Christopher Michael Knox resides in Columbia, South Carolina. Plaintiff owns a 2009 Mercedes C-300, which he purchased used in or about September 2013, for approximately $20,000 from Sun Motor Cars, Inc. Mercedes in Mechanicsburg, Pennsylvania, an authorized Mercedes dealership. Plaintiff's 2009 Mercedes C-300 was covered by a written

warranty. Prior to purchasing his vehicle, Plaintiff Knox viewed and heard Mercedes advertisements in print, on television, the internet, and the radio touting the safety and durability of Mercedes's vehicles. Plaintiff learned of these recalls from news reports, and also from a letter he received from Defendant Mercedes in or about February 2017, notifying him that the Takata front airbags in Plaintiff's 2009 Mercedes C-300 were subject to recall. Plaintiff contacted the Dick Dyer Mercedes dealership several times to check the status of the recall, but has consistently been told that no airbag replacement parts are available. To Plaintiff's knowledge, the airbags in his 2009 Mercedes C-300 have not been repaired or replaced. The value of Plaintiff's vehicle has been diminished as a result of the Inflator Defect. If Plaintiff had known about the Inflator Defect, he either would have not purchased the vehicle, or would not have paid as much as he did for it.

138. Plaintiff Branko Krmpotic resides in North Bergen, New Jersey. Plaintiff owned a 2012 Mercedes C-300, which he purchased used in or about January 2015, for approximately $26,500 from Prestige Motors Mercedes-Benz in Paramus, New Jersey, an authorized Mercedes dealership. Plaintiff's 2012 Mercedes C-300 was covered by a written warranty. Prior to purchasing his vehicle, Plaintiff Krmpotic viewed and heard Mercedes advertisements touting the safety and durability of Mercedes's vehicles. Plaintiff learned of the recall from a letter he received from Defendant Mercedes in or about February 2017, notifying him that the Takata front airbags in Plaintiff's 2012 Mercedes C-300 were subject to recall. After receiving the letter, Plaintiff contacted Defendant Mercedes about the timing of the airbag replacement, and was told that there was no current plan to begin installing replacement airbags, and that no other information was available regarding the timing or availability of replacement airbags. To Plaintiff's knowledge, the airbags in his 2012 Mercedes C-300 have not been repaired or replaced. The value of Plaintiff's vehicle has been diminished as a result of the Inflator Defect. If Plaintiff had known about the Inflator Defect, he either would have not purchased the vehicle, or would not have paid as much as he did for it.

139. Plaintiff Steve Levin resides in Evanston, Illinois. Plaintiff Levin owned a 2009 Audi A4, which he purchased used in August 2010 for $40,000.00 from Audi Exchange in

Highland Park, Florida, an authorized Audi dealership. The vehicle was traded in at Audi Collection in Coral Gables, Florida in approximately September or October of 2016. To Plaintiff's knowledge, the airbags in his 2009 Audi A4 have never been repaired or replaced. The value of his 2009 Audi A4 was diminished as a result of the Inflator Defect. If Plaintiff Levin had known of the Inflator Defect, he would not have purchased the 2009 Audi A4 or would not have paid as much as he did for it.

140. Plaintiff Celeste Lewis resides in Mansfield, Texas. Plaintiff owned a 2010 Mercedes-Benz C300, which she purchased used on June 26, 2014 for $29,799.84 from Park Place Motorcars Mercedes-Benz of Dallas in Dallas, Texas, an authorized Mercedes dealership. Plaintiff viewed or heard commercials through radio, television, brochures, and pamphlets that touted the safety and dependability of her vehicle and Mercedes-Benz vehicles generally. To Plaintiff's knowledge, the airbags in her 2010 Mercedes-Benz C300 have never been repaired or replaced. Plaintiff has been told by the dealership that replacement parts are unavailable and that it is unknown as to when they will be available. The value of her 2010 Mercedes-Benz C300 has been diminished as a result of the Inflator Defect. If Plaintiff Lewis had known of the Inflator Defect, she would not have purchased the 2010 Mercedes-Benz C300 or would not have paid as much as she did for it.

141. Plaintiff Shanetha Livingston resides in Harrison Township, Michigan. Plaintiff owns a 2008 Mercedes C-300, which she purchased new in or about September 2008, for approximately $45,000 from Mercedes-Benz of St. Clair Shores, in St. Clair Shores, Michigan, an authorized Mercedes dealership. Plaintiff's 2008 Mercedes C-300 was covered by a factory warranty. Plaintiff learned of these recalls through news reports. The value of Plaintiff's vehicle has been diminished as a result of the Inflator Defect. If Plaintiff had known about the Inflator Defect, she either would have not purchased the vehicle, or would not have paid as much as she did for it.

142. Plaintiff Alexander Lonergan resides in South River, New Jersey. Plaintiff owned a 2006 Mercedes C-230, which he purchased new in or about December 2005, for approximately

$38,370 from Ray Catena Motor Car Corp. Mercedes-Benz in Edison, New Jersey, an authorized Mercedes dealership. Plaintiff's 2006 Mercedes C-230 was covered by a written warranty. Prior to purchasing his vehicle, Plaintiff Lonergan viewed and heard Mercedes advertisements touting the safety and durability of its vehicles. Plaintiff learned of these recalls from news reports, and from a letter he received from Mercedes, notifying him that the Takata front airbags in Plaintiff's 2006 Mercedes C-230 were subject to recall. The value of Plaintiff's vehicle has been diminished as a result of the Inflator Defect. If Plaintiff had known about the Inflator Defect, he either would have not purchased the vehicle, or would not have paid as much as he did for it.

143. Plaintiff Trevor MacLeod resides in Cheboygan, Michigan. Plaintiff owned a 2006 Audi A3, which he purchased used on June 12, 2013 for approximately $14,000 from Wheeler Motors, in Cheboygan, Michigan. Prior to purchasing the vehicle, Plaintiff viewed and heard commercials that touted Audi's long record of durability and safety. To Plaintiff's knowledge, the airbag in his 2006 Audi A3 was replaced on or about November 14, 2017. The value of his 2006 Audi A3 has been diminished as a result of the Inflator Defect. If Plaintiff MacLeod had known of the Inflator Defect, he would not have purchased the 2006 Audi A3 or would not have paid as much as he did for it.

144. Plaintiff Justin Maestri resides in Oxnard, California. Plaintiff Maestri owned a 2010 Mercedes E-63, which he purchased used on December 26, 2014, for approximately $68,900 from W.I. Simonson Mercedes in Santa Monica, California, an authorized Mercedes dealership. Plaintiff Maestri purchased an extended warranty for his 2010 E-63. Prior to purchasing the vehicle, Plaintiff viewed advertisements through the internet that touted the safety and dependability of his vehicle and Mercedes vehicles generally. Plaintiff Maestri received a letter from Mercedes in May 2016, informing him that his 2010 Mercedes E-63 contains Takata airbags with the Inflator Defect that are subject to recall. Concerned for his family's safety, Plaintiff Maestri stopped using his 2010 Mercedes E-63 as a family transport vehicle upon learning of the recall. To Plaintiff Maestri's knowledge, the airbags in his 2010 Mercedes E-Class have not been repaired or replaced. Plaintiff visited and called approximately twenty (20) dealerships before he

found one that would buy his 2010 Mercedes E-63 from him. Plaintiff Maestri sold his 2010 Mercedes E-63 to Rusnak Westlake Porsche in Thousand Oaks, California on November 15, 2017, at a loss of $7,726.73. The value of Plaintiff's vehicle was diminished as a result of the Inflator Defect. If Plaintiff had known about the Inflator Defect, he either would have not purchased the vehicle, or would not have paid as much as he did for it.

145. Plaintiff Kenneth Melde resides in Peachtree Corners, Georgia. Plaintiff Melde owns a 2012 Mercedes E-350 Cabriolet, which he purchased used on April 12, 2014, for approximately $36,500 from Bob King Buick-GMC in Wilmington, North Carolina. Plaintiff Melde purchased an extended warranty that covered his 2012 E-350 Cabriolet. Prior to purchasing the vehicle, Plaintiff viewed or heard commercials through television, brochures, and the internet that touted the safety and dependability of his vehicle and Mercedes vehicles generally. Plaintiff Melde contacted his local Mercedes dealership to inquire about the Takata airbag recall, and was told that it would be years before replacement parts are available for the airbags in his 2012 E-350 Cabriolet. The value of Plaintiff's vehicle has been diminished as a result of the Inflator Defect. If Plaintiff had known about the Inflator Defect, he either would have not purchased the vehicle, or would not have paid as much as he did for it.

146. Plaintiff Annette Montanaro resides in Buffalo, New York. Plaintiff Montanaro owned a 2008 Audi A4, which she purchased used on March 28, 2009, for $27,495 from Schmitt's Audi Volkswagen in Buffalo, New York, an authorized Audi and Volkswagen dealership. Plaintiff Montanaro's 2008 Audi A4 was covered by a written warranty. Prior to purchasing the vehicle, Plaintiff viewed or heard commercials through television, radio, and the internet that touted the safety and dependability of her vehicle and Audi vehicles generally. Among other safety features, these advertisements touted the number of airbags in Audi vehicles. The sales representative at Schmitt's emphasized the superior safety features of the Audi A4. Plaintiff Montanaro received a letter from Defendant Audi in April 2017, notifying her that the Takata passenger frontal airbag in her 2008 Audi A4 was subject to recall due to the Inflator defect. To Plaintiff's knowledge, the passenger side airbag in her 2008 Audi A4 was replaced on June 6, 2017, through the recall. The

value of Plaintiff's vehicle has been diminished as a result of the Inflator Defect. If Plaintiff had known about the Inflator Defect, she either would have not purchased the vehicle, or would not have paid as much as she did for it.

147. Plaintiff Malia Moore resides in Old Hickory, Tennessee. Plaintiff Moore owns a 2010 Volkswagen Passat, which she purchased used in March 2012, for $18,525 from Whitewater Motor Company in Milan, Indiana. Plaintiff Moore's 2010 Volkswagen Passat was covered by a written warranty. Prior to purchasing the vehicle, Plaintiff viewed or heard commercials through television and radio that touted Volkswagen's long record of durability and safety. In addition, Plaintiff Moore conducted internet research into the quality, safety, and durability of the Volkswagen Passat. Plaintiff Moore learned about the Takata airbag recall at a Volkswagen dealership during an unrelated service visit. The value of Plaintiff's vehicle has been diminished as a result of the Inflator Defect. If Plaintiff had known about the Inflator Defect, she either would have not purchased the vehicle, or would not have paid as much as she did for it.

148. Plaintiff Diana Myers resides in Glendale, Arizona. Plaintiff owns a 2008 Mercedes C-350, which she purchased new in or about March 2008, for approximately $43,399 from Bill Heard Chevrolet, Inc. in Scottsdale, Arizona. Plaintiff's 2008 Mercedes C-350 was covered by a written warranty. Prior to purchasing the vehicle, Plaintiff viewed and heard television commercials that touted Mercedes's long record of durability and safety. In addition, a sales representative at the dealership emphasized the superior quality and safety features of the newly remodeled C-Class vehicles, specifically including airbag safety. Plaintiff Myers learned of the recall from a letter she received from Defendant Mercedes in or about April 2016, notifying her that the Takata driver-side front airbag in Plaintiff's 2008 Mercedes C-350 was subject to recall. The value of Plaintiff's vehicle has been diminished as a result of the Inflator Defect. If Plaintiff had known about the Inflator Defect, she either would have not purchased the vehicle, or would not have paid as much as she did for it.

149. Plaintiff Delola Nelson-Reynolds resides in Evanston, Illinois. Plaintiff Nelson-Reynolds owns a 2010 Volkswagen CC, which she purchased used in February 2015, for $16,000

from Golf Mill Ford in Niles, Illinois. Plaintiff Nelson-Reynold's 2010 Volkswagen CC was covered by a written warranty. In addition, Plaintiff purchased an extended warranty. Prior to purchasing the vehicle, Plaintiff viewed or heard commercials through television and radio that touted Volkswagen's long record of durability and safety. In addition, Plaintiff Nelson-Reynolds conducted internet research into the quality, safety, and durability of the Volkswagen CC. Plaintiff Nelson-Reynolds learned about the Takata airbag recall at a Volkswagen dealership during an unrelated routine service visit. The value of Plaintiff's vehicle has been diminished as a result of the Inflator Defect. If Plaintiff had known about the Inflator Defect, she either would have not purchased the vehicle, or would not have paid as much as she did for it.

150. Plaintiff Kristen Nevares resides in San Diego, California. Plaintiff Nevares owns a 2012 Mercedes GLK-350, which she purchased new on September 1, 2012, for approximately $45,233 from Mercedes-Benz of Escondido in Escondido, California, an authorized Mercedes dealership. Prior to purchasing the vehicle, Plaintiff Nevares viewed advertisements through the internet that touted the safety and dependability of her vehicle and Mercedes vehicles generally. Plaintiff Nevares received a recall notice from Mercedes informing her that the Takata airbags in her 2012 GLK-350 are subject to recall due to the Inflator Defect. The value of Plaintiff's vehicle has been diminished as a result of the Inflator Defect. If Plaintiff had known about the Inflator Defect, she either would have not purchased the vehicle, or would not have paid as much as she did for it.

151. Plaintiff Nikki Norvell resides in Mercer Island, Washington. Plaintiff owns a 2011 Audi Q5 that she purchased new in October 2010 for $45,125.00 from Brazelton Auto/Audi Central in Houston, Texas, an authorized Audi dealership. Plaintiff learned of the Inflator Defect in her Audi Q5 in April 2016, not by defect notice from Audi but as a result of contacting a local Volvo dealership to inquire about selling the Audi Q5 in order to downsize to a smaller vehicle. At that time, Volvo refused to offer Plaintiff an estimated resale value for the Audi Q5, informing her that the vehicle was subject to the Inflator Defect and, as a result, severely depreciated in resale value. The Volvo dealership would not buy the vehicle or accept it as a trade-in. When Plaintiff

contacted Audi Central dealership, they too refused to buy or trade-in the vehicle. The Audi Central Service Manager offered Plaintiff a loaner vehicle until the defect was corrected given the severity of the defect, but then Audi rescinded that offer. For the next eleven months, Plaintiff pleaded extensively to Audi Central for a safe replacement or repair of the Inflator Defect since the Audi Q5 was the vehicle in which she drove her young child. Audi Central offered no such repair or replacement, nor a timeline for the repair or replacement; and would not provide Plaintiff with a substitute loaner vehicle. In March 2017, a Washington-based Audi dealer agreed to exchange the airbag for a temporary replacement. The dealer acknowledged that the replacement itself was subject to the same defect. In May 2017, Audi performed an interim repair on the Driver's Side Airbag. Plaintiff remains unable to sell the Audi Q5 due to the Inflator Defect's stigma. The value of her 2011 Audi Q5 has been diminished as a result of the Inflator Defect. If Plaintiff Norvell had known of the Inflator Defect, she would not have purchased the 2011 Audi Q5 or paid as much as she did for it.

152. Plaintiff George O'Connor resides in Wesley Chapel, Florida. Plaintiff O'Connor owns a 2011 Volkswagen Eos, which he purchased new in April 2011, for $37,955 from Kuhn Volkswagen in Tampa, Florida, an authorized Volkswagen dealership. Plaintiff O'Connor's 2011 Volkswagen Eos was covered by a written warranty. In addition, Plaintiff purchased an extended warranty. Prior to purchasing the vehicle, Plaintiff viewed or heard commercials through television and radio that touted Volkswagen's long record of durability and safety. In addition, Plaintiff O'Connor conducted extensive internet research on and read magazine articles about the quality, safety, and durability of the Volkswagen Eos. Plaintiff O'Connor learned about the Takata airbag recall from notices he received from Volkswagen. After receiving recall notices in April 2016 and April 2017, Plaintiff contacted both Kuhn Volkswagen and Volkswagen corporate to inquire about scheduling a repair or replacement of the 2011 Volkswagen Eos airbags. Kuhn initially told Plaintiff that parts were not available, and that it was "no big deal, eventually they would get to the severe cases first." After receiving a second recall notice, Plaintiff again called Kuhn, who told him that there were still no parts available. Plaintiff contacted Reeves Volkswagen, who told him

that they would add his name to a waiting list, but that they had no idea how long it would take to get replacement airbags or even how many others were on the waiting list. Finally, on April 21, 2017, Plaintiff contacted Volkswagen corporate, who made arrangements for an interim remedy to be installed in Plaintiff's 2011 Volkswagen Eos. The value of Plaintiff's vehicle has been diminished as a result of the Inflator Defect. If Plaintiff had known about the Inflator Defect, he either would have not purchased the vehicle, or would not have paid as much as he did for it.

153. Plaintiff Christine Palmer resides in Danbury, Connecticut. Plaintiff Palmer owned a 2013 Volkswagen Passat, which she purchased new in November 2013, for approximately $26,000 from New Milford Volkswagen, in New Milford, Connecticut, an authorized Volkswagen dealership. Plaintiff Palmer's 2013 Volkswagen Passat was covered by a written warranty. Prior to purchasing the vehicle, Plaintiff viewed or heard commercials through television and radio that touted Volkswagen's long record of durability and safety. Plaintiff Palmer learned about the Takata airbag recall from notices she received from Volkswagen. Plaintiff contacted New Milford Volkswagen to inquire about scheduling a repair or replacement of the 2013 Volkswagen Passat airbags, and was told that vehicles in her area of the Northeast would be the last to be repaired. The value of Plaintiff's vehicle has been diminished as a result of the Inflator Defect. If Plaintiff had known about the Inflator Defect, she either would have not purchased the vehicle, or would not have paid as much as she did for it.

154. Plaintiffs John F. and Nancy D. Phillips reside in Veronia, Oregon. Plaintiffs Phillips owned a 2010 Mercedes R-350 Blue TEC, which they purchased used on May 24, 2014, for approximately $29,500 from a private party in Portland, Oregon. Prior to purchasing the vehicle, Plaintiffs viewed or heard commercials through television, brochures, and pamphlets that touted the safety and dependability of their vehicle and Mercedes vehicles generally. The value of Plaintiffs' vehicle has been diminished as a result of the Inflator Defect. If Plaintiffs had known about the Inflator Defect, they either would have not purchased the vehicle, or would not have paid as much as they did for it.

155. Plaintiff Shanella Prentice resides in Whitman, Massachusetts. Plaintiff Prentice owns a 2014 Mercedes C-300, which she purchased used in March 2016, for approximately $23,500 from Herb Chambers Honda of Seekonk in Seekonk, Massachusetts. Plaintiff Prentice's 2014 C-300 was covered by the original manufacturer's warranty. Prior to purchasing the vehicle, Plaintiff viewed or heard commercials through radio, television, and the internet that touted the safety and dependability of her vehicle and Mercedes vehicles generally. Plaintiff received a recall notice in or about October 2017. The value of Plaintiff's vehicle has been diminished as a result of the Inflator Defect. If Plaintiff had known about the Inflator Defect, she either would have not purchased the vehicle, or would not have paid as much as she did for it.

156. Plaintiff Stephanie Puhalla resides in St. Petersburg, Florida. Plaintiff Puhalla owned a 2009 Volkswagen CC, which she purchased used in September 2014, for approximately $23,535 from Carmax in Clearwater, Florida. Plaintiff Puhalla traded in the vehicle on or around September 21, 2018. Plaintiff Puhalla's 2009 Volkswagen CC was covered by a written warranty. Plaintiff purchased an extended warranty. Prior to purchasing the vehicle, Plaintiff viewed or heard commercials through television and radio that touted Volkswagen's long record of durability and safety. Plaintiff also conducted internet research into the quality, safety and durability of Volkswagen vehicles. Plaintiff Puhalla learned about the Takata airbag recall from news reports initially, and then from a notice from Volkswagen. Plaintiff contacted Lokey Volkswagen in Clearwater, Florida, several times to inquire about scheduling a repair or replacement of the 2009 Volkswagen CC airbags, and was told each time that airbag parts were not available. To Plaintiff's knowledge, the airbags in her 2009 Volkswagen CC were repaired or replaced under the Takata Inflator Recall on or around September 7, 2018. The value of Plaintiff's vehicle has been diminished as a result of the Inflator Defect. If Plaintiff had known about the Inflator Defect, she either would have not purchased the vehicle, or would not have paid as much as she did for it.

157. Plaintiff Theresa Marie Fusco Radican resides in Port Saint Lucie, Florida. Plaintiff owned a 2008 Mercedes C-300, which she purchased new in or about October 2007, for approximately $41,208 from Inskip Autocenter Mercedes-Benz, in Warwick, Rhode Island, an

authorized Mercedes dealership. Plaintiff's 2008 Mercedes C-300 was covered by a written warranty. Prior to purchasing the vehicle, Plaintiff viewed and heard television commercials that touted Mercedes's long record of durability and safety. Plaintiff Radican learned of the recall from a letter she received from Mercedes in or about July 2016, notifying her that the Takata passenger-side front airbag in Plaintiff's 2008 Mercedes C-350 was subject to recall. Prior to that, Mercedes sent a letter to Plaintiff Radican regarding her driver-side airbag recall. Plaintiff Radican contacted the Mercedes of Fort Pierce dealership about the status of the recall. The dealership told Plaintiff that no repair or replacement parts were available. The value of Plaintiff's vehicle has been diminished as a result of the Inflator Defect. If Plaintiff had known about the Inflator Defect, she either would have not purchased the vehicle, or would not have paid as much as she did for it.

158. Plaintiff Mary Jackson Robinson resides in Groveland, Florida. Plaintiff owns a 2013 Mercedes C-250, which she purchased used in or about November 2016, for approximately $23,800 from Carmax, in Orlando, Florida. Plaintiff's 2013 Mercedes C-250 was covered by a written warranty. Plaintiff Robinson purchased an extended warranty for her 2013 Mercedes C-250. Prior to purchasing the vehicle, Plaintiff viewed and heard advertisements that touted Mercedes's long record of durability and safety. To Plaintiff's knowledge, the airbags in her 2013 Mercedes C-250 were repaired or replaced through the Takata Inflator Recall in 2019 or 2020. The value of Plaintiff's vehicle has been diminished as a result of the Inflator Defect. If Plaintiff had known about the Inflator Defect, she either would have not purchased the vehicle, or would not have paid as much as she did for it.

159. Plaintiff Charles Sakolsky resides in Boynton Beach, Florida. Plaintiff Sakolsky leased a 2017 Volkswagen CC for approximately $474 per month. The lease began on December 31, 2016, and was originated at Gunther Volkswagen in Coconut Creek, Florida, an authorized Volkswagen dealership. Plaintiff Sakolsky's 2017 Volkswagen CC is covered by a written warranty. Plaintiff Sakolsky received a notice from Defendant Volkswagen at the time of lease origination, stating that the airbags in his 2017 Volkswagen CC "DO NOT pose a current safety risk and will perform as intended if needed." To Plaintiff Sakolsky's knowledge, the airbags in his

2017 Volkswagen CC have not been repaired or replaced. The value of Plaintiff's vehicle has been diminished as a result of the Inflator Defect. If Plaintiff had known about the Inflator Defect, he either would have not leased the vehicle, or would not have paid as much as he did for it.

160. Plaintiff Holly Stotler resides in Tinley Park, Illinois. Plaintiff owned a 2006 Audi A3, which was purchased used in April 2015 for $17,994.64 from Auto Gallery Chicago in Addison, Illinois. The vehicle was owned until June 14, 2017, when it was involved in a significant auto accident which totaled the vehicle. The airbags did not deploy in the accident. To Plaintiff's knowledge, the airbags in her 2006 Audi A3 were never repaired or replaced, as the dealership informed her that no replacement parts were available. The value of her 2006 Audi A3 was diminished as a result of the Inflator Defect. If Plaintiff Stotler had known of the Inflator Defect, she would not have purchased the 2006 Audi A3 or would not have paid as much as she did for it.

161. Plaintiff Bettie Taylor resides in Waynesboro, Mississippi. Plaintiff owns a 2010 Mercedes C-300, which she purchased used in or about May 2012, for approximately $28,690 from Bo Haarala Autoplex in Meridian-Forrest, Mississippi. Plaintiff's 2013 Mercedes C-300 was covered by a written warranty. Plaintiff Taylor purchased an extended warranty for her 2010 Mercedes C-300. Prior to purchasing the vehicle, Plaintiff viewed and heard advertisements that touted Mercedes's long record of durability and safety. Plaintiff Taylor learned of the recall from a letter she received from Mercedes in or about September 2016, notifying her that the Takata front airbags in Plaintiff's 2010 Mercedes C-300 were subject to recall, but that no replacement parts were available. The value of Plaintiff's vehicle has been diminished as a result of the Inflator Defect. If Plaintiff had known about the Inflator Defect, she either would have not purchased the vehicle, or would not have paid as much as she did for it.

162. Plaintiff Maria de Lourdes Viloria resides in Laredo, Texas. Plaintiff Viloria owned a 2011 Mercedes C-300, which she purchased new on August 26, 2011, for approximately $44,042 from Powell Watson Mercedes-Benz in Laredo, Texas, an authorized Mercedes dealership. Plaintiff Viloria's 2011 C-300 was covered by a written warranty. Prior to purchasing the vehicle, Plaintiff viewed or heard commercials through radio, television, and the internet that touted the

safety and dependability of her vehicle and Mercedes vehicles generally. The value of Plaintiff's vehicle has been diminished as a result of the Inflator Defect. If Plaintiff had known about the Inflator Defect, she either would have not purchased the vehicle, or would not have paid as much as she did for it.

163. Plaintiff Chloe Wallace resides in Carrollton, Texas. Plaintiff Wallace owns a 2012 Volkswagen Passat, which she purchased used in February 2015, for approximately $14,900 from Auto Merchant in Plano, Texas. Prior to purchasing the vehicle, Plaintiff viewed or heard commercials through television and radio that touted Volkswagen's long record of durability and safety. Plaintiff also conducted internet research into the quality, safety, and durability of Volkswagen vehicles. Plaintiff Wallace learned about the Takata airbag recall from a notice from Volkswagen. Plaintiff contacted Volkswagen dealerships in Frisco and Lewisville, Texas to inquire about scheduling a repair or replacement of the 2012 Volkswagen Passat airbags, and was told that she was on a waiting list for replacement airbags. To date, Plaintiff has not been contacted about the availability of the replacement. To Plaintiff's knowledge, the airbags in her 2012 Volkswagen Passat have not been repaired or replaced. The value of Plaintiff's vehicle has been diminished as a result of the Inflator Defect. If Plaintiff had known about the Inflator Defect, she either would have not purchased the vehicle, or would not have paid as much as she did for it.

164. Plaintiff Marcela Warmsley resides in Lancaster, California. Plaintiff Warmsley owns a 2011 Mercedes C-300, which she purchased used in July 2015, for approximately $17,000 from West Coast Auto in Montclair, California. Plaintiff Warmsley purchased an extended warranty to cover her 2011 C-300. Prior to purchasing the vehicle, Plaintiff viewed advertisements through the internet touting the safety and dependability of her vehicle and Mercedes vehicles generally. Plaintiff Warmsley received a recall notice from Mercedes informing her that the Takata airbags in her 2011 C-300 are subject to recall due to the Inflator Defect. Plaintiff attempted to taker her 2011 C-300 to her local Mercedes dealership for the recall repair, but was told that the dealership did not have the necessary parts. To Plaintiff Warmsley's knowledge, the airbags in her 2011 Mercedes C-300 have not been repaired or replaced. The value of Plaintiff's vehicle has been

diminished as a result of the Inflator Defect. If Plaintiff had known about the Inflator Defect, she either would have not purchased the vehicle, or would not have paid as much as she did for it.

165. Plaintiff Jennifer Wilmoth resides in Edison, New Jersey. Plaintiff owned a 2011 Mercedes C-300, which she purchased used in or about October 2015, for approximately $15,000 from Atlantic Automall, in West Islip, New York. Plaintiff's 2011 Mercedes C-300 was covered by a written warranty. Prior to purchasing the vehicle, Plaintiff viewed and heard advertisements on the internet, television, and at the dealership that touted Mercedes's long record of durability and safety. Plaintiff Wilmoth learned of the recall from a letter she received from Mercedes in or about September 2016, notifying her that the Takata front airbags in Plaintiff's 2011 Mercedes C-300 were subject to recall. When she received the letter, Plaintiff Wilmoth contacted the Mercedes dealership in Smithtown, New York, about the status of the recall. The dealership told Plaintiff that no repair or replacement parts were available, and that they would contact her when replacement airbags became available. The value of Plaintiff's vehicle has been diminished as a result of the Inflator Defect. If Plaintiff had known about the Inflator Defect, she either would have not purchased the vehicle, or would not have paid as much as she did for it.

166. For ease of reference, the following chart organizes the Consumer Plaintiffs by the state in which they acquired their respective Class Vehicles:

No.	State	Class Representative Plaintiff	Vehicle
1	Alabama	Loretta Collier	Mercedes 2013 Sprinter Motor Home
2	Arizona	Dave De King	Volkswagen 2012 CC
3	Arizona	Diana Myers	Mercedes 2008 C-350
4	Arkansas	Chloe Crater	Volkswagen 2012 Passat
5	California	Cheryl Butler-Adams	Mercedes 2011 C-330
6	California	Efrain Ferrer	Volkswagen 2012 CC
7	California	Debrah Henry	Mercedes 2009 C-300
8	California	Justin Maestri	Mercedes 2010 E-63
9	California	Kristen Nevares	Mercedes 2012 GLK-350
10	California	Marcela Warmsley	Mercedes 2011 C-300
11	Connecticut	Christine Palmer	Volkswagen 2013 Passat
12	Florida	Bladimir Busto, Jr.	Volkswagen 2014 CC
13	Florida	Jacqueline Carrillo	Audi 2008 A4
14	Florida	Ramoncito Ignacio	Volkswagen 2010 GTI

No.	State	Class Representative Plaintiff	Vehicle
15	Florida	Silvia Gil	2014 Volkswagen Passat
16	Florida	Michael C. Kaufman	Mercedes 2011 E-350
17	Florida	Steven Levin	2009 Audi A4
18	Florida	George O'Connor	Volkswagen 2011 Eos
19	Florida	Stephanie Puhalla	Volkswagen 2009 CC
20	Florida	Mary Jackson Robinson	Mercedes 2013 C-250
21	Florida	Charles Sakolsky	Volkswagen 2017 CC
22	Georgia	Paulette Calhoun	Mercedes 2011 C-300
24	Illinois	Melinda M. Harms	Mercedes 2008 SLK-280
25	Illinois	Delola Nelson-Reynolds	Volkswagen 2010 CC
26	Illinois	Holly Stotler	Audi 2006 A3
27	Indiana	Malia Moore	Volkswagen 2010 Passat
28	Iowa	Susan Knapp	Mercedes 2011 E-550
29	Kentucky	Linda Dean	Volkswagen 2014 Passat
30	Massachusetts	Ericka Black	Mercedes 2013 C-250
31	Massachusetts	Robert Cervelli	Mercedes 2010 E-350
32	Massachusetts	Shanella Prentice	Mercedes 2014 C-300
33	Michigan	Charles Hudson	Mercedes 2011 GLK-350
34	Michigan	Shanetha Livingston	Mercedes 2008 C-300
35	Michigan	Trevor MacLeod	Audi 2006 A3
38	Mississippi	Bettie Taylor	Mercedes 2010 C-300
39	New Jersey	Darren Boyd	Mercedes 2009 ML350
40	New Jersey	Pattie Byrd	Volkswagen 2012 CC Sport
41	New Jersey	Maureen Dowds	Audi 2010 A5 Cabriolet
42	New Jersey	Branko Krmpotic	Mercedes 2012 C-300
43	New Jersey	Alexander Lonergan	Mercedes 2006 C-230
45	New York	Jody Dorsey	Mercedes 2008 C-300
47	New York	Annette Montanaro	Audi 2008 A4
48	New York	Jennifer Wilmoth	Mercedes 2011 C-300
49	North Carolina	Daphne Bridges	Mercedes 2014 C-250
50	North Carolina	Desiree Jones-Lassiter	Audi 2008 A4
51	North Carolina	Kenneth Melde	Mercedes 2012 E-350 Cabriolet
52	Ohio	Randy Brown	Mercedes 2008 C-300
53	Ohio	Angela Cook	Volkswagen 2009 CC
54	Oregon	John F. & Nancy D. Phillips	Mercedes 2010 R-350 Blue TEC
57	Pennsylvania	Christopher Michael Knox	Mercedes 2009 C-300
58	Rhode Island	Theresa Marie Fusco Radican	Mercedes 2008 C-300
59	South Carolina	Angela Dickie	Volkswagen 2012 Passat
60	South Carolina	Antonia Dowling	Volkswagen 2009 CC
62	Texas	Tiffany Bolton	Mercedes 2012 GL 450
63	Texas	Sherri Cook	Mercedes 2009 C-300
65	Texas	Sam Fragale	Mercedes 2014 C-250
66	Texas	Julius Fulmore	Mercedes 2014 Sprinter Motor Home
67	Texas	Latecia J. Jackson	Volkswagen 2010 CC Sport
68	Texas	Celeste Lewis	Mercedes 2010 C300
69	Texas	Nikki Norvell	Audi 2011 Q5

No.	State	Class Representative Plaintiff	Vehicle
70	Texas	Maria de Lourdes Viloria	Mercedes 2011 C-300
71	Texas	Chloe Wallace	Volkswagen 2012 Passat
72	Virginia	Michael Farriss	Audi 2005 A4
73	Washington	William Goldberg	Mercedes 2011 GLK 350
74	Wisconsin	April Rockstead Barker	Volkswagen 2012 Passat

GENERAL FACTUAL ALLEGATIONS

I. Definitions

167. Plaintiffs bring this action on behalf of themselves, and all persons similarly situated who purchased or leased Class Vehicles (defined below). Plaintiffs seek redress individually, and on behalf of those similarly situated, for economic losses stemming from Defendants' manufacture, sale or lease, and false representations or omissions concerning the defective airbags in the Class Vehicles, including, but not limited to, diminished value. Plaintiffs, on behalf of themselves and those similarly situated, seek to recover damages and statutory penalties and injunctive relief/equitable relief.

168. "Class Vehicles" refers to all vehicles in the United States that (a) were equipped with Defective Airbags (defined below) as original equipment and (b) were manufactured, distributed, sold, or leased by Defendants.

169. "Defective Airbags" refers to all airbag modules (including inflators) manufactured by Takata ("Takata airbags") that use ammonium nitrate as the propellant in their inflators, including (a) all airbags subject to the recalls identified in the table in paragraph 171 below; (b) all Takata airbags in Defendants' vehicles subject to recalls, relating to Takata's May 18, 2015, DIRs; the Coordinated Remedy Order issued by NHTSA in *In re Docket No. NHTSA-2015-0055 Coordinated Remedy Program Proceeding*, and amendments thereto, concerning Takata's ammonium-nitrate inflators; and the Consent Order issued by NHTSA in *In re EA 15-001 Air Bag Inflator Rupture*, and any amendments thereto; and (c) all Takata airbags in Defendants' vehicles subject to any subsequent expansion of pre-existing recalls, new recalls,

amendments to pre-existing DIRs, or new DIRs, announced prior to the date of an order granting class certification, relating to the tendency of such airbags to over-aggressively deploy or rupture.

170. All Defective Airbags contain the Inflator Defect. As a result of the Inflator Defect, Defective Airbags have an unreasonably dangerous tendency to (a) rupture and expel metal shrapnel that tears through the airbag and poses a threat of serious injury or death to occupants; and (b) hyper-aggressively deploy and seriously injure occupants through contact with the airbag.

171. The following table identifies, to the best of Plaintiffs' understanding, and without the benefit of discovery, the vehicles either recalled or scheduled to be recalled by Defendants, the type(s) of front airbags that were included in the recall for each vehicle (driver side, passenger side, or both), and, upon information and belief, the model of Takata ammonium nitrate inflator at issue (*e.g.*, SDI, PSDI-5, etc.):

Manufacturer	***Recall***	***Make***	***Model***	***Model Years***	***Side(s)***
Volkswagen	16V-078	Audi	A5 Cabriolet	2010-2011	Driver (SDI)
Volkswagen	16V-078	Audi	Q5	2009-2012	Driver (SDI)
Volkswagen	16V-078, 19V-014	Volkswagen	CC	2009-2017	Driver (SDI)
Volkswagen	16V-078, 19V-014	Volkswagen	Eos	2012-2016	Driver (SDI)
Volkswagen	16V-078	Volkswagen	Jetta SportWagen and Golf	2010-2014	Driver (SDI)
Volkswagen	16V-078, 19V-014	Volkswagen	Passat	2011-2015	Driver (SDI)
Volkswagen	16V-078	Volkswagen	Passat Sedan and Wagon	2007-2010	Driver (SDI)
Volkswagen	16V-079	Audi	A3	2005-2013	Driver (PSDI-5)
Volkswagen	16V-079	Audi	A4 Cabriolet	2006-2009	Driver (PSDI-5)
Volkswagen	16V-079	Audi	RS4 Cabriolet	2008	Driver (PSDI-5)
Volkswagen	16V-079	Audi	S4 Cabriolet	2007-2009	Driver (PSDI-5)

Manufacturer	*Recall*	*Make*	*Model*	*Model Years*	*Side(s)*
Volkswagen	16V-079	Volkswagen	Passat Sedan and Wagon	2006	Driver (PSDI-5)
Volkswagen	16V-382	Audi	A4	2004-2008	Passenger (PSPI)
Volkswagen	16V-382	Audi	A6	2005-2011	Passenger (PSPI)
Volkswagen	17V-032	Audi	A4 Avant	2005-2008	Passenger (PSPI)
Volkswagen	17V-032	Audi	A4 Cabriolet	2007-2009	Passenger (PSPI)
Volkswagen	17V-032	Audi	A4 Sedan	2005-2008	Passenger (PSPI)
Volkswagen	17V-032	Audi	A6 Avant	2006-2009	Passenger (PSPI)
Volkswagen	17V-032	Audi	A6 Sedan	2005-2009	Passenger (PSPI)
Volkswagen	17V-032	Audi	RS4 Cabriolet	2008	Passenger (PSPI)
Volkswagen	17V-032	Audi	RS4 Sedan	2007-2008	Passenger (PSPI)
Volkswagen	17V-032	Audi	S4 Avant	2005-2008	Passenger (PSPI)
Volkswagen	17V-032	Audi	S4 Cabriolet	2007-2009	Passenger (PSPI)

Manufacturer	*Recall*	*Make*	*Model*	*Model Years*	*Side(s)*
Volkswagen	17V-032	Audi	S4 Sedan	2005-2008	Passenger (PSPI)
Volkswagen	17V-032	Audi	S6 Sedan	2007-2009	Passenger (PSPI)
Volkswagen	Amended Annex A	Audi	A6 Avant	2010-2011	Passenger (PSPI)
Volkswagen	Amended Annex A	Audi	A6 Sedan	2010-2011	Passenger (PSPI)
Volkswagen	19V-014	Audi	R8, R8 Spyder. R8 Coupe	2017	Driver (SDI)
Volkswagen	Amended Annex A	Audi	S5 Cabriolet	2010-2012	Driver (SDI)
Volkswagen	Amended Annex A	Audi	S6 Sedan	2010-2011	Passenger (PSPI)
Volkswagen	19V-014	Audi	TT, TT Coupe, TT Roadster	2016-2017	Driver (SDI)
Volkswagen	Amended Annex A	Volkswagen	CC	2015-2017	Driver (SDI)
Volkswagen	Amended Annex A	Volkswagen	GTI	2009-2013	Driver (SDI)
Volkswagen	20V-785	Volkswagen	Beetle	2012-2019	Driver (SDI-D)
Volkswagen	20V-785	Volkswagen	Beetle Convertible	2012-2019	Driver (SDI-D)
Daimler	16V-081	Mercedes-Benz	AMG C63	2009-2011	Driver (PSDI-5)
Daimler	16V-081	Mercedes-Benz	AMG E63	2010-2011	Driver (PSDI-5)
Daimler	16V-081	Mercedes-Benz	AMG SLK55	2007-2008	Driver (PSDI-5)
Daimler	16V-081	Mercedes-Benz	C230	2005-2007	Driver (PSDI-5)

Manufacturer	*Recall*	*Make*	*Model*	*Model Years*	*Side(s)*
Daimler	16V-081	Mercedes-Benz	C230 Kompressor	2005	Driver (PSDI-5)
Daimler	16V-081	Mercedes-Benz	C300	2008-2011	Driver (PSDI-5)
Daimler	16V-081	Mercedes-Benz	C300 4Matic	2008-2011	Driver (PSDI-5)
Daimler	16V-081	Mercedes-Benz	C300 4matic Sedan	2008-2011	Both (PSDI-5 /PSPI-2)
Daimler	16V-081	Mercedes-Benz	C320	2005	Driver (PSDI-5)
Daimler	16V-081	Mercedes-Benz	C350	2006-2011	Driver (PSDI-5)
Daimler	16V-081	Mercedes-Benz	C350 Sedan	2008-2011	Both (PSDI-5 /PSPI-2)
Daimler	16V-081	Mercedes-Benz	C63 AMG	2009-2011	Driver (PSDI-5)
Daimler	16V-081	Mercedes-Benz	C63 AMG Sedan	2008-2011	Both (PSDI-5 /PSPI-2)
Daimler	16V-081	Mercedes-Benz	E350	2010-2011	Driver (PSDI-5)
Daimler	16V-081	Mercedes-Benz	E350 4Matic	2010-2011	Driver (PSDI-5)
Daimler	16V-081	Mercedes-Benz	E350 Cabriolet	2011	Driver (PSDI-5)
Daimler	16V-081	Mercedes-Benz	E350 Cabriolet	2011	Both (PSDI-5 /PSPI-2)
Daimler	16V-081	Mercedes-Benz	E550	2010-2011	Driver (PSDI-5)
Daimler	16V-081	Mercedes-Benz	E550	2011	Both (PSDI-5 /PSPI-2)
Daimler	16V-081	Mercedes-Benz	E550 4Matic	2010-2011	Driver (PSDI-5)
Daimler	16V-081	Mercedes-Benz	E550 Cabrio	2011	Driver (PSDI-5)
Daimler	16V-081	Mercedes-Benz	E550 Coupe	2010-2011	Driver (PSDI-5)
Daimler	16V-081	Mercedes-Benz	E63 AMG	2010-2011	Driver (PSDI-5)
Daimler	16V-081	Mercedes-Benz	GL320 Diesel	2009-2010	Driver (PSDI-5)

Manufacturer	*Recall*	*Make*	*Model*	*Model Years*	*Side(s)*
Daimler	16V-081	Mercedes-Benz	GL350 BlueTec 4Matic	2011-2012	Driver (PSDI-5)
Daimler	16V-081	Mercedes-Benz	GL350 Diesel	2011-2012	Driver (PSDI-5)
Daimler	16V-081	Mercedes-Benz	GL450	2009-2012	Driver (PSDI-5)
Daimler	16V-081	Mercedes-Benz	GL450 4Matic	2009-2012	Driver (PSDI-5)
Daimler	16V-081	Mercedes-Benz	GL550	2009-2012	Driver (PSDI-5)
Daimler	16V-081	Mercedes-Benz	GL550 4Matic	2009-2012	Driver (PSDI-5)
Daimler	16V-081	Mercedes-Benz	GLK350	2010-2012	Driver (PSDI-5)
Daimler	16V-081	Mercedes-Benz	GLK350	2010-2011	Both (PSDI-5 /PSPI-2)
Daimler	16V-081	Mercedes-Benz	GLK350 4Matic	2010-2012	Driver (PSDI-5)
Daimler	16V-081	Mercedes-Benz	GLK350 4Matic	2010-2011	Both (PSDI-5 /PSPI-2)
Daimler	16V-081	Mercedes-Benz	ML320 BlueTec 4Matic	2012	Driver (PSDI-5)
Daimler	16V-081	Mercedes-Benz	ML320 BlueTec 4Matic	2009-2010	Driver (PSDI-5)
Daimler	16V-081	Mercedes-Benz	ML320 Diesel	2009-2010	Driver (PSDI-5)
Daimler	16V-081	Mercedes-Benz	ML350	2009-2011	Driver (PSDI-5)
Daimler	16V-081	Mercedes-Benz	ML350 4Matic	2009-2011	Driver (PSDI-5)
Daimler	16V-081	Mercedes-Benz	ML350 4Matic	2012-2014	Driver (PSDI-5)
Daimler	16V-081	Mercedes-Benz	ML450 4Matic Hybrid	2010-2011	Driver (PSDI-5)

Manufacturer	*Recall*	*Make*	*Model*	*Model Years*	*Side(s)*
Daimler	16V-081	Mercedes-Benz	ML450 Hybrid	2010-2011	Driver (PSDI-5)
Daimler	16V-081	Mercedes-Benz	ML550	2009-2011	Driver (PSDI-5)
Daimler	16V-081	Mercedes-Benz	ML550 4Matic	2009-2011	Driver (PSDI-5)
Daimler	16V-081	Mercedes-Benz	ML63 AMG	2009-2009	Driver (PSDI-5)
Daimler	16V-081	Mercedes-Benz	ML63 AMG	2010-2011	Driver (PSDI-5)
Daimler	16V-081	Mercedes-Benz	R 320 Diesel	2009	Driver (PSDI-5)
Daimler	16V-081	Mercedes-Benz	R 320 Diesel	2010	Driver (PSDI-5)
Daimler	16V-081	Mercedes-Benz	R320 CDI 4Matic	2009-2010	Driver (PSDI-5)
Daimler	16V-081	Mercedes-Benz	R320 CDI 4Matic	2010	Driver (PSDI-5)
Daimler	16V-081	Mercedes-Benz	R350	2009	Driver (PSDI-5)
Daimler	16V-081	Mercedes-Benz	R350	2010-2012	Driver (PSDI-5)
Daimler	16V-081	Mercedes-Benz	R350 4Matic	2009	Driver (PSDI-5)
Daimler	16V-081	Mercedes-Benz	R350 4Matic	2010-2012	Driver (PSDI-5)
Daimler	16V-081	Mercedes-Benz	SLK280	2007-2008	Driver (PSDI-5)
Daimler	16V-081	Mercedes-Benz	SLK350	2007-2008	Driver (PSDI-5)
Daimler	16V-081	Mercedes-Benz	SLK55 AMG	2007-2008	Driver (PSDI-5)
Daimler	16V-081	Mercedes-Benz	SLS AMG GT	2013-2014	Driver (PSDI-5)
Daimler	16V-081	Mercedes-Benz	AMG ML63	2009-2011	Driver (PSDI-5)
Daimler	16V-363	Mercedes-Benz	E350 Convertible	2011	Both (PSDI-5 /PSPI-2)
Daimler	16V-363	Mercedes-Benz	E350 Coupe	2010-2011	Both (PSDI-5 /PSPI-2)

Manufacturer	*Recall*	*Make*	*Model*	*Model Years*	*Side(s)*
Daimler	16V-363	Mercedes-Benz	E550 Coupe	2010-2011	Both (PSDI-5 /PSPI-2)
Daimler	16V-363	Mercedes-Benz	SLS	2011-2014	Driver (PSDI-5)
Daimler	16V-363	Mercedes-Benz	SLS	2011	Both (PSDI-5 /PSPI-2)
Daimler	16V-363	Mercedes-Benz	SLS AMG	2011	Both (PSDI-5 /PSPI-2)
Daimler	16V-363	Mercedes-Benz	SLS AMG Cabrio	2012	Driver (PSDI-5)
Daimler	16V-363	Mercedes-Benz	SLS AMG Coupe	2011-2014	Driver (PSDI-5)
Daimler	17V-017	Mercedes-Benz	E350 Cabriolet	2012	Driver (PSDI-5)
Daimler	17V-017	Mercedes-Benz	E350 Cabriolet	2012	Both (PSDI-5 /PSPI-2)
Daimler	17V-017	Mercedes-Benz	E350 Coupe	2012	Both (PSDI-5 /PSPI-2)
Daimler	17V-017	Mercedes-Benz	E350 Coupe 4Matic	2012	Both (PSDI-5 /PSPI-2)
Daimler	17V-017	Mercedes-Benz	E550 Cabrio	2012	Driver (PSDI-5)
Daimler	17V-017	Mercedes-Benz	E550 Coupe	2012	Driver (PSDI-5)
Daimler	Amended Annex A	Mercedes-Benz	C-Class	2009-2010, 2013	Passenger (PSPI-2)
Daimler	Amended Annex A	Mercedes-Benz	C-Class	2010-2014	Passenger (PSPI-2)
Daimler	Amended Annex A	Mercedes-Benz	E-Class Cabrio	2013	Passenger (PSPI-2)
Daimler	Amended Annex A	Mercedes-Benz	E-Class Coupe	2013	Passenger (PSPI-2)
Daimler	Amended Annex A	Mercedes-Benz	E-Class Coupe	2010	Passenger (PSPI-2)
Daimler	Amended Annex A	Mercedes-Benz	GLK Class	2010-2015	Passenger (PSPI-2)
Daimler	Amended Annex A	Mercedes-Benz	SLS-Class	2013	Passenger (PSPI-2)

Manufacturer	*Recall*	*Make*	*Model*	*Model Years*	*Side(s)*
Daimler	Amended Annex A	Mercedes-Benz	E-Class Cabrio	2011-2017	Passenger (PSPI-2)
Daimler	Amended Annex A	Mercedes-Benz	E-Class Coupe	2010-2017	Passenger (PSPI-2)
Daimler	Amended Annex A	Mercedes-Benz	GLK Class	2013	Passenger (PSPI-2)
Daimler	Amended Annex A	Mercedes-Benz	GLK Class	2010	Passenger (PSPI-2)
Daimler	Amended Annex A	Mercedes-Benz	SLS Class	2015	Driver (PSDI-5)
Daimler	Amended Annex A	Mercedes-Benz	SLS Class	2011-2015	Passenger (PSPI-2)

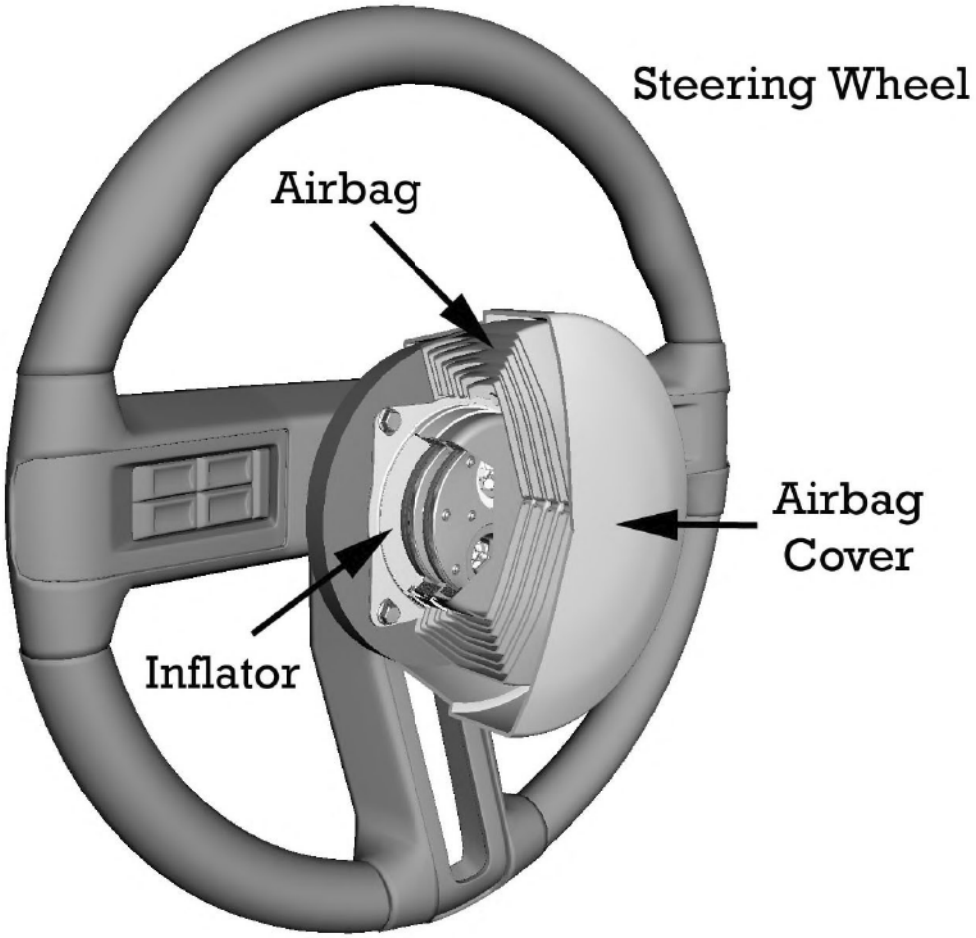
172. As recently as January 2018, Defendants and Takata announced additional large recalls, identified as 18E-001, -002, and -003.

II. Takata's Airbags Have a Common, Uniform Defect

A. Defendants Chose an Inexpensive and Dangerous Propellant

173. The part of the airbag at issue in this matter is the inflator. The inflator consists of a metal canister loaded with propellant wafers or pellets, and is placed in the airbag module. Upon impact, the propellant wafers or pellets ignite, triggering a chemical reaction that produces gas, which in turn inflates the fabric airbag. This process occurs within milliseconds.

174. The following basic illustration depicts Takata's airbag module:



175. When it began manufacturing airbags in the 1980s, Takata used sodium azide as the propellant in its inflators. In the mid-1990s, Takata began using a different propellant, called 5-aminotetrazole, due in part to toxicity issues associated with sodium azide.

176. In the late-1990s, Takata's managers pressured its engineers in Michigan to devise a lower-cost propellant, based upon ammonium nitrate—a compound used in fertilizer and explosives.

177. In 1999, as the ammonium nitrate design was being considered, Takata's engineering team in Moses Lake, Washington raised objections, and pointed to explosives manuals that warned of the risk of disintegration and irregular, overly-energetic combustion. As one former

Takata engineer noted, "ammonium nitrate stuck out like a sore thumb," yet his team had only "a couple days" to conduct its review.

178. In fact, ammonium nitrate is an inherently volatile and unstable chemical. Daily temperature swings are large enough for ammonium nitrate to cycle through three of its five crystalline states, adding to its volatility. It also readily absorbs moisture from the atmosphere. The chemical's sensitivity to temperature and moisture causes it to break down over time, which can lead to unpredictable and dangerous results, including violent detonations. As one explosives expert bluntly stated in *The New York Times*, ammonium nitrate is better suited to large demolitions in mining and construction, and "shouldn't be used in airbags."

179. From the time it began investigating ammonium nitrate in the late 1990s, Takata understood these risks, and often expressed them publicly. It stated in a 1996 patent document that ammonium nitrate propellant would be vulnerable to temperature changes, and that its casing "might even blow up." Takata further recognized that "[o]ne of the major problems with the use of ammonium nitrate is that it undergoes several crystalline phase changes," one of which occurs at approximately 90 degrees Fahrenheit. If ammonium nitrate undergoes this type of temperature change, the compound may "expand[,] contract and change shape[,] resulting in growth and cracking" of the propellant that might cause an airbag inflator to "not operate properly[,] or [] even blow up because of the excess pressure generated."

180. Takata further admitted, in a 1999 patent document, that pure ammonium nitrate is "problematic," because many gas generating compositions that are made with it are "thermally unstable."

181. Similarly, in a 2006 patent application, Takata discussed the need to test the performance of ammonium nitrate at various extreme temperatures, because it is an unstable chemical, and that such tests could reveal many problems, including "over-pressurization of the inflator leading to rupture." The 2006 patent document purportedly contained a fix for that sort of rupturing. Notably, the alleged fix in 2006 came *after* an inflator rupture incident in 2004 that caused serious injury, and incidents continued to mount following the identification of the alleged

fix. Takata submitted a patent application with other purported "fixes" as recently as 2013. These ongoing, albeit unsuccessful, efforts show that Takata knew throughout the relevant period that its airbags were defective.

182. In a 2007 patent for allegedly phase stabilized ammonium nitrate that incorporates a scavenging additive, designed to retain moisture in an effort to prevent these catastrophic inflator ruptures, Takata representatives noted the following:

> Without the addition of the [additive], and as shown in [the patent], the ballistic curves indicate that changes occurred in the gas generant after 50 cycles. After 100 cycles the ballistic performance was very aggressive and did not meet USCAR specification. After 200 cycles the ballistic performance was so aggressive that the inflator ruptured due to extremely high internal pressures.

183. Thus, Takata's inflators were "grenades" in the glove boxes or steering wheels of vehicles, waiting to detonate after experiencing 100 or 200 cycles of thermal cycling, which, of course, is naturally expected of cars in the real world.

184. The use of this additive (or any other), designed to address ammonium nitrate's hygroscopic nature (affinity for moisture) is, at best, a temporary fix; at some point, the additive will no longer be able to absorb the excess moisture, and the ballistic curves will again exceed specification, leading to aggressive deployments and inflator ruptures.

185. The only conceivable "advantage" of the compound for an airbag manufacturer and its automaker clients is that it is "cheap, unbelievably cheap." Takata had originally planned to use tetrazole as its propellant, which is not only more stable than ammonium nitrate, but yields other desired benefits, such as being more environmentally friendly. However, tetrazole was judged too expensive by Takata, and Takata executives ultimately pressured engineers in Michigan to develop a cheaper alternative.

186. Not surprisingly, other major airbag manufacturers, including Autoliv and Key Safety Systems, reportedly avoided using ammonium nitrate as a primary propellant. Takata's representative confirmed, at a Congressional hearing in June 2015, that Takata is the only major airbag manufacturer that uses ammonium nitrate as a primary propellant in its inflators.

B. The Risks of the Inflator Defect Were Exacerbated by Takata's and Defendants' Abysmal Quality Control

187. Takata and Defendants became further aware of the ammonium-nitrate propellant's instability from persistent and glaring quality control problems that Takata encountered in its manufacturing operations. The Takata plants that manufactured the airbags and inflators at issue in this Complaint include those located in Moses Lake, Washington, LaGrange, Georgia, and Monclova, Mexico. Defendants routinely visited and audited Takata's operations, frequently in response to quality and safety concerns.

188. Beginning in 2001, engineers at Takata's Monclova, Mexico plant identified a range of problems, including rust, which they said could have caused inflators to fail. Between 2001 and 2003, Takata struggled with at least 45 different inflator problems, according to dozens of internal reports titled "potential failures" and reviewed by *Reuters*. On at least three occasions between 2005 and 2006, Takata engineers struggled to eliminate leaks found in inflators, according to engineering presentations. In 2005, Shainin, a U.S. consulting firm, found a pattern of additional problems.

189. Underscoring Takata's reckless use of the volatile and unstable ammonium nitrate, on March 31, 2006, the Monclova, Mexico plant was rocked by violent explosions from containers loaded with propellant. Defendants were well aware of this explosion, as detailed in § III, *infra*.

190. Apparently, not even an accident that terrible could prompt serious and lasting improvements; in a February 2007 email to multiple colleagues, one manager at the Monclova plant stated that "[t]he whole situation makes me sick," referring to Takata's failure to implement checks it had introduced to try to keep the airbags containing the unstable and volatile ammonium nitrate propellant from failing.

191. Takata engineers also scrambled, as late as 2009, to address its propellant issues, after "inflators tested from multiple propellant lots showed aggressive ballistics," according to an internal presentation in June 2009.

192. Based on internal Takata documents, Takata was struggling to meet a surge in demand for its airbags. Putting profits ahead of safety, Takata exhibited shoddy and reckless behavior in the handling of its ammonium nitrate propellant. In March 2011, a Takata supervisor at the Monclova, Mexico plant sent an e-mail to other employees, stating that "[a] part that is not welded = one life less, which shows we are not fulfilling the mission." The title of the e-mail was "Defectos y defectos y defectos!!!!" (English translation: "Defects and defects and defects!!!!"). This shoddy and reckless attitude permeated all of Takata's operations and facilities.

193. Yet handling problems at Takata facilities persisted; another manager urged employees to examine the propellant visible in a cross section of an airbag inflator, noting that "[t]he propellant arrangement inside is what can be damaged when the airbags are dropped. . . . Here you can see why it is important to handle our product properly." A 2009 presentation of guidelines on handling inflators and airbag units also stressed the dangers of mishandling them. The presentation included a link to a video that appeared to show side-curtain airbags deploying violently, sending the inflator hurtling into the car's cabin.

194. Despite knowing that it was shipping potentially deadly products, including inflators containing unstable and volatile ammonium nitrate propellant, Takata resisted taking back damaged or wet airbag modules, in part because it struggled to keep up with the surge in demand for its airbags, as it won big new clients, throughout the early- and mid-2000s.

III. Defendants' Knowledge of the Defective Airbag

A. Volkswagen

195. As a result of the extensive literature detailing the problems with using ammonium nitrate, Volkswagen's intimate involvement in developing specifications and testing standards for the problematic ammonium-nitrate inflators and a variety of adverse incidents, Volkswagen has long been aware of the safety problems associated with using ammonium nitrate in Takata airbags.

196. At all relevant times, Volkswagen exercised close control over suppliers, including airbag and airbag inflator suppliers. Volkswagen prepared and maintained design specification for both the airbag and the inflator, which suppliers—like Takata—were, and are, required to meet.

197. Volkswagen closely reviewed proposed airbag designs from Takata and employed extensive design and product validation processes before approving them for use in its vehicles. Volkswagen also regularly audited and reviewed Takata's manufacturing processes, including visits to, and checks of, Takata's facilities.

198. Volkswagen knew, no later than March 2002, including from presentations and design meetings, that Takata used an ammonium nitrate propellant in its inflators. Takata expressly marketed ammonium nitrate as an inexpensive propellant and recognized Volkswagen's goal of reducing cost. Volkswagen also received data sheets that identified the chemical breakdown of Takata's propellant, including ammonium nitrate.

199. Volkswagen was aware, for example, through failure mode and effects analyses, that propellant degradation could cause a loss of the inflator's structural integrity. Upon information and belief, despite the switch to a new and novel inflator propellant, Volkswagen did not revise its airbag or inflator specifications and test for flaws unique to ammonium nitrate.

200. Volkswagen approved Takata's ammonium-nitrate inflators and installed them in Volkswagen and Audi models sold in the United States, beginning with model year 2004 vehicles for Audi, and 2006 for Volkswagen.

201. Volkswagen had repeated quality issues with Takata beginning as far back as 2003, including failed airbag modules during testing, and unexplained, unexpected facility changes for the production of airbags, which frustrated Volkswagen. On at least one occasion in 2003, Volkswagen rejected a Takata production line after an audit.

202. Yet quality issues continued to arise. In September 2006, Volkswagen reported a torn airbag to Takata and abnormal deployments of airbags, both at cold and ambient temperatures. Volkswagen also experienced airbag tearing in July 2007. In July 2007, a Volkswagen subsidiary

in South America reported to Takata faulty inflators in side airbags, expressing concern over a flame that occurred during testing, and apparent cushion ruptures in the thorax area.

203. In or about October 2004, 30 out of 100 ammonium-nitrate inflators came apart during bonfire testing conducted by Volkswagen. Likewise, in or about February 2009, numerous inflators ruptured during testing that Takata was performing at Volkswagen's express request.

204. In April 2009, an inflator ruptured in Brazil during testing by Volkswagen of completed airbag modules set to be installed in vehicles. Takata communicated to Volkswagen that the suspected root cause was a low density propellant. In presentations drafted for Volkswagen, Takata also admitted worse performance of its inflator at higher temperatures and informed Volkswagen of many inflator ruptures that occurred during testing at 80 and 85 degrees Celsius.

205. On or about May 12, 2009, Volkswagen and Takata engaged in communications concerning heat aging, low density propellant tablets, and propellant degradation, underscoring Volkswagen's accurate understanding of the Inflator Defect. Takata also informed Volkswagen that a greater propellant surface area—potentially caused by lower density—could significantly increase the burn rate and inflator pressurization, to the point of rupture. Volkswagen therefore knew in 2009 and earlier—that Takata's ammonium-nitrate propellant could be susceptible to long-term aging and degradation. Volkswagen, in fact, raised these concerns with Takata. Volkswagen personnel in Germany considered this a high-risk situation and clearly recognized a worst-case scenario, in which portions of the inflator could explode and shoot fragments towards the occupants. Volkswagen, however not only failed to inform its consumers of these risks, issues and recalls on existing vehicles, but also continued to manufacture and sell vehicles with Defective Airbags for years to come.

206. On or about May 19, 2009, Volkswagen and Takata communicated concerning a potential recall of Volkswagen vehicles in Brazil because of the Inflator Defect and the risk posed by Takata's ammonium-nitrate propellant.

207. On or about February 8, 2010, Volkswagen and Takata engaged in communications concerning test results indicating that structural failures occurred in inflators during testing.

208. By model year 2012, and following discussions with Volkswagen that began in or about 2010, Takata began adding a desiccant to inflators manufactured for Volkswagen. A desiccant is a moisture control agent, and its proposed addition was yet another clear indicator of Volkswagen's knowledge that the propellant was susceptible to moisture and degradation under ordinary conditions.

209. Volkswagen was also aware of recalls by other automakers for the same issue(s), including, for example, Honda's 2011 recall. Volkswagen and Takata exchanged emails at the time concerning Honda's recall, underscoring Volkswagen's awareness. Volkswagen suspected a risk of broader problems across Takata inflators, and even expressed that concern to Takata.

210. In June 2015, Volkswagen reported that a Takata-made side-curtain airbag inflator, in a 2015 Volkswagen Tiguan crossover, ruptured after the driver hit a deer. News reports at the time noted that the incident stood out from previously reported Takata ruptures, because of the more recent model year of the vehicle. No later than October 2015, Volkswagen was reportedly gathering and testing Takata inflators.

211. By February 2016, Takata and Volkswagen had issued recalls of approximately 850,000 Volkswagen and Audi vehicles; today, the total recalled population is closer to one million. Volkswagen resisted issuing a recall, informing NHTSA that the facts did not support a recall, and that certain subsets of inflators should be deemed acceptable after testing.

212. This was not the first instance of Volkswagen downplaying and misrepresenting the risk of Takata's inflators. In or about July 2015, Volkswagen insisted that Takata produce ammonium-nitrate inflators ***without*** desiccant—a move Takata strongly opposed. Indeed, as of June 2016, well after the industry had collectively recalled tens of millions of vehicles with ammonium-nitrate inflators, Volkswagen said it was continuing to use front-airbag ammonium-nitrate inflators ***without*** desiccant on certain 2016 and 2017 model year cars, including the Volkswagen CC, Audi TT, and Audi R8.

213. Nor is this the first instance in which Volkswagen has engaged in fraudulent conduct to sell vehicles. In January 2017, Volkswagen pled guilty to three criminal felony counts of conspiracy to defraud the United States and its U.S. customers for misleading the Environmental Protection Agency and U.S. customers about whether various Volkswagen, Audi, and Porsche branded vehicles complied with U.S. emissions standards. Volkswagen also pled guilty to obstruction of justice for destroying documents related to its scheme.

B. Mercedes

214. At all relevant times, Mercedes exercised close control over suppliers, including airbag and airbag-inflator suppliers. Mercedes prepared and maintained design specifications for both the airbag and inflator, which suppliers like Takata were, and are, required to meet.

215. Mercedes closely reviewed proposed airbag designs from Takata, and employed extensive design and product validation processes before approving them for use in its vehicles. Mercedes also regularly audited and reviewed Takata's manufacturing processes, including visits to, and checks of, Takata's facilities.

216. Mercedes knew prior to approving the Defective Airbags that Takata used an ammonium nitrate propellant in its inflators. Takata expressly marketed ammonium nitrate as an inexpensive propellant, and recognized Mercedes's goal of reducing cost.

217. Mercedes was intimately involved in the design and testing of the Defective Airbags prior to its approval for the airbags' use in the recalled Mercedes Class vehicles. It has a long history of involvement with, and knowledge of, the manufacturing and product design of inflators used in the vehicles that it sold. Over the years, Mercedes developed an expertise in inflator technology.

218. In November 1988, a joint venture called Inflation Systems, Inc. ("ISI") was formed between Takata and Bayern-Chemie (of Germany) (a part of the Daimler Benz group). The original charter of ISI was to manufacture driver-side inflators in North America. The site of the

manufacturing facility for ISI was LaGrange, Georgia, which was built in 1991 on property owned by Takata.

219. Both Daimler Benz and Takata worked closely on the manufacturing and product design of Takata's inflators. Bayern-Chemie had responsibility for product design and manufacturing, while Takata used the ISI-manufactured inflators in modules that would be sold directly to automakers. Notably, ISI was operating in 1996, when Takata expressed concerns in patent documents about the risks of using ammonium nitrate in inflators.

220. Moreover, Mercedes had its own airbag expert(s), who worked together with Takata in the development, testing, and approval of the Defective Airbags. Accordingly, Mercedes was aware of Takata's use of ammonium nitrate, including all technical details of allegedly phase stabilized ammonium-nitrate inflators, prior to its approval of the Defective Airbags for use in Mercedes Class Vehicles.

221. Given Takata's concerns about the risks of ammonium nitrate, dating back to its 1996 patent documents, and the subsequent concerns of Mercedes engineers during the pre-approval phase of the Defective Inflators, Mercedes was, or should have been, fully aware of the dangers associated with using ammonium nitrate as a propellant in its airbag inflators.

222. In May 2003, communications between Daimler Chrysler and Takata expressed Daimler Chrysler's view that the PSDI-5 was a "POS," its concerns regarding the "integrity robustness of the module," and its overall dissatisfaction with the Takata inflators.

223. Mercedes also had specific "concerns" regarding the performance of the Defective Inflators prior to approving them for use in the Class Vehicles. These concerns—discussed internally by managers or engineers at Daimler AG in emails exchanged between employees of Daimler Chrysler and employees of Takata on May 6, 2003 and May 7, 2003—focused on the "the module having integrity during and post-deployment." Specifically, Brandon Marriott, a Product Engineer for Daimler Chrysler, communicated to Steve Stram, another engineer at Daimler Chrysler, that a Takata ammonium-nitrate inflator had performance issues, and that Takata had not followed the procedures that Takata and Daimler Chrysler had agreed to in the Spring of 2002

regarding propellant lot acceptance testing, and as a result delivered a substantial number of "'hot' inflators that have been used in [Daimler Chrysler] VC/OOP/sled tests . . . ." Marriott further stated that this "does highlight an ongoing quality issue at LaGrange." In a follow-up email that forwarded Marriott's 6, 2003 email to Takata employees, Stram reported that Marriott's email had been circulated to managers at Daimler Chrysler.

224. Also around this time, in April and May 2003, Mercedes recognized that the defective Takata Airbags failed to meet Mercedes's own requirements for approval, as reflected by their ongoing concerns over the variability and performance issues of the Takata inflators during pre-approval testing. Further, prior to Mercedes's approval of the Defective Inflators for installation in Mercedes Class Vehicles, Mercedes employees raised concerns to Takata that the inflator was the cause of module performance issues, including "module cover tearing," and "cushion tearing." This was consistent with testing that Takata conducted, which showed "bulging," an indicator of "high pressure."

225. On or around September 3, 2003, internal Mercedes communications concerned required deviations from the USCAR specifications for approval of Takata inflators, including deviations involving ballistic variability, flaming, and shock testing, clear evidence that Mercedes was aware of the Inflator Defect.

226. A June 15, 2005 email from a Daimler Chrysler airbag engineer to a Takata program manager reflects that Daimler engineers, who had pyrotechnic expertise and worked with Takata on the testing and approval processes of the Defective Airbags, were fully aware of the performance problems plaguing the inflators, as well as their difficulty meeting USCAR standards, prior to approving the Defective Inflators for installation in the Mercedes Class Vehicles. The June 2005 communications also disclosed to Daimler engineers variability in the performance of Takata inflators and deployments in which inflator fragments were expelled through airbag cushions. Mercedes's awareness of the inability of Takata inflators to comply with USCAR requirements and the inflators' jarring testing failures demonstrates that it knew of the Inflator Defect and that the inflators were not safe enough for Class Vehicles.

227. These same Daimler engineers involved in these communications repeatedly expressed concerns about the PSDI-5 inflator based on the performance of the airbags in pre-approval testing.

228. Despite these concerns, Mercedes ultimately approved Takata's airbags for installation in Class Vehicles. As indicated in an October 20, 2004, email, Mercedes only approved Takata's airbag after Mercedes engineers agreed to forego key performance and safety metrics. Indeed, Mercedes was fully aware that the Defective Inflators could not meet its own specifications, but it nevertheless approved the defective inflators for installation in Mercedes Class Vehicles. This waiver of Mercedes's own specifications demonstrates Mercedes's knowledge that the Defective Inflators were not safe enough for use in Class Vehicles.

229. In addition, in or about October 2006, Mercedes waived several of its own requirements and ultimately decided to accept "deviations," further demonstrating Mercedes' knowledge of the Inflator Defect. As such, Mercedes was fully aware of the risks associated with ammonium nitrate, and consciously and intentionally disregarded those risks by approving the Defective Airbags for installation in the Mercedes Class Vehicles.

230. As noted above, in March 2006, Takata's Monclova, Mexico plant was the site of massive explosions due to ammonium nitrate. Mercedes was well aware of these incidents, and therefore, the inherent danger of using ammonium nitrate, as well as Takata's production operations. However, instead of focusing on these risks, Mercedes focused on inflator production levels. Days after the Monclova plant explosion, on April 5, 2006, a senior Daimler engineer performed an inspection of the Monclova inflator and molding operations, including an examination of parts for any defects. He marveled at the extensive repairs to date, the fact that production was slated to begin again that evening, and that "an army" of contractors was in place to complete the work. Only a year later did Mercedes meet with Takata to discuss the changes implemented to Takata's propellant-material handling in the wake of the explosion, given the concerns over the explosive power of ammonium nitrate.

231. Daimler's engineers from Germany repeatedly communicated and met with Takata engineers from 2014 through 2016 to discuss the Inflator Defect. For example, an email dated December 18, 2015, from Matthias Haupt, a vice president of Takata AG, discusses an upcoming visit on January 12, 2016, by Professor Rodolfo Schöneburg, Head of Vehicle Safety, Durability and Corrosion Protection at Mercedes Cars, with Takata's Product Safety Group in Armada, Michigan. Similarly, in an email dated January 20, 2016, Haupt states "we had yesterday another high level meeting with Mercedes Cars Purchasing . . . . It went very well despite the bad news about the SDI and PSDI-5 but Daimler stays committed to keep us 'as a player in the industry,'" demonstrating that Mercedes was "committed" to propping up a supplier, even at the expense of safety.

232. Additionally, in an email dated January 21, 2016, from Daniel Fahrbach, Executive Assistant to the Executive Vice President of Mercedes Cars Procurement and Supplier Quality at Daimler AG, to other Daimler employees and Takata employees, Fahrbach summarizes a January 19, 2016, meeting between Daimler and Takata and notes that, as a "technical update" on the "Actual Situation Airbag Inflators," (1) "[t]he higher the temperature is the more likely is the rupture of the inflator in the field"; (2) a "field rupture of a SDI Module in South Carolina" (a module used by "[t]he sprinter" "at the driver airbag"); and (3) "3 [PSDI 5] inflators were ruptured during testing this week . . . . 700.000 MB cars in the U.S. have this module"; and (4) "Daimler states clearly that there is a strong will to continue business with Takata."

233. Despite its clear knowledge of the Inflator Defect, Mercedes continued to sell vehicles equipped with Defective Inflators--at least through its 2017 model year vehicles, no less—without disclosing that the vehicles contained Defective Airbags that would later be recalled, Mercedes has, throughout the class period, failed to disclose the known risks and defects of its Defective Inflators to consumers. Even after the historic recalls were announced, Mercedes continued to sell new vehicles that were equipped with Defective Airbags, including the 2016-2017 E-Class Coupe/Convertible, without informing consumers that their new cars contained these

Defective Airbags. Frustratingly, even these new vehicles will be recalled, though owners and lessees will likely have to wait years for a remedy.

234. The recalls that have been issued by Mercedes to replace the Defective Airbags have been largely ineffective. According to NHTSA's website, as of December 2017, only 2% of the affected Mercedes vehicles had been remedied.

235. Notwithstanding recalls and notices by other manufacturers, and Mercedes's awareness of the risks and/or dangers presented by ammonium-nitrate dependent inflators, Mercedes buried its head in the sand, claiming it did not become aware of the issues requiring recalls of the Class Vehicles until January 25, 2016, when Takata submitted a DIR to NHTSA reporting a potential safety defect for SDI and PSDI-5 driver-side airbag inflators.

236. Mercedes's denial of knowledge belies the facts and its numerous communications with Takata regarding the Inflator Defect well before January 2016. This assertion by Mercedes, that it was unaware of the need for a recall until 2016, is false, and reflects its internal efforts to delay the safety recall and conceal from its customers the need for a recall. Indeed, prior to 2016, Mercedes stayed silent in the face of the mountain of information available to it regarding the dangers associated with the airbags, the use of ammonium nitrate as a propellant, and its own internal discussions regarding these dangers with Takata.

237. For example, years before Mercedes issued its first Takata recall, high level personnel at Daimler AG participated in quarterly management meetings with Takata, where information regarding airbag engineering, ballistic test results, and certain ruptures and anomalies were discussed.

238. Also discussed at these meetings, between Mercedes and Takata, were vehicle temperature studies showing that moisture would become problematic for the main propellant well within the expected useful life of the Class Vehicles.

239. Further, despite being fully informed about the potential dangers of the use of ammonium nitrate in Takata airbags from the time they were approved for installation in the Mercedes Class Vehicles and the mounds of evidence publicly available regarding the dangerous

characteristics of ammonium nitrate, Mercedes unreasonably delayed recalling the Class Vehicles. This unreasonable delay has occurred even though Mercedes has acknowledged to consumers that "[t]he defect in [their] driver, passenger, or both driver and passenger frontal airbag inflators may cause the airbag to explode during airbag deployment[,] and could result in metal fragments striking the front occupants, possibly causing serious injury or death."

240. In light of Mercedes's knowledge about the use of ammonium nitrate, pre-approval testing and the inability of the Defective Inflators to meet applicable standards, Mercedes should have refused to install the Defective Inflators in its vehicles and recalled Class Vehicles years before it reluctantly did.

241. For example, Takata included Mercedes as among the automakers who were provided potentially defective inflators in a June 2014 filing with NHTSA. Yet, Mercedes claimed that its inclusion in this letter to NHTSA was a mistake.

242. Over one million Mercedes vehicles have officially been recalled as part of the massive action arising from the installation of the Defective Airbags.

C. Defendants' Knowledge Through the German Car Consortium

243. At all relevant times, Defendants Volkswagen and Mercedes, together with Porsche and BMW, belonged to a technical consortium made up of leading German car companies that, among other things, adopt and maintain technical standards for airbags and inflators. The consortium is often referred to as Arbeitskreis or the Group of Five Working Committee ("the Group of Five").

244. On information and belief, this consortium's standards have, at minimum, contributed to Defendants' airbag and inflator testing standards during the entire time period implicated by this lawsuit. In light of these long-standing common standards and Takata's entry into the airbag market during this period, Plaintiffs allege, on information and belief, that the Group of Five members would have collectively evaluated the airbags and inflators for approval, in addition to automakers' individual efforts.

245. Indeed, Defendants and their fellow consortium members met with Takata on at least one occasion, in or about February 2007, at which time the ammonium-nitrate airbag inflators were a topic of discussion. The parties discussed module testing, helium leak testing, and temperature- and moisture-related failure modes, of ammonium-nitrate inflators—precisely the factors and issues that eventually led to the airbag recalls—thus signaling Defendants' clear and ongoing knowledge of the unacceptable risks associated with Takata's airbags.

246. In light of the consortium members' close working relationship on airbag and inflator issues and their joint focus, by no later than 2007, on precisely the issues that led to the recalls, Plaintiffs allege, on information and belief, that Defendants as consortium members were, or should have been, aware of ruptures and/or abnormal deployments in their respective vehicles—for example, the 2003 BMW rupture described in the next section.

D. Defendants' Knowledge Through Escalating Field Incidents and Recalls

247. As noted above, Defendants not only had knowledge of the airbag defect through their own interactions with Takata and work in the Group of Five Consortium—they also tracked Takata's interactions with other major automakers.

248. Any cursory attention paid to Takata's track record should have further fueled their concern over ammonium-nitrate inflators. Takata airbags made it to market in model year 2001. By 2003, there were two incidents involving either rupture or aggressive deployment, including one that lead to a fatality in Arizona and another that took place in a vehicle manufactured by a Group of Five member, BMW. The BMW incident took place in Switzerland, and was jointly investigated by BMW and Takata.

249. Additional, alarming incidents continued to mount regularly, including a rupture in 2004 in Alabama and a trio of incidents in the summer of 2007. These four incidents involved Honda vehicles, and notably, Honda filed a public standard report with U.S. safety regulators for each of them.

250. Defendants knew or should have known of these field ruptures involving a major automakers and Defendants' key supplier. Moreover, by November 2008—well after Defendants had accumulated significant knowledge regarding the troubling risks of Takata airbags—Honda issued its first public recall in the United States. The recall notice expressly noted the risk that Takata airbags "could produce excessive internal pressure," causing "the inflator to rupture," spraying metal fragments through the airbag cushion ("2008 Recall"). Coupled with their ongoing concerns over this precise risk, Defendants had every obligation to act swiftly to protect their past and prospective consumers, yet they did not.

251. Tragically, Defendants' failure to act was repeated serially over the next five years. Following Honda's 2008 Recall, additional ruptures occurred, many resulting in accidents, injuries, and/or fatalities. By 2009, Honda had issued its second recall in the United States, putting all automakers, including Defendants, on further notice of the Inflator Defect. This pattern of incidents and recalls continued unabated—with increasingly larger recalls of Takata airbags issued in 2010, 2011, and 2013—but prompted no recall or actions by Defendants.

252. On April 11, 2013, Takata filed a DIR titled "Certain Airbag Inflators Used as Original Equipment." It again openly admitted concerns over propellant moisture absorption and deterioration, "over-aggressive combustion," and inflator "rupture." Shortly thereafter, six major automakers, including Nissan, Mazda, BMW, Pontiac, and Honda, issued recalls of 3.6 million vehicles containing Takata airbags. Defendants, by contrast, issued no recalls.

253. Defendants' refusal to act persisted as other automakers drastically increased their recalls in 2014. By the end of June 2014, the number of vehicles recalled due to the Inflator Defect had increased to over 6 million, a small fraction of the total recall. The number of rupture-related injuries and fatalities continued to grow as well. In the summer and fall of 2014 alone, seven incidents were widely reported, some involving individuals who had died, were rendered quadriplegic, and/or suffered severe head injuries. That pace continued in the years to come. Defendants, however, remained unconcerned about the safety of their consumers.

254. By November 18, 2014, it was clear to NHTSA that even the extensive recalls to date were insufficient. NHTSA therefore demanded a national recall of many automakers and began speaking out more forcefully against the endless delays and intransigence of automakers in the face of such a deadly risk.

255. Defendants' disinterest in resolving the issue remained and became increasingly more apparent by the month. When 10 major automakers met in December 2014, to "sort out a way to understand the technical issues involved," Volkswagen and Mercedes were shockingly absent. When many of those same automakers proceeded to jointly and publicly retain an outside consultant to finally investigate the defect, Defendants again remained on the sidelines. And when Honda announced an advertising campaign in March 2015 to promote the recall—a step it could, and should, have taken a decade ago—Defendants continued to sit on the sidelines, unconcerned with their consumers' safety.

256. In light of ongoing testing, on May 18, 2015, Takata filed four DIRs with NHTSA and agreed to a Consent Order regarding its (1) PSDI, PSDI-4, and PSDI-4K driver airbag inflators; (2) SPI passenger airbag inflators; (3) PSPI-L passenger airbag inflators; and (4) PSPI passenger airbag inflators. Takata admitted that "a defect related to motor vehicle safety may arise in some of the subject inflators." In testimony presented to Congress following the submission of its DIRs, Takata's representative admitted that the use of ammonium nitrate is a factor that contributes to the tendency of Takata's airbags to rupture, and that as a result, Takata would phase out the use of ammonium nitrate.

257. At this juncture, Defendants could have easily taken the obvious, relatively minimal, step of discontinuing use of ammonium nitrate Takata airbags, following almost immediately with complete recalls of all ammonium-nitrate inflators, but again they did not take that step. Takata issued additional DIRs, including in January 2016, January 2017, and January 2018.

258. In September 2015, NHTSA was forced to contact Volkswagen and Mercedes to seek information regarding their uses of Takata airbags. Consistent with Defendants' long pattern

of behavior, and despite the increasingly irrefutable evidence of the inherent, uniform defect in Takata's ammonium-nitrate inflators, Volkswagen wrote to NHTSA in February 2016, in an effort to push back against the inclusion in comprehensive recalls of its own defective vehicles. Eventually, in its Third Amended Coordinated Remedy Order, issued December 9, 2016, NHTSA expanded the recall to Volkswagen and Mercedes.

259. As a result of Takata's admission that its inflators are defective, the total number of recalled vehicles nationwide will exceed 40 million.

260. Over the past 15 years that Defendants, other automakers, and Takata knew of the problems affecting the safety of their airbags and there have been at least 22 deaths, and hundreds of serious injuries, linked to the Defective Airbags worldwide. As detailed above, the incidents date back to at least 2003, and involve vehicles made by numerous automakers, including the Volkswagen Defendants. Defendants knew of the Inflator Defect by virtue of these incidents—in addition to many other sources—but failed to disclose the nature and scope of the Inflator Defect, choosing to put their customers' lives at risk in order to avoid expensive recalls.

261. Defendants were also on notice from additional, unusual Takata airbag deployments that should have prompted further inquiry into their fitness for use. A review of publicly-available NHTSA complaints shows dozens of incidents of Takata airbags inadvertently deploying in Defendants' Class Vehicles—events likely tied to the unstable and volatile ammonium-nitrate propellant. These complaints started as early as September 2005 and involve vehicles manufactured by Acura, BMW, Dodge, Ford, Mitsubishi, Pontiac, Subaru, Toyota, Mercedes and Volkswagen. Some incidents exhibit signs that are even more directly and clearly attributable to the Inflator Defect—including airbags that caused unusual smoke and fire (or both), or deployed with such force that they caused the windshield to crack, break, or shatter.

IV. Defendants Sold Their Vehicles As "Safe" and "Reliable"

262. At all relevant times, in advertisements and promotional materials transmitted nationwide and in the states in which Plaintiffs purchased Class Vehicles, Defendants continuously

maintained that their vehicles were safe and reliable, while uniformly omitting any reference to the Inflator Defect. Plaintiffs, directly or indirectly, viewed or heard such advertisements or promotional materials prior to purchasing or leasing Class Vehicles. The misleading statements and omissions about Class Vehicles' safety in Defendants' advertisements and promotional materials were material to Plaintiffs' decisions to purchase or lease Class Vehicles.

263. Examples of Volkswagen's safety and reliability representations, which were disseminated nationwide, in Transferor Jurisdictions, and in the various states in which Plaintiffs purchased Class Vehicles via advertising and marketing campaigns controlled by VW AG, VW America, Audi AG, and Audi America, include the following:

a. Brochures, including those distributed at dealerships, which regularly touted its vehicles' standard and optional airbags.

b. A 2008 Audi A4 brochure that touted its "IIHS top safety pick" designation, and asserts it is "not just safe for its size, [but] safe for any size."

c. A 2012 Passat brochure that promised "passive safety features to help protect you and keep you safe," and that Volkswagen will "place safety at the top of our list."

d. A 2010 Jetta brochure that touted its "IIHS top safety pick" designation, and its use of "the latest in safety technology," as well as its multiple airbags.

e. A 2010 VW CC brochure that touts the brand's industry-leading number of "IIHS top safety pick" designations, and "six standard airbags."

f. A 2011 Audi A6 brochure that promises "all-encompassing safety," and highlights the vehicle's standard airbags.

g. A 2012 Audi A3 brochure that states "we kind of have a thing for safety," and promises airbags as a standard feature.

264. Examples of Mercedes's safety and reliability representations, which consistently remind consumers of its premium quality and recognition as a premium brand and which were disseminated nationwide, in Transferor Jurisdictions, and in the various states in which Plaintiffs

purchased Class Vehicles via advertising and marketing campaigns controlled by Daimler AG and MBUSA, include the following:

a. In a May 15, 2013 Mercedes press release on the Mercedes website, Dr. Dieter Zetsche, Chairman of the Board of Management of Daimler AG and Head of Mercedes-Benz Cars said: "Rather than being about safety or aesthetics, power or efficiency, comfort or dynamism, our aspirations were 'the best or nothing' in every respect. No other car stands for the Mercedes-Benz brand promise more than the S-Class."

b. In a June 18, 2014, Mercedes press release on the Mercedes website, Mercedes stated: "Hallmark Mercedes high level of safety- To make top-class safety available for everyone, the CLS-Class will in the future be fitted with a host of new assistance systems along with existing systems with upgraded functionality."

c. In a March 22, 2016, Mercedes press release on the Mercedes website, Mercedes stated about its Coupe: "In keeping with the Mercedes-Benz tradition, the body forms the foundation for exemplary crash safety. A high-strength safety passenger compartment forms the core of this concept. It is surrounded by specially designed and crash-tested deformation zones, which ensure the best possible occupant safety. In addition to 3-point safety belts with pyrotechnical and reversible belt tensioning and belt-force limitation for driver, front passenger and those in the outer rear seats, numerous airbags serve to protect the vehicle's occupants in an accident. These include combined thorax/pelvis side bags for driver and front passenger and an optimized window bag extending over both seat rows, optional side bags for the outer rear seats and a driver knee bag."

d. In a September 1, 2015, press release on the Mercedes website, Prof. Dr. Thomas Weber, Member of the Daimler Board of Management responsible for Group Research and Head of Mercedes-Benz claimed that "[t]he S-Class sets the pace on the global market when it comes to safety, efficiency and comfort."

e. In a 2011 C-Class brochure, Mercedes touted its "legacy of safety innovation," promising "top-rated safety" that is "not just equipped with a list of safety features

[but] engineered as an orchestrated system that is designed to make the most of the precious milliseconds it takes to avoid, or survive, a collision."

f. In a 2011 M-Class brochure, Mercedes touted its "Five Star Safety." With respect to airbags in particular, the brochure promises "10-way air bag protection. . . eight air bags offer a total of 10 ways of protection."

g. In a 2012 S-Class Brochure, Mercedes claimed that the "S-Class is engineered not merely to meet expectations, but to redefine every measure of how an automobile… can protect its occupants." The S-Class is "engineered with visionary safety advances."

265. Contrary to these representations and countless others like them, Volkswagen and Mercedes failed to equip Class Vehicles with airbags that would meet these proclaimed standards and failed to disclose to consumers that their vehicles actually contained dangerous and defective airbags.

266. In addition, the Monroney stickers for each Class Vehicle, which are affixed to every new vehicle and visible to every new vehicle purchaser, as well as available online for used vehicle purchasers, represented that the Class Vehicles came equipped with driver and/or passenger airbags and that the airbags served as "safety" features, misleadingly omitting the risk and danger created by the Inflator Defect. The Monroney sticker is named for A.S. "Mike" Monroney, a longtime Oklahoma congressman who wrote the 1958 Automobile Information Disclosure Act, the federal law that requires the Monroney sticker on vehicles. The Monroney sticker lists all features that come standard to the vehicle.

267. The owner manuals for each Class Vehicle also represented that the vehicles came equipped with driver and/or passenger airbags and that the airbags served as safety features, again misleadingly omitting the risk and danger created by the Inflator Defect.

V. Defendants' Inadequate Recalls and Failure to Assist Impacted Consumers

A. Slow and Inadequate Recalls

268. Though the first Takata Airbag related recall was launched 2009, Defendants failed to initiate a field action or recall until 2016. Defendants are finally now recalling later model years, including 2017 models, because of the inordinate safety risk posed by Takata airbags.

269. Even those vehicles that have been recalled have little chance of being repaired in the near term. Under the recalls required under NHTSA's Coordinated Remedy Order, approximately 44 million vehicles will be recalled in the United States for the Inflator Defect.

270. At a Congressional hearing in June 2015, Takata's representative testified that Takata was shipping approximately 700,000 replacement inflators per month and expected to increase production to 1 million replacement inflators per month by September 2015—well short of the number required to supply the ten automakers that have issued recalls.

271. At the current rate, it will take several years to produce enough Takata inflators to fix all recalled vehicles in the U.S., even setting aside the question of whether service departments would be able to provide the necessary services in a timely manner. As recently as February 2017, for example, Mercedes sought year-long extensions for completing the recall in approximately 800,000 of its vehicles. Under the revised schedules, the remedy will not even *begin* for certain Mercedes vehicles until September 2019. Volkswagen's recalls are similarly extended out over the coming years.

272. Not surprisingly, authorized dealers are experiencing a severe shortage of parts to replace the faulty airbags. Dealers have been telling frustrated class members that they can expect to wait many months before their airbags can be replaced.

273. In response to the airbag replacement shortage, certain automakers have taken the extreme step of disabling passenger airbags entirely, and putting a "Do Not Sit Here" decal in the vehicle until a proper repair can be made. In the alternative, some automakers are advising customers to refrain from driving their vehicles until the airbags can be replaced. Others are providing loaner vehicles.

274. Other automakers have also chosen to "repair" their customers' vehicles, not by providing temporary replacement vehicles or replacement parts, but by disengaging the Takata airbags entirely.

275. Congress has voiced concerns about this serious problem. Senators Richard Blumenthal and Edward J. Markey, in a letter to the Department of Transportation ("DOT"), said they were:

> [A]larmed and astonished that NHTSA has endorsed a policy recently announced by Toyota and GM that dealers should disable passenger-side airbags and instruct against permitting passengers in the front seat if replacement parts for these airbags are unavailable. As a matter of policy, this step is extraordinarily troubling and potentially dangerous. As a matter of law . . . §30122(b) of the Motor Vehicle Safety Act (49 U.S.C.) prohibits a manufacturer from knowingly making a safety device inoperative unless the [DOT] issues a specific exemption. We are unaware of an exemption from your office in the case of Takata airbags.

B. Failure to Provide Replacement Vehicles

276. The Class Vehicles are not safe to drive. They have been recalled, and yet replacement of the Defective Airbags could take years. Due to Defendants' failures, Plaintiffs and Class members are left with poor options—be without use of a vehicle; purchase, lease, or rent a new vehicle until Defendants complete the recall; or, use a vehicle with a dangerous or disabled airbag over an extended period of time.

277. As Senators Blumenthal and Markey further asserted, "all drivers deserve access to loaners or rental cars at no cost to them while they await repairs to their cars that make them safe enough to drive again."

278. Yet, Defendants are not providing loaner or replacement vehicles on a comprehensive basis. Mercedes has expressly stated that "there is no reason to offer [] loaner vehicle[s]."

C. Defective Replacement Airbags

279. Perhaps most alarming is that the replacement components manufactured by Takata that many automakers—including Defendants—are using to "repair" recalled Class Vehicles, suffer from the same Inflator Defect that plagues the parts being removed, i.e., they use ammonium nitrate as the inflator's primary propellant. Indeed, Takata admitted in its submitted DIRs, and at the June 2015 Congressional hearing, that inflators installed in recalled vehicles as replacement parts are, in fact, defective, and must be replaced yet again. Even recall notices issued in 2015 acknowledge that certain "replacement inflators are of the same design and materials as the inflators being replaced."

280. Moreover, inspection of inflators manufactured by Takata as recently as 2014, and installed by manufacturers through the recall process, reveals that the ammonium nitrate pellets in the inflators already exhibit signs of moisture-induced instability, such as rust stains, a tendency to clump together, and size variations. As a result, Defendants cannot reasonably assure Plaintiffs or Class members that Class Vehicles equipped with such post-recall replacement parts will be any safer than they were with the initial Defective Airbags.

281. By way of example, Paragraph 30 of the November 2015 Consent Order provides that the NHTSA Administrator may issue final orders for the recall of Takata's desiccated phase stabilized ammonium nitrate ("PSAN") inflators, used as both original and replacement equipment, if no root cause has been determined by Takata or any other credible source, or if Takata has not otherwise shown the safety and/or service life of the parts by December 31, 2019. However, as of July 10, 2017, Takata began recalling certain desiccated PSAN inflators installed in Ford, Mazda, and Nissan vehicles.

282. Moreover, while Takata and automakers, including Defendants, had previously assured the public that the Defective Airbags had been remedied, and that the new airbags being placed in recalled vehicles were safe, several automakers have been or will be required to recall some vehicles from model year 2013 onward because of the risk of the Takata airbags rupturing. In fact, Takata has now admitted that replacement airbags installed in some recalled vehicles are

defective as well, and cannot assure the public that replacement inflators containing ammonium nitrate are safe and not prone to rupture.

TOLLING OF THE STATUTE OF LIMITATIONS

I. Fraudulent Concealment

283. Upon information and belief, Defendants have known about the Inflator Defect in their Defective Airbags since at least the early 2000s. Prior to installing the Defective Airbags in their vehicles, Defendants knew or should have known of the Inflator Defect, because Takata informed them that the Defective Airbags contained the volatile and unstable ammonium nitrate. In addition, Defendants were made aware through problems arising during the design process, testing, ruptures and other adverse events, public reports of ruptures and adverse events, and regular recalls starting no later than 2008. Defendants have concealed from, or failed to notify, Plaintiffs, Class members, and the public of the full and complete nature of the Inflator Defect.

284. For years, Defendants did not fully investigate or disclose the seriousness of the issue, and in fact downplayed the widespread prevalence of the problem.

285. Any applicable statute of limitations has therefore been tolled by Defendants' knowledge, active concealment, and denial of the facts alleged herein, which behavior is ongoing.

II. Estoppel

286. Defendants were, and are, under a continuous duty to disclose to Plaintiffs and Class members the true character, quality, and nature of the Class Vehicles. They actively concealed the true character, quality, and nature of the vehicles; and knowingly made misrepresentations about the quality, reliability, characteristics, and performance of the vehicles. Plaintiffs and Class members reasonably relied upon Defendants' knowing and affirmative misrepresentations, and/or active concealment, of these facts. Based on the foregoing, Defendants are estopped from relying on any statute of limitations in defense of this action.

III. Discovery Rule

287. The causes of action alleged herein did not accrue until Plaintiffs and Class members discovered that their vehicles had the Defective Airbags.

288. Plaintiffs and Class members, however, had no realistic ability to discern that the vehicles were defective, until—at the earliest—the Defective Airbag exploded, or their vehicles were recalled. Even then, Plaintiffs and Class members would have had no reason to discover their causes of action because of Defendants' active concealment of the true nature of the defect, and prior knowledge of it.

IV. *American Pipe* Tolling

289. A putative class action suit on behalf of a nationwide class was brought against Mercedes on June 28, 2017, and transferred into this MDL on July 27, 2017, *see Krmptoic, et al. v. Takata Corporation, et al.*, No. 2:17-cv-04771 (D.N.J.). A putative class action suit on behalf of a nationwide class was brought against Volkswagen on August 8, 2017 and transferred into this MDL on August 8, 2017, *see Alters, et al., v. Volkswagen Group of America, Inc.*, No.: 2:17-cv-05863 (D.N.J.). At the time these actions were brought, Plaintiffs and the other Class members in this case were part of the respective classes alleged in the actions.

290. Accordingly, pursuant to *American Pipe and Construction Co. v. Utah*, 414 U.S. 538 (1974), the claims of Mercedes Plaintiffs and other Class members were tolled from at least June 28, 2017, and the claims of Volkswagen Plaintiffs and other Class members were tolled from at least August 8, 2017. Additional class actions filed by Plaintiffs provide additional bases for *American Pipe* tolling.

CLASS ACTION ALLEGATIONS

291. The Classes' claims all derive directly from a single course of conduct by Defendants. This case is about the responsibility of Defendants, at law and in equity, for their knowledge, conduct, and products. Defendants have engaged in uniform and standardized conduct

toward the Classes. They did not differentiate, in degree of care or candor, in their actions or inactions, or in the content of their statements or omissions, among individual Class members. The objective facts on these subjects are the same for all Class members. Within each Claim for Relief asserted by the respective Classes, the same legal standards govern. Additionally, many—and for some claims, all—states share the same legal standards and elements of proof, facilitating the certification of multistate or nationwide classes for some or all claims. Accordingly, Plaintiffs bring this lawsuit as a class action on their own behalf, and on behalf of all other persons similarly situated as members of the proposed Classes, pursuant to Federal Rules of Civil Procedure 23(a); and (b)(3), and/or (b)(2), and/or (c)(4). This action satisfies the numerosity, commonality, typicality, adequacy, predominance, and superiority requirements of those provisions.

I. The Classes

292. The Consumer Plaintiffs bring this action and seek to certify and maintain it as a class action under Federal Rules of Civil Procedure 23(a); and (b)(2), and/or (b)(3), and/or (c)(4); on behalf of themselves and a Nationwide Consumer Class defined as follows:

> All persons in the United States who, prior to the date on which the Class Vehicle was recalled, (a) entered into a lease for a Class Vehicle, or (b) bought a Class Vehicle and who (i) still own or lease the Class Vehicle, or (ii) sold the Class Vehicle after the date on which the Class Vehicle was recalled, or (iii) following an accident, whose Class Vehicle was declared a total loss after the date on which the Class Vehicle was recalled.

293. The Consumer Plaintiffs allege statewide class action claims on behalf of classes in the following states: Alabama, Arizona, Arkansas, California, Connecticut, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Massachusetts, Michigan, Mississippi, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, Washington, and Wisconsin. Each of these State Consumer Classes is initially defined as follows:

> All persons who, prior to the date on which the Class Vehicle was recalled, (a) entered into a lease for a Class Vehicle in the state of _____ (*e.g.*, Florida), or (b) bought a Class Vehicle in the state of ____ (*e.g.*, Florida) and who (i) still own or lease the Class Vehicle, or (ii) sold the Class Vehicle after the date on which the Class Vehicle was recalled, or (iii) following an accident, whose Class Vehicle was declared a total loss after the date on which the Class Vehicle was recalled.

294. The proposed Nationwide Consumer Class and Statewide Consumer Classes and their members are sometimes referred to herein as the "Class" or "Classes."

295. Excluded from each Class are Defendants, their employees, officers, directors, legal representatives, heirs, successors, and wholly or partly owned subsidiaries or affiliates of Defendants; Class Counsel and their employees; and the judicial officers and their immediate family members and associated court staff assigned to this case.

II. Numerosity

296. This action satisfies the requirements of Fed. R. Civ. P. 23(a)(1). There are millions of Class Vehicles nationwide, and thousands of Class Vehicles in each of the States. Individual joinder of all Class members is impracticable.

297. Each of the Classes is ascertainable because its members can be readily identified using registration records, sales records, production records, and other information kept by Defendants or third parties in the usual course of business and within their control. Plaintiffs anticipate providing appropriate notice to each certified Class, in compliance with Fed. R. Civ. P. 23(c)(1)(2)(A), and/or (B), to be approved by the Court after class certification, or pursuant to court order under Fed. R. Civ. P. 23(d).

III. Predominance of Common Issues

298. This action satisfies the requirements of Fed. R. Civ. P. 23(a)(2) and 23(b)(3), because questions of law and fact that have common answers that are the same for each of the respective Classes predominate over questions affecting only individual Class members. These include, without limitation, the following:

a. Whether the Class Vehicles suffer from the Inflator Defect;

b. Whether Defendants knew, or should have known, about the Inflator Defect; and, if so, how long Defendants have known of the defect;

c. Whether Defendants had a duty to disclose the defective nature of the Class Vehicles to Plaintiffs and Class members;

d. Whether Defendants omitted and failed to disclose material facts about the Class Vehicles;

e. Whether Defendants' concealment of the true defective nature of the Class Vehicles induced Plaintiffs and Class members to act to their detriment by purchasing the Class Vehicles;

f. Whether Defendants' conduct tolls any or all applicable limitations periods by acts of fraudulent concealment, application of the discovery rule, or equitable estoppels;

g. Whether Defendants misrepresented that the Class Vehicles were safe;

h. Whether Defendants engaged in unfair, deceptive, unlawful and/or fraudulent acts or practices in trade or commerce by failing to disclose that the Class Vehicles were designed, manufactured, and sold with defective airbag inflators;

i. Whether Defendants' conduct, as alleged herein, was likely to mislead a reasonable consumer;

j. Whether Defendants' statements, concealments, and omissions regarding the Class Vehicles were material, in that a reasonable consumer could consider them important in purchasing, selling, maintaining, or operating such vehicles;

k. Whether Defendants violated each of the States' consumer protection statutes; and, if so, what remedies are available under those statutes;

l. Whether the Class Vehicles were unfit for the ordinary purposes for which they were used, in violation of the implied warranty of merchantability;

m. Whether Defendants' unlawful, unfair, and/or deceptive practices harmed Plaintiffs and the Classes;

n. Whether the Class Vehicles suffered a diminution of value because of the Defective Airbags;

o. Whether Defendants have been unjustly enriched by their conduct;

p. Whether Plaintiffs and the Classes are entitled to equitable relief, including, but not limited to, a preliminary and/or permanent injunction;

q. Whether Plaintiffs and the Classes are entitled to a declaratory judgment stating that the airbag inflators in the Class Vehicles are defective and/or not merchantable;

r. Whether Defendants should be declared responsible for notifying all Class members of the Inflator Defect, and ensuring that all vehicles with the airbag inflator defect are promptly recalled and repaired;

s. What aggregate amounts of statutory penalties are sufficient to punish and deter Defendants as well as to vindicate statutory and public policy; and

t. How such penalties should be most equitably distributed among Class members;

IV. Typicality

299. This action satisfies the requirements of Fed. R. Civ. P. 23(a)(3), because Plaintiffs' claims are typical of the claims of the Class members, and arise from the same course of conduct by Defendants. The relief Plaintiffs seek is typical of the relief sought for the absent Class members.

V. Adequate Representation

300. Plaintiffs will fairly and adequately represent and protect the interests of the Classes. Plaintiffs have retained counsel with substantial experience in prosecuting consumer class actions, including actions involving defective products.

301. Plaintiffs and their counsel are committed to vigorously prosecuting this action on behalf of the Classes, and have the financial resources to do so. Neither Plaintiffs nor their counsel have interests adverse to those of the Classes.

VI. Superiority

302. This action satisfies the requirements of Fed. R. Civ. P. 23(b)(2), because Defendants have acted, and refused to act, on grounds generally applicable to each Class, thereby making appropriate final injunctive and/or corresponding declaratory relief with respect to each Class as a whole.

303. This action satisfies the requirements of Fed. R. Civ. P. 23(b)(3), because a class action is superior to other available methods for the fair and efficient adjudication of this controversy. The common questions of law and of fact regarding Defendants' conduct and responsibility predominate over any questions affecting only individual Class members.

304. Because the damages suffered by each individual Class member may be relatively small, the expense and burden of individual litigation would make it very difficult or impossible for individual Class members to redress the wrongs done to each of them individually, such that most or all Class members would have no rational economic interest in individually controlling the prosecution of specific actions, and the burden imposed on the judicial system by individual litigation—by even a small fraction of the Class—would be enormous, making class adjudication the superior alternative under Fed. R. Civ. P. 23(b)(3)(A).

305. The conduct of this action as a class action presents far fewer management difficulties, far better conserves judicial resources and the parties' resources, and far more effectively protects the rights of each Class member than would piecemeal litigation. Compared to the expense, burdens, inconsistencies, economic infeasibility, and inefficiencies of individualized litigation, the challenges of managing this action as a class action are substantially outweighed by the benefits to the legitimate interests of the parties, the court, and the public of class treatment in this court, making class adjudication superior to other alternatives, under Fed. R. Civ. P. 23(b)(3)(D).

306. Plaintiffs are not aware of any obstacles likely to be encountered in the management of this action that would preclude its maintenance as a class action. Rule 23 provides the Court with authority and flexibility to maximize the efficiencies and benefits of the class mechanism and

reduce management challenges. The Court may, on motion of Plaintiffs or on its own determination, certify nationwide, statewide and/or multistate classes for claims sharing common legal questions; utilize the provisions of Rule 23(c)(4) to certify any particular claims, issues, or common questions of fact or law for class-wide adjudication; certify and adjudicate bellwether class claims; and utilize Rule 23(c)(5) to divide any Class into subclasses.

307. The Classes expressly disclaim any recovery in this action for physical injury resulting from the Inflator Defect without waiving or dismissing such claims. Plaintiffs are informed and believe that injuries suffered in crashes as a result of Defective Airbags implicate the Class Vehicles; constitute evidence supporting various claims, including diminution of value; and are continuing to occur because of Defendants' delays and inaction regarding the commencement and completion of recalls; and because of the installation of Defective Airbags as replacement airbags. The increased risk of injury from the Inflator Defect serves as an independent justification for the relief sought by Plaintiffs and the Classes.

REALLEGATION AND INCORPORATION BY REFERENCE

308. Plaintiffs reallege and incorporate by reference all of the preceding paragraphs and allegations of this Complaint, including the Nature of Claims, Factual Allegations, Tolling Allegations, and Class Action Allegations, as though fully set forth in each of the following Claims for Relief asserted on behalf of the Nationwide Class and the Statewide Classes.

CLAIMS FOR RELIEF

I. Nationwide Claims

A. Federal Claims

COUNT 1

[Dismissed]

COUNT 2

[Dismissed]

COUNT 3

[Dismissed]

COUNT 4

[Dismissed]

COUNT 5

[Dismissed]

B. Common Law and State Law Claims Against Volkswagen

COUNT 6

Fraudulent Concealment

309. The following Plaintiffs bring this claim of fraudulent concealment against Volkswagen, on behalf of themselves and their respective State Classes, under the laws of the states where Plaintiffs and Class Members purchased their Class Vehicles: Dave DeKing (Arizona); Chloe Carter (Arkansas); Christine Palmer (Connecticut); Delola Nelson-Reynolds (Illinois); Holly Stotler (Illinois); Malia Moore (Indiana); Linda Dean (Kentucky); Trevor

MacLeod (Michigan); Pattie Byrd (New Jersey); Maureen Dowds (New Jersey); Annette Montanaro (New York); Desiree Jones-Lassiter (North Carolina); Angela Cook (Ohio); Angela Dickie (South Carolina); Antonia Dowling (South Carolina); Latecia J. Jackson (Texas); Nikki Norvell (Texas); Chloe Wallace (Texas); Michael Farris (Virginia); and April Rockstead Barker (Wisconsin).

310. As described above, Volkswagen made material omissions and affirmative misrepresentations regarding the Class Vehicles and the Defective Airbags contained therein.

311. Volkswagen concealed and suppressed material facts regarding the Defective Airbags—most importantly, the Inflator Defect, which causes, among other things, the Defective Airbags to: (a) rupture and expel metal shrapnel that tears through the airbag and poses a threat of serious injury or death to occupants; and (b) hyper-aggressively deploy and seriously injure occupants through contact with the airbag.

312. Volkswagen took steps to ensure that its employees did not reveal the known Inflator Defect to regulators or consumers.

313. On information and belief, Volkswagen still has not made full and adequate disclosure, continues to defraud Plaintiffs and the Class, and continues to conceal material information regarding the Inflator Defect.

314. Volkswagen had a duty to disclose the Inflator Defect because it:

a. Had exclusive and/or far superior knowledge and access to the facts, and Volkswagen knew the facts were not known to or reasonably discoverable by Plaintiffs and the Class;

b. Intentionally concealed the foregoing from Plaintiffs and Class Members; and

c. Made incomplete representations about the safety and reliability of the Defective Airbags and Class Vehicles, while purposefully withholding material facts from Plaintiffs that contradicted these representations.

315. These omitted and concealed facts were material because they would be relied on by a reasonable person purchasing, leasing, or retaining a new or used motor vehicle, and because they directly impact the value of the Class Vehicles purchased or leased by Plaintiffs and the Class. Whether a manufacturer's products are safe and reliable, and whether that manufacturer stands behind its products, are material concerns to a consumer. Plaintiffs and Class Members trusted Volkswagen not to sell or lease them vehicles that were defective or that violated federal law governing motor vehicle safety, and to uphold its recall obligations under the Sale Agreement and governing laws.

316. Volkswagen concealed and suppressed these material facts to falsely assure purchasers and consumers that the Defective Airbags and Class Vehicles were capable of performing safely, as represented by Volkswagen and reasonably expected by consumers.

317. Volkswagen also misrepresented the safety and reliability of the Defective Airbags and Class Vehicles, because it either (a) knew but did not disclose the Inflator Defect; (b) knew that it did not know whether its safety and reliability representations were true or false; or (c) should have known that its misrepresentations were false.

318. Volkswagen actively concealed or suppressed these material facts, in whole or in part, to maintain a market for its vehicles, to protect its profits, and to avoid recalls that would hurt the brand's image and cost Volkswagen money. It did so at the expense of Plaintiffs and the Class.

319. Plaintiffs and the Class were unaware of these omitted material facts and would not have acted as they did if they had known of the concealed or suppressed facts.

320. Had they been aware of the Defective Airbags installed in the Class Vehicles and Volkswagen's callous disregard for safety, Plaintiffs and the Class either would not have paid as much for their Class Vehicles, or they would not have purchased or leased them at all. Plaintiffs and Class members did not receive the benefit of their bargain as a result of Volkswagen's fraudulent concealment.

321. Because of the concealment or suppression and/or misrepresentation of the facts, Plaintiffs and the Class sustained damage because they own vehicles that diminished in value as a

result of Volkswagen's concealment of, and failure to timely disclose, the serious Inflator Defect in millions of Class Vehicles and the serious safety and quality issues caused by Volkswagen's conduct.

322. The value of all Class members' vehicles has diminished as a result of Volkswagen's fraudulent concealment of the Inflator Defect and the Inflator Defect has also made any reasonable consumer reluctant to purchase any of the Class Vehicles, let alone pay what otherwise would have been fair market value for the vehicles.

323. Accordingly, Volkswagen is liable to Plaintiffs and the Classes for their damages in an amount to be proven at trial, including, but not limited to, their lost benefit of the bargain or overpayment for the Class Vehicles at the time of purchase, the diminished value of the Defective Airbags and the Class Vehicles, and/or the costs incurred in storing, maintaining or otherwise disposing of the defective airbags.

324. Volkswagen's acts were done maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiffs' and the Class's rights and well-being, and with the aim of enriching Volkswagen. Volkswagen's conduct, which exhibits the highest degree of reprehensibility, being intentional, continuous, placing others at risk of death and injury, and effecting public safety, warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

COUNT 7

Negligence

325. Consumer Plaintiff Carter brings this claim against Volkswagen on behalf of herself and the members of the Nationwide Consumer Class under the common law of negligence, as there are no true conflicts (case-dispositive differences) among various states' laws of negligence. In the alternative, Plaintiff Carter bring this claim against Volkswagen under Arkansas law and the laws of the states where Class Members purchased their Class Vehicles.

326. Volkswagen owed a duty of care to the Consumer Plaintiffs and Class members, who were foreseeable end users, to design and manufacture its vehicles so that they would not be defective or unreasonably dangerous to foreseeable end users, including Consumer Plaintiffs and Class members.

327. Volkswagen breached its duty of care by, among other things:

a. Negligently and recklessly equipping the Class Vehicles with Defective Airbags;

b. Negligently and recklessly failing to take all necessary steps to ensure that its products—which literally can make the difference between life and death in an accident—function as designed, specified, promised, and intended;

c. Negligently and recklessly failing to take all necessary steps to ensure that profits took a back seat to safety;

d. Negligently and recklessly failing to take all necessary steps to ensure that the Defective Airbags did not suffer from a common, uniform defect: the use of ammonium nitrate, a notoriously volatile and unstable compound, as the propellant in their inflators; and

e. Negligently and recklessly concealing the nature and scope of the Inflator Defect.

328. Volkswagen's negligence was the direct, actual, and proximate cause of foreseeable damages suffered by Consumer Plaintiffs and Class members, as well as ongoing foreseeable damages that Consumer Plaintiffs and Class members continue to suffer to this day.

329. As a direct, actual, and proximate result of Volkswagen's misconduct, Plaintiffs and members of the proposed Class were harmed and suffered actual damages, which are continuing in nature, including:

a. the significantly diminished value of the vehicles in which the defective and unreasonably dangerous airbags are installed; and

b. the continued exposure of Consumer Plaintiffs and Class members to an unreasonably dangerous condition that gives rise to a clear and present danger of death or personal injury.

330. Volkswagen's negligence is ongoing and continuing, because Volkswagen continues to obfuscate, not fully cooperate with regulatory authorities, and manufacture replacement airbags that are defective and unreasonably dangerous, suffering from the same serious Inflator Defect inherent in the original airbags that are at issue in this litigation, which poses an unreasonable risk of serious foreseeable harm or death, from which the original airbags suffer.

331. In addition to damages, Consumer Plaintiffs and Class Members seek injunctive relief to enjoin Volkswagen from continuing its negligence by continuing to install Defective Airbags in Class Vehicles.

COUNT 8

Unjust Enrichment

332. The following Consumer Plaintiffs bring this claim of unjust enrichment, on behalf of themselves and their respective State Classes, against Volkswagen under the laws of the states where Plaintiffs and Class Members purchased their Class Vehicles: Dave DeKing (Arizona); Chloe Carter (Arkansas); Efrain Ferrer (California); Christine Palmer (Connecticut); Bladimir Busto Jr. (Florida); Ramoncito Ignacio (Florida); Silvia Gil (Florida); Steve Levin (Florida); George O'Connor (Florida); Charles Sakolsky (Florida); Pattie Byrd (New Jersey); Annette Montanaro (New York); Desiree Jones-Lassiter (North Carolina); Angela Dickie (South Carolina); Nikki Norvell (Texas); and April Rockstead Barker (Wisconsin).

333. Volkswagen has received and retained a benefit from the Plaintiffs and inequity has resulted.

334. Volkswagen benefitted through its unjust conduct, by selling Class Vehicles with a concealed safety-and-reliability related defect, at a profit, for more than these Vehicles were worth,

to Plaintiffs, who overpaid for these Vehicles, and/or would not have purchased these Vehicles at all; and who have been forced to pay other costs.

335. It is inequitable for Volkswagen to retain these benefits.

336. Consumer Plaintiffs do not have an adequate remedy at law.

337. As a result of Volkswagen's conduct, the amount of its unjust enrichment should be disgorged, in an amount to be proven at trial.

C. Common Law and State Law Claims Against Mercedes

COUNT 9

Fraudulent Concealment

338. The following Plaintiffs bring this claim of fraudulent concealment against Mercedes, on behalf of themselves and their respective State Classes, under the laws of the states where Plaintiffs and Class Members purchased their Class Vehicles: Loretta Collier (Alabama); Diana Myers (Arizona); Paulette Calhoun (Georgia); Melinda M. Harms (Illinois); Susan Knapp (Iowa); Ericka Black (Massachusetts); Robert Cervelli (Massachusetts); Shanella Prentice (Massachusetts); Charles Hudson (Michigan); Shanetha Livingston (Michigan); Bettie Taylor (Mississippi); Darren Boyd (New Jersey); Branko Krmpotic (New Jersey); Alexander Lonergan (New Jersey); Jody Dorsey (New York); Jennifer Wilmoth (New York); Daphne Bridges (North Carolina); Kenneth Melde (North Carolina); Randy Brown (Ohio); John F. & Nancy D. Phillips (Oregon); Theresa Marie Fusco Radican (Rhode Island); Tiffany Bolton (Texas); Sherri Cook (Texas); Sam Fragale (Texas); Julius Fulmore (Texas); Celeste Lewis (Texas); Maria de Lourdes Viloria (Texas); William Goldberg (Washington).

339. As described above, Mercedes made material omissions and affirmative misrepresentations regarding the Class Vehicles and the Defective Airbags contained therein.

340. Mercedes concealed and suppressed material facts regarding the Defective Airbags—most importantly, the Inflator Defect, which causes, among other things, the Defective Airbags to: (a) rupture and expel metal shrapnel that tears through the airbag and poses a threat of

serious injury or death to occupants; and (b) hyper-aggressively deploy and seriously injure occupants through contact with the airbag.

341. Mercedes took steps to ensure that its employees did not reveal the known Inflator Defect to regulators or consumers.

342. On information and belief, Mercedes still has not made full and adequate disclosure, continues to defraud Plaintiffs and the Class, and continues to conceal material information regarding the Inflator Defect.

343. Mercedes had a duty to disclose the Inflator Defect because it:

a. Had exclusive and/or far superior knowledge and access to the facts, and Mercedes knew the facts were not known to or reasonably discoverable by Plaintiffs and the Class;

b. Intentionally concealed the foregoing from Plaintiffs and Class Members; and

c. Made incomplete representations about the safety and reliability of the Defective Airbags and Class Vehicles, while purposefully withholding material facts from Plaintiffs that contradicted these representations.

344. These omitted and concealed facts were material because they would be relied on by a reasonable person purchasing, leasing, or retaining a new or used motor vehicle, and because they directly impact the value of the Class Vehicles purchased or leased by Plaintiffs and the Class. Whether a manufacturer's products are safe and reliable and whether that manufacturer stands behind its products, are material concerns to a consumer. Plaintiffs and Class Members trusted Mercedes not to sell or lease them vehicles that were defective or that violated federal law governing motor vehicle safety and to uphold its recall obligations under the Sale Agreement and governing laws.

345. Mercedes concealed and suppressed these material facts to falsely assure purchasers and consumers that the Defective Airbags and Class Vehicles were capable of performing safely, as represented by Mercedes and reasonably expected by consumers.

346. Mercedes also misrepresented the safety and reliability of the Defective Airbags and Class Vehicles, because it either (a) knew but did not disclose the Inflator Defect; (b) knew that it did not know whether its safety and reliability representations were true or false; or (c) should have known that its misrepresentations were false.

347. Mercedes actively concealed or suppressed these material facts, in whole or in part, to maintain a market for its vehicles, to protect its profits, and to avoid recalls that would hurt the brand's image and cost Mercedes money. It did so at the expense of Plaintiffs and the Class.

348. Plaintiffs and the Class were unaware of these omitted material facts and would not have acted as they did if they had known of the concealed or suppressed facts.

349. Had they been aware of the Defective Airbags installed in the Class Vehicles, and Mercedes's callous disregard for safety, Plaintiffs and the Class either would not have paid as much for their Class Vehicles, or they would not have purchased or leased them at all. Plaintiffs and Class members did not receive the benefit of their bargain as a result of Mercedes's fraudulent concealment.

350. Because of the concealment or suppression and/or misrepresentation of the facts, Plaintiffs and the Class sustained damage because they own vehicles that diminished in value as a result of Mercedes's concealment of and failure to timely disclose the serious Inflator Defect in millions of Class Vehicles and the serious safety and quality issues caused by Mercedes's conduct.

351. The value of all Class members' vehicles has diminished as a result of Mercedes's fraudulent concealment of the Inflator Defect, and made any reasonable consumer reluctant to purchase any of the Class Vehicles, let alone pay what otherwise would have been fair market value for the vehicles.

352. Accordingly, Mercedes is liable to Plaintiffs and the Classes for their damages in an amount to be proven at trial, including, but not limited to, their lost benefit of the bargain or overpayment for the Class Vehicles at the time of purchase, the diminished value of the Defective Airbags and the Class Vehicles, and/or the costs incurred in storing, maintaining or otherwise disposing of the defective airbags.

353. Mercedes's acts were done maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiffs' and the Class's rights and well-being, and with the aim of enriching Mercedes. Mercedes's conduct, which exhibits the highest degree of reprehensibility, being intentional, continuous, placing others at risk of death and injury, and affecting public safety, warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

COUNT 10

[Dismissed]

COUNT 11

Unjust Enrichment

354. The following Plaintiffs bring this claim of unjust enrichment against Mercedes, on behalf of themselves and their respective State Classes, under the laws of the states where Plaintiffs and Class Members purchased their Class Vehicles: Cheryl Butler-Adams (California); Debrah Henry (California); Justin Maestri (California); Kristen Nevares (California); Marcela Warmsley (California); Michael C. Kaufman (Florida); Melinda M. Harms (Illinois); Susan Knapp (Iowa); Charles Hudson (Michigan); Shanetha Livingston (Michigan); Daphne Bridges (North Carolina); Kenneth Melde (North Carolina); Randy Brown (Ohio); John F. & Nancy D. Phillips (Oregon); Christopher Michael Knox (Pennsylvania); Theresa Marie Fusco Radican (Rhode Island); Tiffany Bolton (Texas); Sherri Cook (Texas); Sam Fragale (Texas); Julius Fulmore (Texas); Celeste Lewis (Texas); Maria de Lourdes Viloria (Texas); William Goldberg (Washington).

355. Mercedes has received and retained a benefit from the Plaintiffs and inequity has resulted.

356. Mercedes benefitted through its unjust conduct, by selling Class Vehicles with a concealed safety-and-reliability related defect, at a profit, for more than these Vehicles were worth,

to Plaintiffs, who overpaid for these Vehicles, and/or would not have purchased these Vehicles at all; and who have been forced to pay other costs.

357. It is inequitable for Mercedes to retain these benefits.

358. Consumer Plaintiffs do not have an adequate remedy at law.

359. As a result of Mercedes's conduct, the amount of its unjust enrichment should be disgorged, in an amount to be proven at trial.

II. State Consumer Sub-Class Claims

A. Claims Brought on Behalf of the Alabama Consumer Sub-Class

COUNT 12

Violation of the Alabama Deceptive Trade Practices Act, Ala. Code §§ 8-19-1, *et seq.*

360. This claim is brought on behalf of the Alabama Consumer Sub-Class against Mercedes.

361. Plaintiffs and the Alabama Consumer Sub-Class are "consumers" within the meaning of Ala. Code § 8-19-3(2).

362. Plaintiffs, the Alabama Consumer Sub-Class, and Defendants are "persons" within the meaning of Ala. Code § 8-19-3(5).

363. The Class Vehicles and/or the Defective Airbags installed in them are "goods" within the meaning of Ala. Code. § 8-19-3(3).

364. Defendants were and are engaged in "trade or commerce" within the meaning of Ala. Code § 8-19-3(8).

365. The Alabama Deceptive Trade Practices Act ("Alabama DTPA") declares several specific actions to be unlawful, including:

a. "Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or qualities that they do not have;"

b. "Representing that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another;" and

c. "Engaging in any other unconscionable, false, misleading, or deceptive act or practice in the conduct of trade or commerce."

Ala. Code § 8-19-5.

366. By misrepresenting the Class Vehicles and/or the Defective Airbags as safe, and by failing to disclose and actively concealing the Inflator Defect, Defendants engaged in deceptive business practices prohibited by the Alabama DTPA, including: representing that the Class Vehicles and/or the Defective Airbags installed in them have characteristics, uses, benefits, and qualities which they do not have; representing that they are of a particular standard, quality, and grade when they are not; advertising them with the intent not to sell or lease them as advertised; representing that the subject of a transaction involving them has been supplied in accordance with a previous representation when it has not; and engaging in any other unconscionable, false, misleading, or deceptive act or practice in the conduct of trade or commerce.

367. Defendants also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Class Vehicles and/or the Defective Airbags installed in them.

368. As alleged above, Defendants have known of the Inflator Defect in the Defective Airbags since at least the early 2000s—including through inflator development, testing incidents, and public recalls—but failed to disclose and actively concealed the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them.

369. By failing to disclose and by actively concealing the Inflator Defect in the Class Vehicles and/or the Defective Airbags installed in them, by marketing them as safe, reliable, and of high quality, and by presenting themselves as reputable manufacturers that value safety,

Defendants engaged in unfair or deceptive business practices in violation of the Alabama DTPA. Defendants deliberately withheld the information about the propensity of the Defective Airbags to aggressively deploy, and/or violently explode and spray vehicle occupants with lethal amounts of metal debris and shrapnel, instead of protecting vehicle occupants from bodily injury during accidents, in order to ensure that consumers would purchase the Class Vehicles.

370. In the course of their business, Defendants willfully failed to disclose and actively concealed the dangerous risks posed by the many safety issues and the serious Inflator Defect discussed above. Defendants compounded the deception by repeatedly asserting that the Class Vehicles and/or the Defective Airbags installed in them were safe, reliable, and of high quality, and by claiming to be reputable manufacturers that value safety.

371. Defendants' unfair or deceptive acts or practices, including these concealments, omissions, and suppressions of material facts, had a tendency or capacity to mislead and create a false impression in consumers, and were likely to and did in fact deceive reasonable consumers, including Plaintiffs and the Alabama Consumer Sub-Class, about the true safety and reliability of Class Vehicles and/or the Defective Airbags installed in them, the quality of Defendants' brands, and the true value of the Class Vehicles.

372. Defendants intentionally and knowingly misrepresented material facts regarding the Class Vehicles and/or the Defective Airbags installed in them with an intent to mislead Plaintiffs and the Alabama Consumer Sub-Class.

373. Defendants knew or should have known that their conduct violated the Alabama DTPA.

374. As alleged above, Defendants made material statements about the safety and reliability of the Class Vehicles and/or the Defective Airbags installed in them that were either false or misleading. Defendants' representations, omissions, statements, and commentary have included selling and marketing the Class Vehicles as safe and reliable, despite their knowledge of the Inflator Defect or their failure to reasonably investigate it.

375. To protect their profits and to avoid remediation costs and a public relations nightmare, Defendants concealed the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them and their tragic consequences, and allowed unsuspecting new and used car purchasers to continue to buy/lease the Class Vehicles, and allowed them to continue driving highly dangerous vehicles.

376. Defendants owed Plaintiffs and the Alabama Consumer Sub-Class a duty to disclose the true safety and reliability of the Class Vehicles and/or the Defective Airbags installed in them because Defendants:

a. Possessed exclusive knowledge of the dangers and risks posed by the foregoing;

b. Intentionally concealed the foregoing from Plaintiffs and the Alabama Consumer Sub-Class; and/or

c. Made incomplete representations about the safety and reliability of the foregoing generally, while purposefully withholding material facts from Plaintiffs and the Alabama Consumer Sub-Class that contradicted these representations.

377. Because Defendants fraudulently concealed the Inflator Defect in Class Vehicles and/or the Defective Airbags installed in them, resulting in a raft of negative publicity once the Inflator Defect finally began to be disclosed, the value of the Class Vehicles has greatly diminished. In light of the stigma attached to Class Vehicles by Defendants' conduct, they are now worth significantly less than they otherwise would be.

378. Defendants' failure to disclose and active concealment of the dangers and risks posed by the Defective Airbags in Class Vehicles were material to Plaintiffs and the Alabama Consumer Sub-Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals the Inflator Defect rather than promptly remedies them.

379. Plaintiffs and the Alabama Consumer Sub-Class suffered ascertainable loss caused by Defendants' misrepresentations and their failure to disclose material information. Had they been aware of the Inflator Defect that existed in the Class Vehicles and/or the Defective Airbags installed in them, and Defendants' complete disregard for safety, Plaintiffs and the Alabama Consumer Sub-Class members either would not have paid as much for their vehicles or would not have purchased or leased them at all. Plaintiffs and the Alabama Consumer Sub-Class did not receive the benefit of their bargain as a result of Defendants' misconduct.

380. Defendants' violations present a continuing risk to Plaintiffs and the Alabama Consumer Sub-Class, as well as to the general public. Defendants' unlawful acts and practices complained of herein affect the public interest. The recalls and repairs instituted by Defendants have not been adequate.

381. As a direct and proximate result of Defendants' violations of the Alabama DTPA, Plaintiffs and the Alabama Consumer Sub-Class have suffered injury-in-fact and/or actual damage.

382. Pursuant to Ala. Code § 8-19-10, Plaintiffs and the Alabama Consumer Sub-Class seek monetary relief against Mercedes measured as the greater of (a) actual damages in an amount to be determined at trial and (b) statutory damages in the amount of $100 for each Plaintiff and each Alabama Consumer Sub-Class member.

383. Pursuant to Ala. Code § 8-19-10, Plaintiffs and the Alabama Consumer Sub-Class seek treble damages for Defendants' intentional violations of the Alabama DTPA, and as a result of the frequency of Defendants' unlawful acts or practices and the number of persons adversely affected.

384. Plaintiffs and the Alabama Consumer Sub-Class also seek an order enjoining Defendants' unfair, unlawful, and/or deceptive practices, attorneys' fees, and any other just and proper relief available under the Alabama DTPA.

385. In accordance with Ala. Code § 8-19-10(e), Plaintiffs' counsel, on behalf of Plaintiffs and the Alabama Consumer Sub-Class, served Defendants with notice of their alleged violations of the Alabama DTPA relating to the Class Vehicles and/or the Defective Airbags

installed in them purchased by Plaintiffs and the Alabama Consumer Sub-Class, and demanded that Defendants correct or agree to correct the actions described therein. Defendants have failed to do so.

B. Claims Brought on Behalf of the Arizona Consumer Sub-Class

COUNT 13

Violation of the Arizona Consumer Fraud Act, Ariz. Rev. Stat. §§ 44-1521, *et seq.*

386. This claim is brought by Plaintiffs, on behalf of the Arizona Consumer Sub-Class, against VW AG, VW America and Mercedes.

387. Plaintiffs, the Arizona Consumer Sub-Class members, and Defendants are "persons" within the meaning of the Arizona Consumer Fraud Act ("Arizona CFA"), Ariz. Rev. Stat. § 44-1521(6).

388. The Class Vehicles and/or the Defective Airbags installed in them are "merchandise" within the meaning of Ariz. Rev. Stat. § 44-1521(5).

389. The Arizona CFA provides that "[t]he act, use or employment by any person of any deception, deceptive act or practice, fraud, . . . misrepresentation, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale . . . of any merchandise whether or not any person has in fact been misled, deceived or damaged thereby, is declared to be an unlawful practice." Ariz. Rev. Stat. § 44-1522(A).

390. In the course of their business, Defendants failed to disclose and actively concealed the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them as described herein and otherwise engaged in activities with a tendency or capacity to deceive.

391. Defendants also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Class Vehicles and/or the Defective Airbags installed in them.

392. Prior to installing the Defective Airbags in their vehicles, Defendants knew or should have known of the Inflator Defect, because Takata informed them that the Defective Airbags contained the volatile and unstable ammonium nitrate and Defendants approved Takata's designs. And, as alleged above, Defendants knew of the Inflator Defect in the Defective Airbags since at least the early 2000s, including through inflator development, testing incidents, and public recalls. Defendants failed to disclose and actively concealed the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them.

393. By failing to disclose and by actively concealing the Inflator Defect in the Class Vehicles and/or the Defective Airbags installed in them, by marketing them as safe, reliable, and of high quality, and by presenting themselves as reputable manufacturers that value safety, Defendants engaged in unfair or deceptive business practices in violation of the Arizona CFA. Defendants deliberately withheld the information about the propensity of the Defective Airbags to violently explode and/or expel vehicle occupants with lethal amounts of metal debris and shrapnel, instead of protecting vehicle occupants from bodily injury during accidents, in order to ensure that consumers would purchase the Class Vehicles.

394. In the course of Defendants' business, they willfully failed to disclose and actively concealed the dangerous risks posed by the many safety issues and the serious Inflator Defect discussed above. Defendants compounded the deception by repeatedly asserting that the Class Vehicles and/or the Defective Airbags installed in them were safe, reliable, and of high quality, and by claiming to be reputable manufacturers that value safety.

395. Defendants' unfair or deceptive acts or practices, including these concealments, omissions, and suppressions of material facts, had a tendency or capacity to mislead, tended to create a false impression in consumers, and were likely to and did in fact deceive reasonable consumers, including Plaintiffs and the Arizona Consumer Sub-Class, about the true safety and reliability of Class Vehicles and/or the Defective Airbags installed in them, the quality of Defendants' brands, and the true value of the Class Vehicles.

396. Defendants intentionally and knowingly misrepresented material facts regarding the Class Vehicles and/or the Defective Airbags installed in them with an intent to mislead Plaintiffs and the Arizona Consumer Sub-Class.

397. Defendants knew or should have known that their conduct violated the Arizona CFA.

398. As alleged above, Defendants made material statements about the safety and reliability of the Class Vehicles and/or the Defective Airbags installed in them that were either false or misleading. Defendants' representations, omissions, statements, and commentary have included selling and marketing the Class Vehicles as safe and reliable, despite their knowledge of the Inflator Defect or their failure to reasonably investigate it.

399. To protect their profits and to avoid remediation costs and a public relations nightmare, Defendants concealed the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them and their tragic consequences, and allowed unsuspecting new and used car purchasers to continue to buy/lease the Class Vehicles, and allowed them to continue driving highly dangerous vehicles.

400. Defendants owed Plaintiffs and the Arizona Consumer Sub-Class a duty to disclose the true safety and reliability of the Class Vehicles and/or the Defective Airbags installed in them because Defendants:

a. Possessed exclusive knowledge of the dangers and risks posed by the foregoing;

b. Intentionally concealed the foregoing from the Arizona Consumer Plaintiffs and the Arizona Consumer Class; and/or

c. Made incomplete representations about the safety and reliability of the foregoing generally, while purposefully withholding material facts from Plaintiffs and the Arizona Consumer Sub-Class that contradicted these representations.

401. Because Defendants fraudulently concealed the Inflator Defect in Class Vehicles and/or the Defective Airbags installed in them, resulting in a raft of negative publicity once the Inflator Defect finally began to be disclosed, the value of the Class Vehicles has greatly diminished. In light of the stigma attached to Class Vehicles by Defendants' conduct, they are now worth significantly less than they otherwise would be.

402. Defendants' failure to disclose and active concealment of the dangers and risks posed by the Defective Airbags in Class Vehicles were material to the Arizona Consumer Plaintiffs and the Arizona Consumer Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals the Inflator Defect rather than promptly remedies them.

403. The Arizona Consumer Plaintiffs and the Arizona Consumer Class suffered ascertainable loss caused by Defendants' misrepresentations and their failure to disclose material information. Had they been aware of the Inflator Defect that existed in the Class Vehicles and/or the Defective Airbags installed in them, and Defendants' complete disregard for safety, Plaintiffs and the Arizona Consumer Sub-Class members either would not have paid as much for their vehicles or would not have purchased or leased them at all. Plaintiffs and the Arizona Consumer Sub-Class did not receive the benefit of their bargain as a result of Defendants' misconduct.

404. Defendants' violations present a continuing risk to the Arizona Consumer Plaintiffs and the Arizona Consumer Class, as well as to the general public. Defendants' unlawful acts and practices complained of herein affect the public interest. The recalls and repairs instituted by Defendants have not been adequate.

405. As a direct and proximate result of Defendants' violations of the Arizona CFA, Plaintiffs and the Arizona Consumer Sub-Class have suffered injury-in-fact and/or actual damage.

406. Plaintiffs and the Arizona Consumer Sub-Class seek monetary relief against Defendants in an amount to be determined at trial. Plaintiffs and the Arizona Consumer Sub-Class also seek punitive damages because Defendants engaged in aggravated and outrageous conduct with an evil mind.

407. Plaintiffs and the Arizona Consumer Sub-Class also seek an order enjoining Defendants' unfair, unlawful, and/or deceptive practices, attorneys' fees, and any other just and proper relief available under the Arizona CFA.

C. Claims Brought on Behalf of the Arkansas Consumer Sub-Class

COUNT 14

Breach of the Implied Warranty of Merchantability
Ark. Code Ann. §§ 4-2-314 and 4-2A-212, *et seq.*

408. In the event the Court declines to certify a Nationwide Consumer Class under the Magnuson-Moss Warranty Act, this claim is brought only on behalf of the Arkansas Consumer Sub-Class against VW AG and VW America.

409. Defendants are and were at all relevant times "merchant[s]" with respect to motor vehicles under Ark. Code §§ 4-2-104(1) and 4-2A-103(3), and "seller[s]" of motor vehicles under § 4-2-103(1)(d).

410. With respect to leases, Defendants are and were at all relevant times "lessor[s]" of motor vehicles under Ark. Code § 4-2A-103(1)(p).

411. The Class Vehicles are and were at all relevant times "goods" within the meaning of Ark. Code §§ 4-2-105(1) and 4-2A-103(1)(h).

412. A warranty that the Class Vehicles were in merchantable condition and fit for the ordinary purpose for which vehicles are used is implied by law pursuant to Ark. Code §§ 4-2-314 and 4-2A-212.

413. The Class Vehicles and/or the Defective Airbags installed in them, when sold and at all times thereafter, were not merchantable and are not fit for the ordinary purpose for which cars and airbags are used. Specifically, they are inherently defective and dangerous in that the Defective Airbags: (a) rupture and expel metal shrapnel that tears through the airbag and poses a threat of serious injury or death to occupants; and (b) hyper-aggressively deploy and seriously injure occupants through contact with the airbag, instead of protecting vehicle occupants from bodily injury during accidents.

414. Defendants were provided notice of these issues by their knowledge of the issues, by customer complaints, by numerous complaints filed against them and/or others, by internal investigations, and by numerous individual letters and communications sent by the consumers before or within a reasonable amount of time after Honda issued the recalls and the allegations of the Inflator Defect became public.

415. As a direct and proximate result of Defendants' breach of the warranties of merchantability, Plaintiffs and the Arkansas Consumer Sub-Class have been damaged in an amount to be proven at trial.

COUNT 15

Violation of the Arkansas Deceptive Trade Practice Act Ark. Code Ann. §§ 4-88-101, *et seq.*

416. This claim is brought by Plaintiffs on behalf of themselves and the Arkansas Consumer Sub-Class against VW AG and VW America.

417. Defendants, the Plaintiffs, and the Arkansas Consumer Sub-Class, are "persons" within the meaning of Arkansas Deceptive Trade Practices Act ("Arkansas DTPA"), Ark. Code Ann. § 4-88-102(5).

418. The Class Vehicles are "goods" within the meaning of Ark. Code Ann. § 4-88-102(4).

419. The Arkansas DTPA, Ark. Code Ann. § 4-88-107, prohibits "deceptive and unconscionable trade practices" including:

a. "Knowingly making a false representation as to the characteristics, . . . uses, benefits, . . . or certification of goods . . . or as to whether goods are . . . of a particular standard, quality, grade, style, or model;"

b. "Advertising the goods or services with the intent not to sell them as advertised;" and

c. "Engaging in any other unconscionable, false, or deceptive act or practice in business, commerce, or trade."

420. By misrepresenting the Class Vehicles and/or the Defective Airbags as safe, and by failing to disclose and actively concealing the Inflator Defect, Defendants engaged in deceptive business practices prohibited by the Arkansas DTPA, including:

a. Knowingly making a false representation as to the characteristics, uses, and benefits of the Class Vehicles and/or the Defective Airbags;

b. Knowingly making a false representation as to whether the Class Vehicles and/or the Defective Airbags are of a particular standard, quality, or grade;

c. Advertising the Class Vehicles and/or the Defective Airbags with the intent not to sell them as advertised; and

d. Engaging in unconscionable, false, or deceptive act or practice in connection with the sale of the Class Vehicles and/or the Defective Airbags.

421. As alleged above, Defendants have known of the Inflator Defect in the Defective Airbags since at least the early 2000s, including through inflator development, testing incidents, and public recalls. Defendants failed to disclose and actively concealed the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them.

422. By failing to disclose and by actively concealing the Inflator Defect in the Class Vehicles and/or the Defective Airbags installed in them, by marketing them as safe, reliable, and of high quality, and by presenting themselves as reputable manufacturers that value safety, Defendants engaged in unfair or deceptive business practices in violation of the Arkansas DTPA. Defendants deliberately withheld the information about the propensity of the Defective Airbags to aggressively deploy, and/or violently explode and spray vehicle occupants with lethal amounts of metal debris and shrapnel, instead of protecting vehicle occupants from bodily injury during accidents, in order to ensure that consumers would purchase the Class Vehicles.

423. In the course of their business, Defendants willfully failed to disclose and actively concealed the dangerous risks posed by the many safety issues and the serious Inflator Defect discussed above. Defendants compounded the deception by repeatedly asserting that the Class

Vehicles and/or the Defective Airbags installed in them were safe, reliable, and of high quality, and by claiming to be reputable manufacturers that value safety.

424. Defendants' unfair or deceptive acts or practices, including these concealments, omissions, and suppressions of material facts, had a tendency or capacity to mislead and create a false impression in consumers, and were likely to and did in fact deceive reasonable consumers, including Plaintiffs and the Arkansas Consumer Sub-Class members, about the true safety and reliability of Class Vehicles and/or the Defective Airbags installed in them, the quality of Defendants' brands, and the true value of the Class Vehicles.

425. Defendants intentionally and knowingly misrepresented material facts regarding the Class Vehicles and/or the Defective Airbags installed in them with an intent to mislead Plaintiffs and the Arkansas Consumer Sub-Class.

426. Defendants knew or should have known that their conduct violated the Arkansas DTPA.

427. As alleged above, Defendants made material statements about the safety and reliability of the Class Vehicles and/or the Defective Airbags installed in them that were either false or misleading. Defendants' representations, omissions, statements, and commentary have included selling and marketing the Class Vehicles as safe and reliable, despite their knowledge of the Inflator Defect or their failure to reasonably investigate it.

428. To protect their profits and to avoid remediation costs and a public relations nightmare, Defendants concealed the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them and their tragic consequences, and allowed unsuspecting new and used car purchasers to continue to buy/lease the Class Vehicles, and allowed them to continue driving highly dangerous vehicles.

429. Defendants owed Plaintiffs and the Arkansas Consumer Sub-Class a duty to disclose the true safety and reliability of the Class Vehicles and/or the Defective Airbags installed in them because Defendants:

a. Possessed exclusive knowledge of the dangers and risks posed by the foregoing;

b. Intentionally concealed the foregoing from Plaintiffs and the Arkansas Consumer Sub-Class; and/or

c. Made incomplete representations about the safety and reliability of the foregoing generally, while purposefully withholding material facts from Plaintiffs and the Arkansas Consumer Sub-Class that contradicted these representations.

430. Because Defendants fraudulently concealed the Inflator Defect in Class Vehicles and/or the Defective Airbags installed in them, resulting in a raft of negative publicity once the Inflator Defect finally began to be disclosed, the value of the Class Vehicles has greatly diminished. In light of the stigma attached to Class Vehicles by Defendants' conduct, they are now worth significantly less than they otherwise would be.

431. Defendants' failure to disclose and active concealment of the dangers and risks posed by the Defective Airbags in Class Vehicles were material to Plaintiffs and the Arkansas Consumer Sub-Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals the Inflator Defect rather than promptly remedies them.

432. Plaintiffs and the Arkansas Consumer Sub-Class suffered ascertainable loss caused by Defendants' misrepresentations and their failure to disclose material information. Had they been aware of the Inflator Defect that existed in the Class Vehicles and/or the Defective Airbags installed in them, and Defendants' complete disregard for safety, Plaintiffs and the Arkansas Consumer Sub-Class either would not have paid as much for their vehicles or would not have purchased or leased them at all. Plaintiffs and the Arkansas Consumer Sub-Class did not receive the benefit of their bargain as a result of Defendants' misconduct.

433. Defendants' violations present a continuing risk to Plaintiffs and the Arkansas Consumer Sub-Class, as well as to the general public. Defendants' unlawful acts and practices

complained of herein affect the public interest. The recalls and repairs instituted by Defendants have not been adequate.

434. As a direct and proximate result of Defendants' violations of the Arkansas DTPA, Plaintiffs and the Arkansas Consumer Sub-Class have suffered injury-in-fact and/or actual damage.

435. Pursuant to Ark. Code Ann. § 4-88-113(f), Plaintiffs and the Arkansas Consumer Sub-Class seek monetary relief against Volkswagen in an amount to be determined at trial.

436. Plaintiffs and the Arkansas Consumer Sub-Class also seek an order enjoining Defendants' unfair, unlawful, and/or deceptive practices, attorneys' fees, and any other just and proper relief available under the Arkansas CPA.

D. Claims Brought on Behalf of the California Consumer Sub-Class

COUNT 16

Violation of Song-Beverly Consumer Warranty Act for Breach of Implied Warranty of Merchantability (California Lemon Law)

437. In the event the Court declines to certify a Nationwide Consumer Class under the Magnuson-Moss Warranty Act, this claim is brought only on behalf of the California Consumer Sub-Class against VW AG, VW America and Mercedes.

438. Plaintiffs bring this claim on behalf of themselves and the members of the California Consumer Sub-Class, under the laws of California, against VW AG, VW America, and Mercedes with regard to Defective Vehicles that Defendants manufactured or sold.

439. Plaintiffs and members of the California Consumer Sub-Class are "buyers" within the meaning of Cal. Civ. Code § 1791(b).

440. The Class Vehicles are "consumer goods" within the meaning of Cal. Civ. Code § 1791(a).

441. Defendants are "manufacturer[s]" of the Class Vehicles within the meaning Cal. Civ. Code § 1791(j).

442. Defendants impliedly warranted to Plaintiffs and the California Consumer Sub-Class that their Class Vehicles were "merchantable" within the meaning of Cal. Civ. Code §§ 1791.1(a) and 1792; however, the Class Vehicles do not have the quality that a buyer would reasonably expect, and were therefore not merchantable.

443. Cal. Civ. Code § 1791.1(a) states:

> "Implied warranty of merchantability" or "implied warranty that goods are merchantable" means that the consumer goods meet each of the following:
>
> (1) Pass without objection in the trade under the contract description.
>
> (2) Are fit for the ordinary purposes for which such goods are used.
>
> (3) Are adequately contained, packaged, and labeled.
>
> (4) Conform to the promises or affirmations of fact made on the container or label.

444. The Class Vehicles would not pass without objection in the automotive trade because they were equipped with Defective Airbags, which among other things, have a tendency to: (a) rupture and expel metal shrapnel that tears through the airbag and poses a threat of serious injury or death to occupants; and (b) hyper-aggressively deploy and seriously injure occupants through contact with the airbag, leading to an unreasonable likelihood of serious bodily injury or death to vehicle occupants, instead of protecting vehicle occupants from bodily injury during accidents.

445. Because of the Inflator Defect, the Class Vehicles are not safe to drive, and thus not fit for ordinary purposes.

446. The Class Vehicles are not adequately labeled because the labeling fails to disclose the Inflator Defect. Defendants failed to warn about that dangerous Inflator Defect in the Class Vehicles.

447. Defendants breached the implied warranty of merchantability by manufacturing and selling Class Vehicles equipped with Defective Airbags containing the Inflator Defect which among other things, causes the airbags to: (a) rupture and expel metal shrapnel that tears through

the airbag and poses a threat of serious injury or death to occupants; and (b) hyper-aggressively deploy and seriously injure occupants through contact with the airbag. The Defective Airbags have deprived Plaintiffs and the California Consumer Sub-Class of the benefit of their bargain, and has caused the Class Vehicles to depreciate in value.

448. Notice of breach is not required because the Plaintiffs and the California Consumer Sub-Class did not purchase their automobiles directly from Volkswagen or Mercedes. Further, on information and belief, Defendants had notice of these issues by their knowledge of the issues, by customer complaints, by numerous complaints filed against them and/or others, by internal investigations, and by numerous individual letters and communications sent by consumers before or within a reasonable amount of time after Honda issued the recalls and the allegations of the Inflator Defect became public.

449. As a direct and proximate result of Defendants' breach of their duties under California's Lemon Law, Plaintiffs and the California Consumer Sub-Class received goods whose dangerous condition substantially impairs their value. Plaintiffs and the California Consumer Sub-Class have been damaged by the diminished value, malfunctioning, and non-use of their Class Vehicles.

450. Under Cal. Civ. Code §§ 1791.1(d) and 1794, Plaintiffs and the California Consumer Sub-Class are entitled to damages and other legal and equitable relief including, at their election, the purchase price of their Class Vehicles, or the overpayment or diminution in value of their Class Vehicles.

451. Under Cal. Civ. Code § 1794, Plaintiffs and the California Consumer Sub-Class are entitled to costs and attorneys' fees.

COUNT 17

Violation of the California Unfair Competition Law,
Cal. Bus. & Prof. Code §§ 17200, *et seq.*

452. Plaintiffs bring this claim on behalf of themselves, and the members of the California Consumer Sub-Class, against VW AG, VW America and Mercedes.

453. Cal. Bus. & Prof. Code § 17200 prohibits acts of "unfair competition," including any "unlawful, unfair or fraudulent business act or practice" and "unfair, deceptive, untrue or misleading advertising. . . ." Defendants engaged in conduct that violated each of this statute's three prongs.

454. Defendants committed an unlawful business act or practice in violation of § 17200 by their violations of the Consumer Legal Remedies Act, Cal. Civ. Code § 1750, *et seq.*, as set forth below, by the acts and practices set forth in this Complaint.

455. Defendants also violated the unlawful prong because they have engaged in violations of the TREAD Act, 49 U.S.C. §§ 30101, *et seq.*, and its accompanying regulations by failing to promptly notify vehicle owners, purchases, dealers, and NHTSA of the defective Class Vehicles and/or the Defective Airbags installed in them, and remedying the Inflator Defect.

456. Federal Motor Vehicle Safety Standard ("FMVSS") 573 governs a motor vehicle manufacturer's responsibility to notify NHTSA of a motor vehicle defect within five days of determining that a defect in a vehicle has been determined to be safety-related. *See* 49 C.F.R. § 573.6.

457. Defendants violated the reporting requirements of FMVSS 573 requirement by failing to report the Inflator Defect or any of the other dangers or risks posed by the Defective Airbags within five days of determining the defect existed, and failing to recall all Class Vehicles.

458. Defendants violated the common-law claim of negligent failure to recall, in that Defendants knew or should have known that the Class Vehicles and/or the Defective Airbags installed in them were dangerous and/or were likely to be dangerous when used in a reasonably foreseeable manner; Defendants became aware of the attendant risks after they were sold;

Defendants continued to gain information further corroborating the Inflator Defect and dangers posed by them; and Defendants failed to adequately recall them in a timely manner, which failure was a substantial factor in causing harm to Plaintiffs and the California Consumer Sub-Class, including diminished value and out-of-pocket costs.

459. Defendants committed unfair business acts and practices in violation of § 17200 when they concealed the existence and nature of the Inflator Defect, dangers, and risks posed by the Class Vehicles and/or the Defective Airbags installed in them. Defendants represented that the Class Vehicles and/or the Defective Airbags installed in them were reliable and safe when, in fact, they are not.

460. Defendants also violated the unfairness prong of § 17200 by failing to properly administer the numerous recalls of Class Vehicles with the Defective Airbags installed in them. As alleged above, the recalls have proceeded unreasonably slowly in light of the safety-related nature of the Inflator Defect, and have been plagued with shortages of replacement parts, as well as a paucity of loaner vehicles available for members of the California Consumer Sub-Class whose vehicles are in the process of being repaired.

461. Defendants violated the fraudulent prong of § 17200 because the misrepresentations and omissions regarding the safety and reliability of the Class Vehicles and/or the Defective Airbags installed in them as set forth in this Complaint were likely to deceive a reasonable consumer, and the information would be material to a reasonable consumer.

462. Defendants committed fraudulent business acts and practices in violation of § 17200 when they concealed the existence and nature of the Inflator Defect, dangers, and risks posed by the Class Vehicles and/or the Defective Airbags installed in them, while representing in their marketing, advertising, and other broadly disseminated representations that the Class Vehicles and/or the Defective Airbags installed in them were reliable and safe when, in fact, they are not. Defendants' active concealment of the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them are likely to mislead the public with regard to their true defective nature.

463. Defendants violated the unfair prong of § 17200 because of the acts and practices set forth in the Complaint, including the manufacture and sale of Class Vehicles and/or the Defective Airbags installed in them, and Defendants' failure to adequately investigate, disclose and remedy, offend established public policy, and because of the harm they cause to consumers greatly outweighs any benefits associated with those practices. Defendants' conduct has also impaired competition within the automotive vehicles market and has prevented Plaintiffs and the California Class from making fully informed decisions about whether to purchase or lease Class Vehicles and/or the Defective Airbags installed in them and/or the price to be paid to purchase or lease them.

464. Plaintiffs and the California Consumer Sub-Class have suffered injuries in fact, including the loss of money or property, as a result of Defendants' unfair, unlawful, and/or deceptive practices. As set forth above, each member of the California Consumer Class, in purchasing or leasing Class Vehicles with the Defective Airbags installed in them, relied on the misrepresentations and/or omissions of Defendants with respect of the safety and reliability of the vehicles. Had Plaintiffs and the California Consumer Sub-Class known the truth, they would not have purchased or leased their vehicles and/or paid as much for them.

465. All of the wrongful conduct alleged herein occurred, and continues to occur, in the conduct of Defendants' businesses. Defendants' wrongful conduct is part of a pattern or generalized course of conduct that is still perpetuated and repeated.

466. As a direct and proximate result of Defendants' unfair and deceptive practices, Plaintiffs and the California Consumer Sub-Class have suffered and will continue to suffer actual damages.

467. Plaintiffs and the California Consumer Sub-Class request that this Court enter such orders or judgments as may be necessary to enjoin Defendants from continuing their unfair, unlawful, and/or deceptive practices, as provided in Cal. Bus. & Prof. Code § 17203; and for such other relief set forth below.

COUNT 18

Violation of the Consumer Legal Remedies Act,
Cal. Civ. Code §§ 1750, *et seq.*

468. Plaintiffs bring this claim on behalf of themselves and the members of the California Consumer Sub-Class, under the laws of California, against VW AG, VW America and Mercedes.

469. The Class Vehicles are "goods" as defined in Cal. Civ. Code § 1761(a).

470. Plaintiffs, the California Consumer Sub-Class, and Defendants are "persons" as defined in Cal. Civ. Code § 1761(c).

471. Plaintiffs and the California Consumer Sub-Class are "consumers" as defined in Cal. Civ. Code § 1761(d).

472. California's Consumers Legal Remedies Act ("CLRA"), Cal. Civ. Code §§ 1750, *et seq.*, prohibits "unfair or deceptive acts or practices undertaken by any person in a transaction intended to result or which results in the sale or lease of goods or services to any consumer[.]" Cal. Civ. Code § 1770(a).

473. Defendants have engaged in unfair or deceptive acts or practices that violated Cal. Civ. Code § 1750, *et seq.*, as described above and below, by among other things, representing that the Class Vehicles and/or the Defective Airbags installed in them have characteristics, uses, benefits, and qualities which they do not have; representing that they are of a particular standard, quality, and grade when they are not; advertising them with the intent not to sell or lease them as advertised; and representing that the subject of a transaction involving them has been supplied in accordance with a previous representation when it has not.

474. In the course of their business, Defendants failed to disclose and actively concealed the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them as described herein, and otherwise engaged in activities with a tendency or capacity to deceive.

475. Defendants also engaged in unlawful trade practices by representing that the Class Vehicles and/or the Defective Airbags installed in them have characteristics, uses, benefits, and

qualities which they do not have; representing that they are of a particular standard and quality when they are not; advertising them with the intent not to sell or lease them as advertised; and omitting material facts in describing them. Defendants are directly liable for engaging in unfair and deceptive acts or practices in the conduct of trade or commerce in violation of the CLRA. Defendant parent companies are also liable for their subsidiaries' violation of the CLRA, because the subsidiaries act and acted as the parent companies' general agents in the United States for purposes of sales and marketing.

476. As alleged above, Defendants have known of the Inflator Defect in the Defective Airbags since at least the early 2000s, including through inflator development, testing incidents, and public recalls. Defendants failed to disclose and actively concealed the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them.

477. By failing to disclose and by actively concealing the Inflator Defect in the Class Vehicles and/or the Defective Airbags installed in them, by marketing them as safe, reliable, and of high quality, and by presenting themselves as reputable manufacturers that value safety, Defendants engaged in unfair or deceptive business practices in violation of the CLRA. Defendants deliberately withheld the information about the propensity of the Defective Airbags to aggressively deploy, and/or violently explode and spray vehicle occupants with lethal amounts of metal debris and shrapnel, instead of protecting vehicle occupants from bodily injury during accidents, in order to ensure that consumers would purchase the Class Vehicles.

478. Defendants intentionally and knowingly misrepresented material facts regarding the Class Vehicles and/or the Defective Airbags installed in them with an intent to mislead Plaintiffs and the California Consumer Sub-Class.

479. Defendants knew or should have known that their conduct violated the CLRA.

480. As alleged above, Defendants made material statements about the safety and reliability of the Class Vehicles and/or the Defective Airbags installed in them that were either false or misleading. Defendants' representations, omissions, statements, and commentary have

included selling and marketing the Class Vehicles as safe and reliable, despite their knowledge of the Inflator Defect or their failure to reasonably investigate it.

481. To protect their profits and to avoid remediation costs and a public relations nightmare, Defendants concealed the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them and their tragic consequences, and allowed unsuspecting new and used car purchasers to continue to buy/lease the Class Vehicles, and allowed them to continue driving highly dangerous vehicles.

482. Defendants owed Plaintiffs and the California Consumer Sub-Class a duty to disclose the true safety and reliability of the Class Vehicles and/or the Defective Airbags installed in them because Defendants:

a. Possessed exclusive knowledge of the dangers and risks posed by the foregoing;

b. Intentionally concealed the foregoing from Plaintiffs and the California Consumer Sub-Class; and/or

c. Made incomplete representations about the safety and reliability of the foregoing generally, while purposefully withholding material facts from Plaintiffs and the California Consumer Sub-Class that contradicted these representations.

483. The Class Vehicles and/or the Defective Airbags installed in them posed and/or pose an unreasonable risk of death or serious bodily injury to Plaintiffs and the California Consumer Sub-Class, passengers, other motorists, pedestrians, and the public at large, because the Defective Airbags are inherently defective and dangerous in that the Defective Airbags aggressively deploy, and/or violently explode and spray vehicle occupants with lethal amounts of metal debris and shrapnel, instead of protecting vehicle occupants from bodily injury during accidents.

484. Defendants' unfair or deceptive acts or practices were likely to deceive reasonable consumers, including Plaintiffs and the California Consumer Sub-Class, about the true safety and

reliability of the Class Vehicles and/or the Defective Airbags installed in them. Defendants intentionally and knowingly misrepresented material facts regarding the Class Vehicles and/or the Defective Airbags installed in them with an intent to mislead Plaintiffs and the California Consumer Sub-Class.

485. Defendants have also violated the CLRA by violating the TREAD Act, 49 U.S.C. §§ 30101, *et seq.*, and its accompanying regulations by failing to promptly notify vehicle owners, purchases, dealers, and NHTSA of the defective Class Vehicles and/or the Defective Airbags installed in them, and remedying the Inflator Defect.

486. Under the TREAD Act and its regulations, if a manufacturer learns that a vehicle contains a defect and that defect is related to motor vehicle safety, the manufacturer must disclose the defect. 49 U.S.C. § 30118(c)(1) & (2).

487. Under the TREAD Act, if it is determined that the vehicle is defective, the manufacturer must promptly notify vehicle owners, purchasers and dealers of the defect and remedy the defect. 49 U.S.C. § 30118(b)(2)(A) & (B).

488. Under the TREAD Act, manufacturers must also file a report with NHTSA within five working days of discovering "a defect in a vehicle or item of equipment has been determined to be safety related, or a noncompliance with a motor vehicle safety standard has been determined to exist." 49 C.F.R. § 573.6(a) & (b). At a minimum, the report to NHTSA must include: the manufacturer's name; the identification of the vehicles or equipment containing the defect, including the make, line, model year and years of manufacturing; a description of the basis for determining the recall population; how those vehicles differ from similar vehicles that the manufacturer excluded from the recall; and a description of the defect. 49 C.F.R. § 276.6(b), (c)(1), (c)(2), & (c)(5).

489. The manufacturer must also promptly inform NHTSA regarding: the total number of vehicles or equipment potentially containing the defect; the percentage of vehicles estimated to contain the defect; a chronology of all principal events that were the basis for the determination that the defect related to motor vehicle safety, including a summary of all warranty claims, field

or service reports, and other information, with its dates of receipt; and a description of the plan to remedy the defect. 49 C.F.R. § 276.6(b) & (c).

490. The TREAD Act provides that any manufacturer who violates 49 U.S.C. § 30166 must pay a civil penalty to the U.S. Government. The current penalty "is $7,000 per violation per day," and the maximum penalty "for a related series of daily violations is $17,350,000." 49 C.F.R. § 578.6(c).

491. Defendants engaged in deceptive business practices prohibited by the CLRA, Cal. Civ. Code § 1750, *et seq.,* by failing to disclose and by actively concealing dangers and risks posed by the Defective Airbags, by selling vehicles while violating the TREAD Act, and by other conduct as alleged herein.

492. Defendants knew that the Class Vehicles and/or the Defective Airbags installed in them contained the Inflator Defect that could cause the airbags to violently explode and/or expel vehicle occupants with lethal amounts of metal debris and shrapnel, instead of protecting vehicle occupants from bodily injury during accidents, but Defendants failed for many years to inform NHTSA of this defect. Consequently, the public, including Plaintiffs and the California Consumer Class, received no notice of the Inflator Defect. Defendants failed to inform NHTSA or warn the Plaintiffs, the California Consumer Class, and the public about these inherent dangers, despite having a duty to do so.

493. Defendants' unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiffs and the California Consumer Sub-Class members, about the true safety and reliability of the Class Vehicles and/or the Defective Airbags installed in them.

494. Because Defendants fraudulently concealed the Inflator Defect in Class Vehicles and/or the Defective Airbags installed in them, resulting in a raft of negative publicity once the Inflator Defect finally began to be disclosed, the value of the Class Vehicles has greatly diminished. In light of the stigma attached to Class Vehicles by Defendants' conduct, they are now worth significantly less than they otherwise would be.

495. Defendants' failure to disclose and active concealment of the dangers and risks posed by the Defective Airbags in Class Vehicles were material to Plaintiffs and the California Consumer Sub-Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

496. Plaintiffs and the California Consumer Sub-Class suffered ascertainable loss caused by Defendants' misrepresentations and their failure to disclose material information. Had they been aware of the Inflator Defect that existed in the Class Vehicles and/or the Defective Airbags installed in them, and Defendants' complete disregard for safety, Plaintiffs and the California Consumer Sub-Class either would not have paid as much for their vehicles or would not have purchased or leased them at all. Plaintiffs and the California Consumer Sub-Class did not receive the benefit of their bargain as a result of Defendants' misconduct.

497. Plaintiffs and the California Consumer Sub-Class risk irreparable injury as a result of Defendants' acts and omissions in violation of the CLRA, and these violations present a continuing risk to Plaintiffs and the California Consumer Sub-Class, as well as to the general public. Defendants' unlawful acts and practices complained of herein affect the public interest.

498. The recalls and repairs instituted by Defendants have not been adequate. The recall is not an effective remedy and is not offered for all Class Vehicles and other vehicles with Defective Airbags susceptible to the malfunctions described herein. Moreover, Defendants' failure to comply with TREAD Act disclosure obligations continues to pose a grave risk to Plaintiffs and the California Consumer Class.

499. As a direct and proximate result of Defendants' violations of the CLRA, Plaintiffs and the California Consumer Sub-Class have suffered injury-in-fact and/or actual damage. Plaintiffs and the California Consumer Sub-Class currently own or lease, or within the class period have owned or leased Class Vehicles with Defective Airbags installed in them that are defective and inherently unsafe. Plaintiffs and the California Consumer Sub-Class risk irreparable injury as a result of Defendants' acts and omissions in violation of the CLRA, and these violations present

a continuing risk to Plaintiffs and the California Consumer Sub-Class, as well as to the general public.

500. In accordance with section 1782(a) of the CLRA, Plaintiffs' counsel, on behalf of Plaintiffs and the California Consumer Sub-Class, served Defendants with notice of their alleged violations of California Civil Code § 1770(a), relating to the Class Vehicles and/or the Defective Airbags installed in them purchased by Plaintiffs and the California Consumer Sub-Class, and demanded that Defendants correct or agree to correct the actions described therein. Defendants have failed to do so. Plaintiffs and the California Consumer Sub-Class therefore seek compensatory and monetary damages to which Plaintiffs and California Consumer Sub-Class members are entitled.

E. Claims Brought on Behalf of the Connecticut Consumer Sub-Class

COUNT 19

Violation of the Connecticut Unlawful Trade Practices Act, Conn. Gen. Stat. §§ 42-110A, *et seq.*

501. This claim is brought on behalf of the Connecticut Consumer Sub-Class against VW AG and VW America.

502. The Connecticut Unfair Trade Practices Act ("Connecticut UTPA") provides: "No person shall engage in unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce." Conn. Gen. Stat. § 42-110b(a).

503. Plaintiffs, the Connecticut Consumer Sub-Class, and Defendants are "persons" within the meaning of Conn. Gen. Stat. § 42-110a(3). Defendants are in "trade" or "commerce" within the meaning of Conn. Gen. Stat. § 42-110a(4).

504. Defendants participated in deceptive trade practices that violated the Connecticut UTPA as described herein. In the course of their business, Defendants failed to disclose and actively concealed the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them as described herein and otherwise engaged in activities with a tendency or capacity to deceive.

505. Defendants also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Class Vehicles and/or the Defective Airbags installed in them.

506. As alleged above, Defendants have known of the Inflator Defect in the Defective Airbags since at least the early 2000s, including through inflator development, testing incidents, and public recalls. Defendants failed to disclose and actively concealed the dangers and risks posed by the Class Vehicles and/or Defective Airbags installed in them.

507. By failing to disclose and by actively concealing the Inflator Defect in the Class Vehicles and/or Defective Airbags installed in them, by marketing them as safe, reliable, and of high quality, and by presenting themselves as reputable manufacturers that value safety, Defendants engaged in unfair or deceptive business practices in violation of the Connecticut UTPA. Defendants deliberately withheld the information about the propensity of the Defective Airbags violently exploding and/or expelling vehicle occupants with lethal amounts of metal debris and shrapnel and/or failing to deploy, instead of protecting vehicle occupants from bodily injury during accidents, in order to ensure that consumers would purchase the Class Vehicles.

508. In the course of Defendants' business, they willfully failed to disclose and actively concealed the dangerous risks posed by the Inflator Defect discussed above. Defendants compounded the deception by repeatedly asserting that the Class Vehicles and/or the Defective Airbags installed in them were safe, reliable, and of high quality, and by claiming to be reputable manufacturers that value safety.

509. Defendants' unfair or deceptive acts or practices, including these concealments, omissions, and suppressions of material facts, had a tendency or capacity to mislead and create a false impression in consumers, and were likely to and did in fact deceive reasonable consumers, including Plaintiffs and the Connecticut Consumer Sub-Class, about the true safety and reliability of Class Vehicles and/or the Defective Airbags installed in them, the quality of Defendants' brands, and the true value of the Class Vehicles.

510. Defendants intentionally and knowingly misrepresented material facts regarding the Class Vehicles and/or Defective Airbags installed in them with an intent to mislead Plaintiffs and the Connecticut Consumer Sub-Class.

511. Defendants knew or should have known that their conduct violated the Connecticut UTPA.

512. As alleged above, Defendants made material statements about the safety and reliability of the Class Vehicles and/or the Defective Airbags installed in them that were either false or misleading. Defendants' representations, omissions, statements, and commentary have included selling and marketing the Class Vehicles as safe and reliable, despite their knowledge of the Inflator Defect or their failure to reasonably investigate it.

513. To protect their profits and to avoid remediation costs and a public relations nightmare, Defendants concealed the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them and their tragic consequences, and allowed unsuspecting new and used car purchasers to continue to buy/lease the Class Vehicles, and allowed them to continue driving highly dangerous vehicles.

514. Defendants owed Plaintiffs and the Connecticut Consumer Sub-Class a duty to disclose the true safety and reliability of the Class Vehicles and/or the Defective Airbags installed in them because Defendants:

a. Possessed exclusive knowledge of the dangers and risks posed by the foregoing;

b. Intentionally concealed the foregoing from Plaintiffs and the Connecticut Consumer Sub-Class; and/or

c. Made incomplete representations about the safety and reliability of the foregoing generally, while purposefully withholding material facts from Plaintiffs and the Connecticut Consumer Sub-Class that contradicted these representations.

515. Because Defendants fraudulently concealed the Inflator Defect in Class Vehicles and/or the Defective Airbags installed in them, resulting in a raft of negative publicity once the Inflator Defect finally began to be disclosed, the value of the Class Vehicles has greatly diminished. In light of the stigma attached to Class Vehicles by Defendants' conduct, they are now worth significantly less than they otherwise would be.

516. Defendants' failure to disclose and active concealment of the dangers and risks posed by the Defective Airbags in Class Vehicles were material to Plaintiffs and the Connecticut Consumer Sub-Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals the Inflator Defect rather than promptly remedies them.

517. Plaintiffs and the Connecticut Consumer Sub-Class suffered ascertainable loss caused by Defendants' misrepresentations and their failure to disclose material information. Had they been aware of the Inflator Defect that existed in the Class Vehicles and/or the Defective Airbags installed in them, and Defendants' complete disregard for safety, Plaintiffs and the Connecticut Consumer Sub-Class either would not have paid as much for their vehicles, or not purchased or leased them at all. Plaintiffs and the Connecticut Consumer Sub-Class did not receive the benefit of their bargain as a result of Defendants' misconduct.

518. Defendants' violations present a continuing risk to Plaintiffs, the Connecticut Consumer Sub-Class, as well as to the general public. Defendants' unlawful acts and practices complained of herein affect the public interest.

519. As a direct and proximate result of Defendants' violations of the Connecticut UTPA, Plaintiffs and the Connecticut Consumer Sub-Class have suffered injury-in-fact and/or actual damages.

520. Plaintiffs and the Connecticut Consumer Sub-Class are entitled to recover their actual damages, punitive damages, and attorneys' fees pursuant to Conn. Gen. Stat. § 42-110g.

521. Defendants acted with a reckless indifference to another's rights or wanton or intentional violation to another's rights and otherwise engaged in conduct amounting to a particularly aggravated, deliberate disregard of the rights and safety of others.

F. Claims Brought on Behalf of the Florida Consumer Sub-Class

COUNT 20

Violation of the Florida Deceptive and Unfair Trade Practices Act, Fla. Stat. §§ 501.201, *et seq.*

522. This claim is brought only on behalf of the Florida Consumer Sub-Class against Volkswagen and Mercedes.

523. Plaintiffs and the Florida Consumer Sub-Class are "consumers" within the meaning of Florida Deceptive and Unfair Trade Practices Act ("FDUTPA"), Fla. Stat. § 501.203(7).

524. Defendants are engaged in "trade or commerce" within the meaning of Fla. Stat. § 501.203(8).

525. FDUTPA prohibits "[u]nfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce. . . ." Fla. Stat. § 501.204(1). Defendants participated in unfair and deceptive trade practices that violated the FDUTPA as described herein.

526. In the course of their business, Defendants failed to disclose and actively concealed the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them as described herein and otherwise engaged in activities with a tendency or capacity to deceive.

527. Defendants also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Class Vehicles and/or the Defective Airbags installed in them.

528. As alleged above, Defendants have known of the Inflator Defect in the Defective Airbags since at least the early 2000s, including through inflator development, testing incidents, and public recalls. Prior to installing the Defective Airbags in their vehicles, Defendants knew or

should have known of the Inflator Defect, because Takata informed them that the Defective Airbags contained the volatile and unstable ammonium nitrate and Defendants approved Takata's designs. And Defendants were again made aware of the Inflator Defect in Takata's airbags not later than 2008, when Honda first notified regulators of a problem with its Takata airbags. Defendants failed to disclose and actively concealed the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them.

529. By failing to disclose and by actively concealing the Inflator Defect in the Class Vehicles and/or the Defective Airbags installed in them, by marketing them as safe, reliable, and of high quality, and by presenting themselves as reputable manufacturers that value safety, Defendants engaged in unfair or deceptive business practices in violation of the FDUTPA. Defendants deliberately withheld the information about the propensity of the Defective Airbags to aggressively deploy, and/or violently explode and spray vehicle occupants with lethal amounts of metal debris and shrapnel, instead of protecting vehicle occupants from bodily injury during accidents, in order to ensure that consumers would purchase the Class Vehicles.

530. In the course of Defendants' business, they willfully failed to disclose and actively concealed the dangerous risks posed by the many safety issues and the serious Inflator Defect discussed above. Defendants compounded the deception by repeatedly asserting that the Class Vehicles and/or the Defective Airbags installed in them were safe, reliable, and of high quality, and by claiming to be reputable manufacturers that value safety.

531. Defendants' unfair or deceptive acts or practices, including these concealments, omissions, and suppressions of material facts, had a tendency or capacity to mislead and create a false impression in consumers, and were likely to and did in fact deceive reasonable consumers, including Plaintiffs and the Florida Consumer Sub-Class, about the true safety and reliability of Class Vehicles and/or the Defective Airbags installed in them, the quality of Defendants' brands, and the true value of the Class Vehicles.

532. Defendants intentionally and knowingly misrepresented material facts regarding the Class Vehicles and/or the Defective Airbags installed in them with an intent to mislead Plaintiffs and the Florida Consumer Sub-Class.

533. Defendants knew or should have known that their conduct violated the FDUTPA.

534. As alleged above, Defendants made material statements about the safety and reliability of the Class Vehicles and/or the Defective Airbags installed in them that were either false or misleading. Defendants' representations, omissions, statements, and commentary have included selling and marketing the Class Vehicles as safe and reliable, despite their knowledge of the Inflator Defect or their failure to reasonably investigate it.

535. To protect their profits and to avoid remediation costs and a public relations nightmare, Defendants concealed the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them and their tragic consequences, and allowed unsuspecting new and used car purchasers to continue to buy/lease the Class Vehicles, and allowed them to continue driving highly dangerous vehicles.

536. Defendants owed Plaintiffs and the Florida Consumer Sub-Class a duty to disclose the true safety and reliability of the Class Vehicles and/or the Defective Airbags installed in them because Defendants:

a. Possessed exclusive knowledge of the dangers and risks posed by the foregoing;

b. Intentionally concealed the foregoing from Plaintiffs and the Florida Consumer Sub-Class; and/or

c. Made incomplete representations about the safety and reliability of the foregoing generally, while purposefully withholding material facts from Plaintiffs and the Florida Consumer Sub-Class that contradicted these representations.

537. Because Defendants fraudulently concealed the Inflator Defect in Class Vehicles and/or the Defective Airbags installed in them, resulting in a raft of negative publicity once the

Inflator Defect finally began to be disclosed, the value of the Class Vehicles has greatly diminished. In light of the stigma attached to Class Vehicles by Defendants' conduct, they are now worth significantly less than they otherwise would be.

538. Defendants' failure to disclose and active concealment of the dangers and risks posed by the Defective Airbags in Class Vehicles were material to Plaintiffs and the Florida Consumer Sub-Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

539. Plaintiffs and the Florida Consumer Sub-Class suffered ascertainable loss caused by Defendants' misrepresentations and their failure to disclose material information. Had they been aware of the Inflator Defect that existed in the Class Vehicles and/or the Defective Airbags installed in them, and Defendants' complete disregard for safety, Plaintiffs and the Florida Consumer Sub-Class either would not have paid as much for their vehicles or would not have purchased or leased them at all. Plaintiffs and the Florida Consumer Sub-Class did not receive the benefit of their bargain as a result of Defendants' misconduct.

540. Plaintiffs and the Florida Consumer Sub-Class risk irreparable injury as a result of Defendants' act and omissions in violation of the FDUTPA, and these violations present a continuing risk to Plaintiffs, the Florida Consumer Sub-Class, as well as to the general public. Defendants' unlawful acts and practices complained of herein affect the public interest.

541. As a direct and proximate result of Defendants' violations of the FDUTPA, Plaintiffs and the Florida Consumer Sub-Class have suffered injury-in-fact and/or actual damage.

542. Plaintiffs and the Florida Consumer Sub-Class are entitled to recover their actual damages under Fla. Stat. § 501.211(2), and attorneys' fees under Fla. Stat. § 501.2105(1).

543. Plaintiffs and the Florida Consumer Sub-Class also seek an order enjoining Defendants' unfair, unlawful, and/or deceptive practices, declaratory relief, attorneys' fees, and any other just and proper relief available under the FDUTPA.

G. Claims Brought on Behalf of the Georgia Consumer Sub-Class

COUNT 21

Violation of the Georgia Fair Business Practices Act, Ga. Code Ann. §§ 10-1-390, *et seq.*

544. This claim is brought only on behalf of the Georgia Consumer Sub-Class against Mercedes.

545. Plaintiffs and the Georgia Consumer Sub-Class are "consumers" within the meaning of Ga. Code Ann. §§ 10-1-392(6).

546. Plaintiffs, the Georgia Consumer Sub-Class, and Defendants are "persons" within the meaning Ga. Code Ann. §§ 10-1-392(24).

547. Defendants were and are engaged in "trade" and "commerce" within the meaning of Ga. Code Ann. §§ 10-1-392(28).

548. The Georgia Fair Business Practices Act ("Georgia FBPA") declares "[u]nfair or deceptive acts or practices in the conduct of consumer transactions and consumer acts or practices in trade or commerce" to be unlawful, Ga. Code Ann. § 10-1-393(a), including but not limited to "representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that they do not have," "[r]epresenting that goods or services are of a particular standard, quality, or grade . . . if they are of another," and "[a]dvertising goods or services with intent not to sell them as advertised," Ga. Code Ann. § 10-1-393(b).

549. By failing to disclose and actively concealing the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them, Defendants engaged in unfair or deceptive practices prohibited by the FBPA, including: (1) representing that the Class Vehicles and/or the Defective Airbags installed in them have characteristics, uses, benefits, and qualities which they do not have; (2) representing that they are of a particular standard, quality, and grade when they are not; and (3) advertising them with the intent not to sell or lease them as advertised. Defendants participated in unfair or deceptive acts or practices that violated the Georgia FBPA.

550. In the course of their business, Defendants failed to disclose and actively concealed the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them as described herein and otherwise engaged in activities with a tendency or capacity to deceive.

551. Defendants also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Class Vehicles and/or the Defective Airbags installed in them.

552. As alleged above, Defendants have known of the Inflator Defect in the Defective Airbags since at least the early 2000s, including through inflator development, testing incidents, and public recalls. Prior to installing the Defective Airbags in their vehicles, Defendants knew or should have known of the Inflator Defect, because Takata informed them that the Defective Airbags contained the volatile and unstable ammonium nitrate and Defendants approved Takata's designs. And Defendants were again made aware of the Inflator Defect in Takata's airbags not later than 2008, when Honda first notified regulators of a problem with its Takata airbags. Defendants failed to disclose and actively concealed the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them.

553. By failing to disclose and by actively concealing the Inflator Defect in the Class Vehicles and/or the Defective Airbags installed in them, by marketing them as safe, reliable, and of high quality, and by presenting themselves as reputable manufacturers that value safety, Defendants engaged in unfair or deceptive business practices in violation of the Georgia FBPA. Defendants deliberately withheld the information about the propensity of the Defective Airbags to aggressively deploy, and/or violently explode and spray vehicle occupants with lethal amounts of metal debris and shrapnel, instead of protecting vehicle occupants from bodily injury during accidents, in order to ensure that consumers would purchase the Class Vehicles.

554. In the course of Defendants' business, they willfully failed to disclose and actively concealed the dangerous risks posed by the many safety issues and the serious Inflator Defect discussed above. Defendants compounded the deception by repeatedly asserting that the Class

Vehicles and/or the Defective Airbags installed in them were safe, reliable, and of high quality, and by claiming to be reputable manufacturers that value safety.

555. Defendants' unfair or deceptive acts or practices, including these concealments, omissions, and suppressions of material facts, had a tendency or capacity to mislead and create a false impression in consumers, and were likely to and did in fact deceive reasonable consumers, including Plaintiffs and the Georgia Consumer Sub-Class, about the true safety and reliability of Class Vehicles and/or the Defective Airbags installed in them, the quality of Defendants' brands, and the true value of the Class Vehicles.

556. Defendants intentionally and knowingly misrepresented material facts regarding the Class Vehicles and/or the Defective Airbags installed in them with an intent to mislead Plaintiffs and the Georgia Consumer Sub-Class.

557. Defendants knew or should have known that their conduct violated the Georgia FBPA.

558. As alleged above, Defendants made material statements about the safety and reliability of the Class Vehicles and/or the Defective Airbags installed in them that were either false or misleading. Defendants' representations, omissions, statements, and commentary have included selling and marketing the Class Vehicles as safe and reliable, despite their knowledge of the Inflator Defect or their failure to reasonably investigate it.

559. To protect their profits and to avoid remediation costs and a public relations nightmare, Defendants concealed the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them and their tragic consequences, and allowed unsuspecting new and used car purchasers to continue to buy/lease the Class Vehicles, and allowed them to continue driving highly dangerous vehicles.

560. Defendants owed Plaintiffs and the Georgia Consumer Sub-Class a duty to disclose the true safety and reliability of the Class Vehicles and/or the Defective Airbags installed in them because Defendants:

a. Possessed exclusive knowledge of the dangers and risks posed by the foregoing;

b. Intentionally concealed the foregoing from Plaintiffs and the Georgia Consumer Sub-Class; and/or

c. Made incomplete representations about the safety and reliability of the foregoing generally, while purposefully withholding material facts from Plaintiffs and the Georgia Consumer Sub-Class that contradicted these representations.

561. Because Defendants fraudulently concealed the Inflator Defect in Class Vehicles and/or the Defective Airbags installed in them, resulting in a raft of negative publicity once the Inflator Defect finally began to be disclosed, the value of the Class Vehicles has greatly diminished. In light of the stigma attached to Class Vehicles by Defendants' conduct, they are now worth significantly less than they otherwise would be.

562. Defendants' failure to disclose and active concealment of the dangers and risks posed by the Defective Airbags in Class Vehicles were material to Plaintiffs and the Georgia Consumer Sub-Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

563. Plaintiffs and the Georgia Consumer Sub-Class suffered ascertainable loss caused by Defendants' misrepresentations and their failure to disclose material information. Had they been aware of the Inflator Defect that existed in the Class Vehicles and/or the Defective Airbags installed in them, and Defendants' complete disregard for safety, Plaintiffs and the Georgia Consumer Sub-Class either would not have paid as much for their vehicles or would not have purchased or leased them at all. Plaintiffs and the Georgia Consumer Sub-Class did not receive the benefit of their bargain as a result of Defendants' misconduct.

564. Defendants' violations present a continuing risk to Plaintiffs and the Georgia Consumer Sub-Class, as well as to the general public. Defendants' unlawful acts and practices complained of herein affect the public interest.

565. As a direct and proximate result of Defendants' violations of the Georgia FBPA, Plaintiffs and the Georgia Consumer Sub-Class have suffered injury-in-fact and/or actual damage.

566. Plaintiff and the Georgia Consumer Sub-Class are entitled to recover damages and exemplary damages (for intentional violations) per Ga. Code Ann. § 10-1-399(a).

567. Plaintiffs and the Georgia Consumer Sub-Class also seek an order enjoining Defendants' unfair, unlawful, and/or deceptive practices, attorneys' fees, and any other just and proper relief available under the Georgia FBPA per Ga. Code Ann. § 10-1-399.

568. In accordance with Ga. Code Ann. § 10-1-399(b), Plaintiffs' counsel, on behalf of Plaintiffs and the Georgia Consumer Sub-Class, served Defendants with notice of their alleged violations of the Georgia FBPA relating to the Class Vehicles and/or the Defective Airbags installed in them purchased by Plaintiffs and the Georgia Consumer Sub-Class, and demanded that Defendants correct or agree to correct the actions described therein. As Defendants failed to do so, Plaintiffs seek include compensatory and monetary damages to which Plaintiffs and the Georgia Consumer Sub-Class are entitled.

H. Claims Brought on Behalf of the Illinois Consumer Sub-Class

COUNT 22

Violation of the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/1, *et seq.*

569. This claim is brought on behalf of the Illinois Consumer Sub-Class against Volkswagen and Mercedes.

570. Defendants are "persons" as that term is defined in 815 ILCS 505/1(c).

571. Plaintiffs and the Illinois Consumer Sub-Class are "consumers" as that term is defined in 815 ILCS 505/1(e).

572. The Illinois Consumer Fraud and Deceptive Business Practices Act ("Illinois CFA") prohibits "unfair or deceptive acts or practices, including but not limited to the use or employment of any deception, fraud, false pretense, false promise, misrepresentation or the concealment, suppression or omission of any material fact, with intent that others rely upon the concealment, suppression or omission of such material fact . . . in the conduct of trade or commerce . . . whether any person has in fact been misled, deceived or damaged thereby." 815 ILCS 505/2.

573. Defendants participated in misleading, false, or deceptive acts that violated the Illinois CFA. By failing to disclose and actively concealing the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them, Defendants engaged in deceptive business practices prohibited by the Illinois CFA.

574. In the course of their business, Defendants failed to disclose and actively concealed the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them as described herein and otherwise engaged in activities with a tendency or capacity to deceive.

575. Defendants also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Class Vehicles and/or the Defective Airbags installed in them.

576. As alleged above, Defendants have known of the Inflator Defect in the Defective Airbags since at least the early 2000s, including through inflator development, testing incidents, and public recalls. Prior to installing the Defective Airbags in their vehicles, Defendants knew or should have known of the Inflator Defect, because Takata informed them that the Defective Airbags contained the volatile and unstable ammonium nitrate and Defendants approved Takata's designs. And Defendants were again made aware of the Inflator Defect in Takata's airbags not later than 2008, when Honda first notified regulators of a problem with its Takata airbags. Defendants failed to disclose and actively concealed the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them.

577. By failing to disclose and by actively concealing the Inflator Defect in the Class Vehicles and/or the Defective Airbags installed in them, by marketing them as safe, reliable, and of high quality, and by presenting themselves as reputable manufacturers that value safety, Defendants engaged in unfair or deceptive business practices in violation of the Illinois CFA. Defendants deliberately withheld the information about the propensity of the Defective Airbags to aggressively deploy, and/or violently explode and spray vehicle occupants with lethal amounts of metal debris and shrapnel, instead of protecting vehicle occupants from bodily injury during accidents, in order to ensure that consumers would purchase the Class Vehicles.

578. In the course of Defendants' business, they willfully failed to disclose and actively concealed the dangerous risks posed by the many safety issues and the serious Inflator Defect discussed above. Defendants compounded the deception by repeatedly asserting that the Class Vehicles and/or the Defective Airbags installed in them were safe, reliable, and of high quality, and by claiming to be reputable manufacturers that value safety.

579. Defendants' unfair or deceptive acts or practices, including these concealments, omissions, and suppressions of material facts, had a tendency or capacity to mislead and create a false impression in consumers, and were likely to and did in fact deceive reasonable consumers, including Plaintiffs and the Illinois Consumer Sub-Class, about the true safety and reliability of Class Vehicles and/or the Defective Airbags installed in them, the quality of Defendants' brands, and the true value of the Class Vehicles.

580. Defendants intentionally and knowingly misrepresented material facts regarding the Class Vehicles and/or the Defective Airbags installed in them with an intent to mislead Plaintiffs and the Illinois Consumer Sub-Class.

581. Defendants knew or should have known that their conduct violated the Illinois CFA.

582. As alleged above, Defendants made material statements about the safety and reliability of the Class Vehicles and/or the Defective Airbags installed in them that were either false or misleading. Defendants' representations, omissions, statements, and commentary have

included selling and marketing the Class Vehicles as safe and reliable, despite their knowledge of the Inflator Defect or their failure to reasonably investigate it.

583. To protect their profits and to avoid remediation costs and a public relations nightmare, Defendants concealed the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them and their tragic consequences, and allowed unsuspecting new and used car purchasers to continue to buy/lease the Class Vehicles, and allowed them to continue driving highly dangerous vehicles.

584. Defendants owed Plaintiffs and the Illinois Consumer Sub-Class a duty to disclose the true safety and reliability of the Class Vehicles and/or the Defective Airbags installed in them because Defendants:

a. Possessed exclusive knowledge of the dangers and risks posed by the foregoing;

b. Intentionally concealed the foregoing from Plaintiffs and the Illinois Consumer Sub-Class; and/or

c. Made incomplete representations about the safety and reliability of the foregoing generally, while purposefully withholding material facts from Plaintiffs and the Illinois Consumer Sub-Class that contradicted these representations.

585. Because Defendants fraudulently concealed the Inflator Defect in Class Vehicles and/or the Defective Airbags installed in them, resulting in a raft of negative publicity once the Inflator Defect finally began to be disclosed, the value of the Class Vehicles has greatly diminished. In light of the stigma attached to Class Vehicles by Defendants' conduct, they are now worth significantly less than they otherwise would be.

586. Defendants' failure to disclose and active concealment of the dangers and risks posed by the Defective Airbags in Class Vehicles were material to Plaintiffs and the Illinois Consumer Sub-Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more

than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

587. Plaintiffs and the Illinois Consumer Sub-Class suffered ascertainable loss caused by Defendants' misrepresentations and their failure to disclose material information. Had they been aware of the Inflator Defect that existed in the Class Vehicles and/or the Defective Airbags installed in them, and Defendants' complete disregard for safety, Plaintiffs and the Illinois Consumer Sub-Class either would not have paid as much for their vehicles or not purchased or leased them at all. Plaintiffs and the Illinois Consumer Sub-Class did not receive the benefit of their bargain as a result of Defendants' misconduct.

588. Defendants' violations present a continuing risk to Plaintiffs and the Illinois Consumer Sub-Class, as well as to the general public. Defendants' unlawful acts and practices complained of herein affect the public interest.

589. As a direct and proximate result of Defendants' violations of the Illinois CFA, Plaintiffs and the Illinois Consumer Sub-Class have suffered injury-in-fact and/or actual damage.

590. Pursuant to 815 ILCS 505/10a(a), Plaintiffs and the Illinois Consumer Sub-Class seek monetary relief against Defendants in the amount of actual damages, as well as punitive damages because Defendants acted with fraud and/or malice and/or were grossly negligent.

591. Plaintiffs and the Illinois Consumer Sub-Class also seek an order enjoining Defendants' unfair and/or deceptive acts or practices, punitive damages, and attorneys' fees, and any other just and proper relief available under 815 ILCS 505/1, *et seq.*

I. Claims Brought on Behalf of the Indiana Consumer Sub-Class

COUNT 23

Breach of the Implied Warranty of Merchantability, Ind. Code § 26-1-2-314

592. In the event the Court declines to certify a Nationwide Consumer Class under the Magnuson-Moss Warranty Act, this claim is brought only on behalf of the Indiana Consumer Sub-Class against VW AG and VW America.

593. Defendants are and were at all relevant times merchants with respect to motor vehicles and/or airbags within the meaning of Ind. Code § 26-1-2-104(1).

594. A warranty that the Class Vehicles and/or the Defective Airbags installed in them were in merchantable condition was implied by law in Class Vehicle transactions, pursuant to Ind. Code § 26-1-2-314.

595. The Class Vehicles and/or the Defective Airbags installed in them, when sold and at all times thereafter, were not merchantable and are not fit for the ordinary purpose for which cars and airbags are used. Specifically, they are inherently defective and dangerous in that the Defective Airbags aggressively deploy, and/or violently explode and spray vehicle occupants with lethal amounts of metal debris and shrapnel, instead of protecting vehicle occupants from bodily injury during accidents.

596. Defendants were provided notice of these issues by their knowledge of the issues, by customer complaints, by numerous complaints filed against them and/or others, by internal investigations, and by numerous individual letters and communications sent by consumers before or within a reasonable amount of time after Honda issued the recalls and the allegations of the Inflator Defect became public.

597. As a direct and proximate result of Defendants' breach of the warranties of merchantability, Plaintiffs and the Indiana Consumer Sub-Class have been damaged in an amount to be proven at trial.

COUNT 24

Violation of the Indiana Deceptive Consumer Sales Act, Ind. Code §§ 24-5-0.5-3

598. This claim is brought only on behalf of the Indiana Consumer Sub-Class against VW AG and VW America.

599. Defendants are "persons" within the meaning of Ind. Code § 24-5-0.5-2(2) and "suppliers" within the meaning of Ind. Code § 24-5-.05-2(a)(3).

600. Plaintiffs' and Indiana Consumer Sub-Class members' purchases of the Class Vehicles are "consumer transactions" within the meaning of Ind. Code § 24-5-.05-2(a)(1).

601. Indiana's Deceptive Consumer Sales Act ("Indiana DCSA") prohibits a person from engaging in a "deceptive trade practice," which includes representing: "(1) That such subject of a consumer transaction has sponsorship, approval, performance, characteristics, accessories, uses, or benefits that they do not have, or that a person has a sponsorship, approval, status, affiliation, or connection it does not have; (2) That such subject of a consumer transaction is of a particular standard, quality, grade, style or model, if it is not and if the supplier knows or should reasonably know that it is not; … (7) That the supplier has a sponsorship, approval or affiliation in such consumer transaction that the supplier does not have, and which the supplier knows or should reasonably know that the supplier does not have; … (b) Any representations on or within a product or its packaging or in advertising or promotional materials which would constitute a deceptive act shall be the deceptive act both of the supplier who places such a representation thereon or therein, or who authored such materials, and such suppliers who shall state orally or in writing that such representation is true if such other supplier shall know or have reason to know that such representation was false."

602. Defendants participated in misleading, false, or deceptive acts that violated the Indiana DCSA, by failing to disclose and actively concealing the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them. Defendants also engaged in unlawful trade practices by: (1) representing that the Class Vehicles and/or the Defective Airbags installed in them have characteristics, uses, benefits, and qualities which they do not have; (2) representing that they are of a particular standard and quality when they are not; (3) advertising them with the intent not to sell or lease them as advertised; and (4) otherwise engaging in conduct likely to deceive.

603. Defendants' actions as set forth below and above occurred in the conduct of trade or commerce.

604. In the course of their business, Defendants failed to disclose and actively concealed the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them as described herein and otherwise engaged in activities with a tendency or capacity to deceive. Defendants also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Class Vehicles and/or the Defective Airbags installed in them.

605. As alleged above, Defendants have known of the Inflator Defect in the Defective Airbags since at least the early 2000s, including through inflator development, testing incidents, and public recalls. Prior to installing the Defective Airbags in their vehicles, Defendants knew or should have known of the Inflator Defect, because Takata informed them that the Defective Airbags contained the volatile and unstable ammonium nitrate and Defendants approved Takata's designs. And Defendants were again made aware of the Inflator Defect in Takata's airbags not later than 2008, when Honda first notified regulators of a problem with its Takata airbags. Defendants failed to disclose and actively concealed the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them.

606. By failing to disclose and by actively concealing the Inflator Defect in the Class Vehicles and/or the Defective Airbags installed in them, by marketing them as safe, reliable, and of high quality, and by presenting themselves as reputable manufacturers that value safety, Defendants engaged in unfair or deceptive business practices in violation of the Indiana DCSA. Defendants deliberately withheld the information about the propensity of the Defective Airbags to aggressively deploy, and/or violently explode and spray vehicle occupants with lethal amounts of metal debris and shrapnel, instead of protecting vehicle occupants from bodily injury during accidents, in order to ensure that consumers would purchase the Class Vehicles.

607. In the course of Defendants' business, they willfully failed to disclose and actively concealed the dangerous risks posed by the many safety issues and the serious Inflator Defect discussed above. Defendants compounded the deception by repeatedly asserting that the Class

Vehicles and/or the Defective Airbags installed in them were safe, reliable, and of high quality, and by claiming to be reputable manufacturers that value safety.

608. Defendants' unfair or deceptive acts or practices, including these concealments, omissions, and suppressions of material facts, had a tendency or capacity to mislead and create a false impression in consumers, and were likely to and did in fact deceive reasonable consumers, including Plaintiffs and the Indiana Consumer Sub-Class, about the true safety and reliability of Class Vehicles and/or the Defective Airbags installed in them, the quality of Defendants' brands, and the true value of the Class Vehicles.

609. Defendants intentionally and knowingly misrepresented material facts regarding the Class Vehicles and/or the Defective Airbags installed in them with an intent to mislead Plaintiffs and the Indiana Consumer Sub-Class.

610. Defendants knew or should have known that their conduct violated the Indiana DCSA.

611. As alleged above, Defendants made material statements about the safety and reliability of the Class Vehicles and/or the Defective Airbags installed in them that were either false or misleading. Defendants' representations, omissions, statements, and commentary have included selling and marketing the Class Vehicles as safe and reliable, despite their knowledge of the Inflator Defect or their failure to reasonably investigate it.

612. To protect their profits and to avoid remediation costs and a public relations nightmare, Defendants concealed the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them and their tragic consequences, and allowed unsuspecting new and used car purchasers to continue to buy/lease the Class Vehicles, and allowed them to continue driving highly dangerous vehicles.

613. Defendants owed Plaintiffs and the Indiana Consumer Sub-Class a duty to disclose the true safety and reliability of the Class Vehicles and/or the Defective Airbags installed in them because Defendants:

a. Possessed exclusive knowledge of the dangers and risks posed by the foregoing;

b. Intentionally concealed the foregoing from Plaintiffs and the Indiana Consumer Sub-Class; and/or

c. Made incomplete representations about the safety and reliability of the foregoing generally, while purposefully withholding material facts from Plaintiffs and the Indiana Consumer Sub-Class that contradicted these representations.

614. Because Defendants fraudulently concealed the Inflator Defect in Class Vehicles and/or the Defective Airbags installed in them, resulting in a raft of negative publicity once the Inflator Defect finally began to be disclosed, the value of the Class Vehicles has greatly diminished. In light of the stigma attached to Class Vehicles by Defendants' conduct, they are now worth significantly less than they otherwise would be.

615. Defendants' failure to disclose and active concealment of the dangers and risks posed by the Defective Airbags in Class Vehicles were material to Plaintiffs and the Indiana Consumer Sub-Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

616. Plaintiffs and the Indiana Consumer Sub-Class suffered ascertainable loss caused by Defendants' misrepresentations and their failure to disclose material information. Had they been aware of the Inflator Defect that existed in the Class Vehicles and/or the Defective Airbags installed in them, and Defendants' complete disregard for safety, Plaintiffs and the Indiana Consumer Sub-Class either would not have paid as much for their vehicles or would not have purchased or leased them at all. Plaintiffs and the Indiana Consumer Sub-Class did not receive the benefit of their bargain as a result of Defendants' misconduct.

617. Defendants' violations present a continuing risk to Plaintiffs, the Indiana Consumer Sub-Class, as well as the general public. Defendants' unlawful acts and practices complained of herein affect the public interest.

618. As a direct and proximate result of Defendants' violations of the Indiana DCSA, Plaintiffs and the Indiana Consumer Sub-Class have suffered injury-in-fact and/or actual damage.

619. Pursuant to Ind. Code § 24-5-0.5-4, Plaintiffs and the Indiana Consumer Sub-Class seek monetary relief against Defendants measured as the greater of (a) actual damages in an amount to be determined at trial and (b) statutory damages in the amount of $500 for each Plaintiff and each Indiana Consumer Sub-Class member, including treble damages up to $1,000 for Defendants' willfully deceptive acts.

620. Plaintiffs and the Indiana Consumer Sub-Class also seek punitive damages based on the outrageousness and recklessness of Defendants' conduct and Defendants' high net worth.

621. In accordance with IND. CODE § 24-5-0.5-5(a), Plaintiffs' counsel, on behalf of Plaintiffs and the Indiana Consumer Sub-Class, served Defendants with notice of their "curable" alleged violations of the Indiana DCSA relating to the Class Vehicles and/or the Defective Airbags installed in them purchased by Plaintiffs and the Indiana Consumer Sub-Class, and demanded that Defendants correct or agree to correct the actions described therein. As Defendants failed to do so, Plaintiffs seek compensatory and monetary damages to which Plaintiffs and the Indiana Consumer Sub-Class are entitled. Plaintiffs and the Indiana Consumer Sub-Class presently seek full relief for Defendants' "incurable" acts.

J. Claims Brought on Behalf of the Iowa Consumer Sub-Class

COUNT 25

Violation of the Private Right of Action for Consumer Frauds Act, Iowa Code § 714H.1, *et seq.*

622. This Claim is brought only on behalf of the Iowa Consumer Sub-Class against Mercedes.

623. Defendants are "persons" under Iowa Code § 714H.2(7).

624. Plaintiffs and the Iowa Consumer Sub-Class are "consumers," as defined by Iowa Code § 714H.2(3).

625. The Iowa Private Right of Action for Consumer Frauds Act ("Iowa CFA") prohibits any "practice or act the person knows or reasonably should know is an unfair practice, deception, fraud, false pretense, or false promise, or the misrepresentation, concealment, suppression, or omission of a material fact, with the intent that others rely upon the unfair practice, deception, fraud, false pretense, false promise, misrepresentation, concealment, suppression, or omission in connection with the advertisement, sale, or lease of consumer merchandise." Iowa Code § 714H.3. Defendants participated in misleading, false, or deceptive acts that violated the Iowa CFA.

626. By failing to disclose and actively concealing the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them, Defendants engaged in deceptive business practices prohibited by the Iowa CFA.

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

628. In the course of its business, Defendants failed to disclose and actively concealed the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them as described herein and otherwise engaged in activities with a tendency or capacity to deceive. Defendants also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Class Vehicles and/or the Defective Airbags installed in them.

629. As alleged above, Defendants have known of the Inflator Defect in the Defective Airbags since at least the early 2000s, including through inflator development, testing incidents, and public recalls. Defendants failed to disclose and actively concealed the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them.

630. By failing to disclose and by actively concealing the Inflator Defect in the Class Vehicles and/or the Defective Airbags installed in them, by marketing them as safe, reliable, and

of high quality, and by presenting themselves as reputable manufacturers that value safety, Defendants engaged in unfair or deceptive business practices in violation of the Iowa CFA. Defendants deliberately withheld the information about the propensity of the Defective Airbags violently exploding and/or expelling vehicle occupants with lethal amounts of metal debris and shrapnel, instead of protecting vehicle occupants from bodily injury during accidents, in order to ensure that consumers would purchase the Class Vehicles.

631. In the course of Defendants' business, they willfully failed to disclose and actively concealed the dangerous risks posed by the Inflator Defect discussed above. Defendants compounded the deception by repeatedly asserting that the Defective Airbags installed in the Class Vehicles were safe, reliable, and of high quality, and by claiming to be reputable manufacturers that value safety.

632. Defendants' unfair or deceptive acts or practices, including these concealments, omissions, and suppressions of material facts, had a tendency or capacity to mislead and create a false impression in consumers, and were likely to and did in fact deceive reasonable consumers, including Plaintiffs and the Iowa Consumer Sub-Class, about the true safety and reliability of Class Vehicles and/or the Defective Airbags installed in them, the quality of Defendants' brands, and the true value of the Class Vehicles.

633. Defendants intentionally and knowingly misrepresented material facts regarding the Class Vehicles and/or the Defective Airbags installed in them with an intent to mislead Plaintiffs and the Iowa Consumer Sub-Class.

634. Defendants knew or should have known that their conduct violated the Iowa CFA.

635. As alleged above, Defendants made material statements about the safety and reliability of the Class Vehicles and/or the Defective Airbags installed in them that were either false or misleading.

636. To protect their profits and to avoid remediation costs and a public relations nightmare, Defendants concealed the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them and their tragic consequences, and allowed unsuspecting new

and used car purchasers to continue to buy/lease the Class Vehicles, and allowed them to continue driving highly dangerous vehicles.

637. Defendants owed Plaintiffs and the Iowa Consumer Sub-Class a duty to disclose the true safety and reliability of the Class Vehicles and/or the Defective Airbags installed in them because Defendants:

a. Possessed exclusive knowledge of the dangers and risks posed by the foregoing;

b. Intentionally concealed the foregoing from Plaintiffs and the Iowa Consumer Sub-Class; and/or

c. Made incomplete representations about the safety and reliability of the foregoing generally, while purposefully withholding material facts from Plaintiffs and the Iowa Consumer Sub-Class that contradicted these representations.

638. Because Defendants fraudulently concealed the Inflator Defect in Class Vehicles and/or the Defective Airbags installed in them, resulting in a raft of negative publicity once the Inflator Defect finally began to be disclosed, the value of the Class Vehicles has greatly diminished. In light of the stigma attached to Class Vehicles by Defendants' conduct, they are now worth significantly less than they otherwise would be.

639. Defendants' failure to disclose and active concealment of the dangers and risks posed by the Defective Airbags in Class Vehicles were material to Plaintiffs and the Iowa Consumer Sub-Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

640. Plaintiffs and the Iowa Consumer Sub-Class suffered ascertainable loss caused by the Defendants' misrepresentations and their failure to disclose material information. Had they been aware of the Inflator Defect that existed in the Class Vehicles and/or the Defective Airbags installed in them, and Defendants' complete disregard for safety, Plaintiffs and the Iowa Consumer

Sub-Class either would not have paid as much for their vehicles or would not have purchased or leased them at all. Plaintiffs and the Iowa Consumer Sub-Class did not receive the benefit of their bargain as a result of Defendants' misconduct.

641. Defendants' violations present a continuing risk to Plaintiffs, the Iowa Consumer Sub-Class, as well as the general public. Defendants' unlawful acts and practices complained of herein affect the public interest.

642. As a direct and proximate result of Defendants' violations of the Iowa CFA, Plaintiffs and the Iowa Consumer Sub-Class have suffered injury-in-fact and/or actual damage.

643. Pursuant to Iowa Code § 714H.5, Plaintiffs and the Iowa Consumer Sub-Class seek to recover actual damages in an amount to be determined at trial; treble damages for Defendants' knowing violations of the Iowa CFA; an order enjoining Defendants' unfair, unlawful, and/or deceptive practices; declaratory relief; attorneys' fees; and any other just and proper relief available under the Iowa CFA.

K. Claims Brought on Behalf of the Kentucky Consumer Sub-Class

COUNT 26

[Dismissed]

L. Claims Brought on Behalf of the Massachusetts Consumer Sub-Class

COUNT 27

[Dismissed]

COUNT 28

[Dismissed]

COUNT 29

Breach of the Implied Warranty of Merchantability
Mass. Gen. Laws Ann. ch. 106, § 2-314, *et seq.*

644. In the event the Court declines to certify a Nationwide Consumer Class under the Magnuson-Moss Warranty Act, this claim is brought only on behalf of the Massachusetts Consumer Sub-Class against Mercedes.

645. Defendants are and were at all relevant times merchants with respect to motor vehicles and/or airbags within the meaning of Mass. Gen. Laws Ann. ch. 106, § 2-104(1).

646. A warranty that the Class Vehicles and/or the Defective Airbags installed in them were in merchantable condition was implied by law in Class Vehicle transactions, pursuant to Mass. Gen. Laws Ann. ch. 106, § 2-314.

647. The Class Vehicles and/or the Defective Airbags installed in them, when sold and at all times thereafter, were not merchantable and are not fit for the ordinary purpose for which cars and airbags are used. Specifically, they are inherently defective and dangerous in that the Defective Airbags aggressively deploy, and/or violently explode and spray vehicle occupants with lethal amounts of metal debris and shrapnel, instead of protecting vehicle occupants from bodily injury during accidents.

648. Defendants were provided notice of these issues by their knowledge of the issues, by customer complaints, by numerous complaints filed against them and/or others, by internal investigations, and by numerous individual letters and communications sent by consumers before or within a reasonable amount of time after Honda issued the recalls and the allegations of the Inflator Defect became public.

649. As a direct and proximate result of Defendants' breach of the warranties of merchantability, Plaintiffs and the Massachusetts Consumer Sub-Class have been damaged in an amount to be proven at trial.

COUNT 30

Deceptive Acts or Practices Prohibited by Massachusetts Law, Mass. Gen. Laws Ann. ch. 93A, §§ 1, *et seq.*

650. This claim is brought only on behalf of the Massachusetts Consumer Sub-Class against Mercedes.

651. Plaintiffs, the Massachusetts Consumer Sub-Class, and Defendants are "persons" within the meaning of Mass. Gen. Laws ch. 93A, § 1(a).

652. Defendants engaged in "trade" or "commerce" within the meaning of Mass. Gen. Laws 93A, § 1(b).

653. Massachusetts law (the "Massachusetts Act") prohibits "unfair or deceptive acts or practices in the conduct of any trade or commerce." Mass. Gen. Laws ch. 93A, § 2. Defendants both participated in misleading, false, or deceptive acts that violated the Massachusetts Act. By failing to disclose and actively concealing the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them, Defendants engaged in deceptive business practices prohibited by the Massachusetts Act.

654. In the course of their business, Defendants failed to disclose and actively concealed the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them as described herein and otherwise engaged in activities with a tendency or capacity to deceive.

655. Defendants also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Class Vehicles and/or the Defective Airbags installed in them.

656. As alleged above, Defendants have known of the Inflator Defect in the Defective Airbags since at least the early 2000s, including through inflator development, testing incidents, and public recalls. Prior to installing the Defective Airbags in their vehicles, Defendants knew or should have known of the Inflator Defect, because Takata informed them that the Defective Airbags contained the volatile and unstable ammonium nitrate and Defendants approved Takata's designs. And Defendants were again made aware of the Inflator Defect in Takata's airbags not later than 2008, when Honda first notified regulators of a problem with its Takata airbags. Defendants failed to disclose and actively concealed the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them.

657. By failing to disclose and by actively concealing the Inflator Defect in the Class Vehicles and/or the Defective Airbags installed in them, by marketing them as safe, reliable, and of high quality, and by presenting themselves as reputable manufacturers that value safety, Defendants engaged in unfair or deceptive business practices in violation of the Massachusetts Act. Defendants deliberately withheld the information about the propensity of the Defective Airbags to aggressively deploy, and/or violently explode and spray vehicle occupants with lethal amounts of metal debris and shrapnel, instead of protecting vehicle occupants from bodily injury during accidents, in order to ensure that consumers would purchase the Class Vehicles.

658. In the course of Defendants' business, they willfully failed to disclose and actively concealed the dangerous risks posed by the many safety issues and the serious Inflator Defect discussed above. Defendants compounded the deception by repeatedly asserting that the Class Vehicles and/or the Defective Airbags installed in them were safe, reliable, and of high quality, and by claiming to be reputable manufacturers that value safety.

659. Defendants' unfair or deceptive acts or practices, including these concealments, omissions, and suppressions of material facts, had a tendency or capacity to mislead and create a false impression in consumers, and were likely to and did in fact deceive reasonable consumers, including Plaintiffs and the Massachusetts Consumer Sub-Class, about the true safety and reliability of Class Vehicles and/or the Defective Airbags installed in them, the quality of Defendants' brands, and the true value of the Class Vehicles.

660. Defendants intentionally and knowingly misrepresented material facts regarding the Class Vehicles and/or the Defective Airbags installed in them with an intent to mislead Plaintiffs and the Massachusetts Consumer Sub-Class.

661. Defendants knew or should have known that their conduct violated the Massachusetts Act.

662. As alleged above, Defendants made material statements about the safety and reliability of the Class Vehicles and/or the Defective Airbags installed in them that were either false or misleading. Defendants' representations, omissions, statements, and commentary have included selling and marketing the Class Vehicles as safe and reliable, despite their knowledge of the Inflator Defect or their failure to reasonably investigate it.

663. To protect their profits and to avoid remediation costs and a public relations nightmare, Defendants concealed the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them and their tragic consequences, and allowed unsuspecting new and used car purchasers to continue to buy/lease the Class Vehicles, and allowed them to continue driving highly dangerous vehicles.

664. Defendants owed Plaintiffs and the Massachusetts Consumer Sub-Class a duty to disclose the true safety and reliability of the Class Vehicles and/or the Defective Airbags installed in them because Defendants:

a. Possessed exclusive knowledge of the dangers and risks posed by the foregoing;

b. Intentionally concealed the foregoing from Plaintiffs and the Massachusetts Consumer Sub-Class; and/or

c. Made incomplete representations about the safety and reliability of the foregoing generally, while purposefully withholding material facts from Plaintiffs and the Massachusetts Consumer Sub-Class that contradicted these representations.

665. Because Defendants fraudulently concealed the Inflator Defect in Class Vehicles and/or the Defective Airbags installed in them, resulting in a raft of negative publicity once the Inflator Defect finally began to be disclosed, the value of the Class Vehicles has greatly diminished. In light of the stigma attached to Class Vehicles by Defendants' conduct, they are now worth significantly less than they otherwise would be.

666. Defendants' failure to disclose and active concealment of the dangers and risks posed by the Defective Airbags in Class Vehicles were material to Plaintiffs and the Massachusetts Consumer Sub-Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

667. Plaintiffs and the Massachusetts Consumer Sub-Class suffered ascertainable loss caused by Defendants' misrepresentations and their failure to disclose material information. Had they been aware of the Inflator Defect that existed in the Class Vehicles and/or the Defective Airbags installed in them, and Defendants' complete disregard for safety, Plaintiffs and the Massachusetts Consumer Sub-Class either would not have paid as much for their vehicles or would not have purchased or leased them at all. Plaintiffs and the Massachusetts Consumer Sub-Class did not receive the benefit of their bargain as a result of Defendants' misconduct.

668. Defendants' violations present a continuing risk to Plaintiffs, the Massachusetts Consumer Sub-Class, as well as the general public. Defendants' unlawful acts and practices complained of herein affect the public interest.

669. As a direct and proximate result of Defendants' violations of the Massachusetts Act, Plaintiffs and the Massachusetts Consumer Sub-Class have suffered injury-in-fact and/or actual damage.

670. Pursuant to Mass. Gen. Laws ch. 93A, § 9, Plaintiffs and the Massachusetts Consumer Sub-Class seek monetary relief against Defendants measured as the greater of (a) actual damages in an amount to be determined at trial and (b) statutory damages in the amount of $25 for each Plaintiff and each Massachusetts Consumer Sub-Class member. Because Defendants' conduct was committed willfully and knowingly, Plaintiffs are entitled to recover, for each Plaintiff and each Massachusetts Consumer Sub-Class member, up to three times actual damages, but no less than two times actual damages.

671. Plaintiffs and the Massachusetts Consumer Sub-Class also seek an order enjoining Defendants' unfair and/or deceptive acts or practices, punitive damages, and attorneys' fees, costs, and any other just and proper relief available under the Massachusetts Act.

672. On November 14, 2017, Plaintiffs' counsel, on behalf of Plaintiffs and the Massachusetts Consumer Sub-Class, sent a letter to Defendants complying with Mass. Gen. Laws ch. 93A, § 9(3), providing Defendants with notice of their alleged violations of the Massachusetts Act relating to the Class Vehicles and/or the Defective Airbags installed in them purchased by Plaintiffs and the Massachusetts Consumer Sub-Class, and demanding that Defendants correct or agree to correct the actions described therein. Because Defendants failed to remedy their unlawful conduct within the requisite time period, Plaintiffs and the Massachusetts Consumer Sub-Class seek all damages and relief to which Plaintiffs and the Massachusetts Consumer Sub-Class are entitled.

M. Claims Brought on Behalf of the Michigan Consumer Sub-Class

COUNT 31

Breach of the Implied Warranty of Merchantability
Mich. Comp. Laws § 440.2314

673. In the event the Court declines to certify a Nationwide Consumer Class under the Magnuson-Moss Warranty Act, this claim is brought only on behalf of the Michigan Consumer Sub-Class against Audi and Mercedes.

674. Defendants are and were at all relevant times merchants with respect to motor vehicles and/or airbags within the meaning of Mich. Comp. Laws § 440.2314(1).

675. A warranty that the Class Vehicles and/or the Defective Airbags installed in them were in merchantable condition was implied by law in Class Vehicle transactions, pursuant to Mich. Comp. Laws § 440.2314.

676. The Class Vehicles and/or the Defective Airbags installed in them, when sold and at all times thereafter, were not merchantable and are not fit for the ordinary purpose for which cars and airbags are used. Specifically, they are inherently defective and dangerous in that the Defective Airbags aggressively deploy, and/or violently explode and spray vehicle occupants with lethal amounts of metal debris and shrapnel, instead of protecting vehicle occupants from bodily injury during accidents.

677. Defendants were provided notice of these issues by their knowledge of the issues, by customer complaints, by numerous complaints filed against them and/or others, by internal investigations, and by numerous individual letters and communications sent by consumers before or within a reasonable amount of time after Honda issued the recalls and the allegations of the Inflator Defect became public.

678. As a direct and proximate result of Defendants' breach of the warranties of merchantability, Plaintiffs and the Michigan Consumer Sub-Class have been damaged in an amount to be proven at trial.

COUNT 32

Violation of the Michigan Consumer Protection Act, Mich. Comp. Laws § 445.903, *et seq.*

679. This claim is brought only on behalf of the Michigan Consumer Sub-Class against Audi and Mercedes.

680. Plaintiffs and the Michigan Consumer Sub-Class are "person[s]" within the meaning of the Mich. Comp. Laws § 445.902(1)(d).

681. At all relevant times hereto, Defendants were "person[s]" engaged in "trade or commerce" within the meaning of the Mich. Comp. Laws § 445.902(1)(d) and (g).

682. The Michigan Consumer Protection Act ("Michigan CPA") prohibits "[u]nfair, unconscionable, or deceptive methods, acts, or practices in the conduct of trade or commerce . . . ." Mich. Comp. Laws § 445.903(1). Defendants engaged in unfair, unconscionable, or deceptive methods, acts or practices prohibited by the Michigan CPA, including: "(c) Representing that goods or services have . . . characteristics . . . that they do not have . . . .;" "(e) Representing that goods or services are of a particular standard . . . if they are of another;" "(s) Failing to reveal a material fact, the omission of which tends to mislead or deceive the consumer, and which fact could not reasonably be known by the consumer;" "(bb) Making a representation of fact or statement of fact material to the transaction such that a person reasonably believes the represented or suggested state of affairs to be other than it actually is;" and "(cc) Failing to reveal facts that are material to the transaction in light of representations of fact made in a positive manner." Mich. Comp. Laws § 445.903(1). By failing to disclose and actively concealing the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them, Defendants participated in unfair, deceptive, and unconscionable acts that violated the Michigan CPA.

683. In the course of their business, Defendants failed to disclose and actively concealed the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them as described herein and otherwise engaged in activities with a tendency or capacity to deceive. Defendants also engaged in unlawful trade practices by employing deception, deceptive acts or

practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Class Vehicles and/or the Defective Airbags installed in them.

684. As alleged above, Defendants have known of the Inflator Defect in the Defective Airbags since at least the early 2000s, including through inflator development, testing incidents, and public recalls. Prior to installing the Defective Airbags in their vehicles, Defendants knew or should have known of the Inflator Defect, because Takata informed them that the Defective Airbags contained the volatile and unstable ammonium nitrate and Defendants approved Takata's designs. And Defendants were again made aware of the Inflator Defect in Takata's airbags not later than 2008, when Honda first notified regulators of a problem with its Takata airbags. Defendants failed to disclose and actively concealed the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them.

685. By failing to disclose and by actively concealing the Inflator Defect in the Class Vehicles and/or the Defective Airbags installed in them, by marketing them as safe, reliable, and of high quality, and by presenting themselves as reputable manufacturers that value safety, Defendants engaged in unfair or deceptive business practices in violation of the Michigan CPA. Defendants deliberately withheld the information about the propensity of the Defective Airbags violently exploding and/or expelling vehicle occupants with lethal amounts of metal debris and shrapnel, instead of protecting vehicle occupants from bodily injury during accidents, in order to ensure that consumers would purchase the Class Vehicles.

686. In the course of Defendants' business, they willfully failed to disclose and actively concealed the dangerous risks posed by the Inflator Defect discussed above. Defendants compounded the deception by repeatedly asserting that the Class Vehicles and/or the Defective Airbags installed in them were safe, reliable, and of high quality, and by claiming to be reputable manufacturers that value safety.

687. Defendants' unfair or deceptive acts or practices, including these concealments, omissions, and suppressions of material facts, had a tendency or capacity to mislead and create a

false impression in consumers, and were likely to and did in fact deceive reasonable consumers, including Plaintiffs and the Michigan Consumer Sub-Class, about the true safety and reliability of Class Vehicles and/or the Defective Airbags installed in them, the quality of Defendants' brands, and the true value of the Class Vehicles.

688. Defendants intentionally and knowingly misrepresented material facts regarding the Class Vehicles and/or the Defective Airbags installed in them with an intent to mislead Plaintiffs and the Michigan Consumer Sub-Class.

689. Defendants knew or should have known that their conduct violated the Michigan CPA.

690. As alleged above, Defendants made material statements about the safety and reliability of the Class Vehicles and/or the Defective Airbags installed in them that were either false or misleading. Defendants' representations, omissions, statements, and commentary have included selling and marketing the Class Vehicles as safe and reliable, despite their knowledge of the Inflator Defect or their failure to reasonably investigate it.

691. To protect their profits and to avoid remediation costs and a public relations nightmare, Defendants concealed the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them and their tragic consequences, and allowed unsuspecting new and used car purchasers to continue to buy/lease the Class Vehicles, and allowed them to continue driving highly dangerous vehicles.

692. Defendants owed Plaintiffs and the Michigan Consumer Sub-Class a duty to disclose the true safety and reliability of the Class Vehicles and/or the Defective Airbags installed in them because Defendants:

a. Possessed exclusive knowledge of the dangers and risks posed by the foregoing;

b. Intentionally concealed the foregoing from Plaintiffs and the Michigan Consumer Sub-Class; and/or

c. Made incomplete representations about the safety and reliability of the foregoing generally, while purposefully withholding material facts from Plaintiffs and the Michigan Consumer Sub-Class that contradicted these representations.

693. Because Defendants fraudulently concealed the Inflator Defect in Class Vehicles and/or the Defective Airbags installed in them, resulting in a raft of negative publicity once the Inflator Defect finally began to be disclosed, the value of the Class Vehicles has greatly diminished. In light of the stigma attached to Class Vehicles by Defendants' conduct, they are now worth significantly less than they otherwise would be.

694. Defendants' failure to disclose and active concealment of the dangers and risks posed by the Defective Airbags in Class Vehicles were material to Plaintiffs and the Michigan Consumer Sub-Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

695. Plaintiffs and the Michigan Consumer Sub-Class suffered ascertainable loss caused by Defendants' misrepresentations and their failure to disclose material information. Had they been aware of the Inflator Defect that existed in the Class Vehicles and/or the Defective Airbags installed in them, and Defendants' complete disregard for safety, Plaintiffs and the Michigan Consumer Sub-Class either would not have paid as much for their vehicles or not purchased or leased them at all. Plaintiffs and the Michigan Consumer Sub-Class did not receive the benefit of their bargain as a result of Defendants' misconduct.

696. Defendants' violations present a continuing risk to Plaintiffs, the Michigan Consumer Sub-Class, as well as the general public. Defendants' unlawful acts and practices complained of herein affect the public interest.

697. As a direct and proximate result of Defendants' violations of the Michigan CPA, Plaintiffs and the Michigan Consumer Sub-Class have suffered injury-in-fact and/or actual damage.

698. Plaintiffs and the Michigan Consumer Sub-Class seek injunctive relief to enjoin Defendants from continuing their unfair and deceptive acts; monetary relief against Defendants measured as the greater of (a) actual damages in an amount to be determined at trial and (b) statutory damages in the amount of $250 for Plaintiffs and each Michigan Consumer Sub-Class member; reasonable attorneys' fees; and any other just and proper relief available under Mich. Comp. Laws § 445.911.

699. Plaintiffs and the Michigan Consumer Sub-Class also seek punitive damages against Defendants because they carried out their despicable conduct with willful and conscious disregard of the rights and safety of others. Defendants intentionally and willfully misrepresented the safety and reliability of the Class Vehicles and/or the Defective Airbags installed in them, deceived Plaintiffs and the Michigan Consumer Sub-Class on life-or-death matters, and concealed material facts that only they knew-all to avoid the expense and public relations nightmare of correcting a deadly flaw in the Class Vehicles and/or the Defective Airbags installed in them. Defendants' unlawful conduct constitutes malice, oppression, and fraud warranting punitive damages.

N. Claims Brought on Behalf of the Mississippi Consumer Sub-Class

COUNT 33

Breach of the Implied Warranty of Merchantability
Miss. Code Ann. §§ 75-2-315 and 75-2-212, *et seq.*

700. In the event the Court declines to certify a Nationwide Consumer Class under the Magnuson-Moss Warranty Act, this claim is brought only on behalf of the Mississippi Consumer Sub-Class against Mercedes.

701. Defendants are and were at all relevant times "merchant[s]" with respect to motor vehicles under Miss. Code Ann. §§ 75-2-104(1) and 75-2A-103(3), and "seller[s]" of motor vehicles under § 75-2-103(1)(d).

702. With respect to leases, Defendants are and were at all relevant times "lessor[s]" of motor vehicles under Miss. Code Ann. § 75-2A-103(1)(p).

703. The Class Vehicles are and were at all relevant times "goods" within the meaning of Miss. Code Ann. §§ 75-2-105(1) and 75-2A-103(1)(h).

704. A warranty that the Class Vehicles were in merchantable condition and fit for the ordinary purpose for which vehicles are used is implied by law pursuant to Miss. Code Ann. §§ 75-2-315 and 75-2-212.

705. The Class Vehicles and/or the Defective Airbags installed in them, when sold and at all times thereafter, were not merchantable and are not fit for the ordinary purpose for which cars and airbags are used. Specifically, they are inherently defective and dangerous in that the Defective Airbags: (a) rupture and expel metal shrapnel that tears through the airbag and poses a threat of serious injury or death to occupants; and/or (b) hyper-aggressively deploy and seriously injure occupants through contact with the airbag, instead of protecting vehicle occupants from bodily injury during accidents.

706. Defendants were provided notice of these issues by their knowledge of the issues, by customer complaints, by numerous complaints filed against them and/or others, by internal investigations, and by numerous individual letters and communications sent by the consumers before or within a reasonable amount of time after Honda issued the recalls and the allegations of the Inflator Defect became public.

707. As a direct and proximate result of Defendants' breach of the warranties of merchantability, Plaintiffs and the Mississippi Consumer Sub-Class have been damaged in an amount to be proven at trial.

O. Claims Brought on Behalf of the New Jersey Consumer Sub-Class

COUNT 34

Breach of the Implied Warranty of Merchantability N.J. Stat. Ann. § 12a:2-314

708. In the event the Court declines to certify a Nationwide Consumer Class under the Magnuson-Moss Warranty Act, this claim is brought only on behalf of the New Jersey Consumer Sub-Class against Volkswagen and Mercedes.

709. Defendants are merchants with respect to motor vehicles and/or airbags.

710. When Plaintiffs and the New Jersey Consumer Sub-Class purchased or leased their Class Vehicles, the transaction contained an implied warranty that the Class Vehicles and/or the Defective Airbags installed in them were in merchantable condition.

711. At the time of sale and all times thereafter, the Class Vehicles and/or the Defective Airbags installed in them were not merchantable and not fit for the ordinary purpose for which cars and airbags are used. Specifically, the Class Vehicles are inherently defective in that they are equipped with Defective Airbags with the Inflator Defect which causes, among other things, the Defective Airbags to: (a) rupture and expel metal shrapnel that tears through the airbag and poses a threat of serious injury or death to occupants; and (b) hyper-aggressively deploy and seriously injure occupants through contact with the airbag.

712. On information and belief, Defendants had notice of the Inflator Defect by their knowledge of the issues, by customer complaints, by numerous complaints filed against them and/or others, by internal investigations, and by numerous individual letters and communications sent by consumers before or within a reasonable amount of time after Honda issued the recalls and the allegations of the Inflator Defect became public.

713. As a direct and proximate result of Defendants' breach of the warranties of merchantability, Plaintiffs and the New Jersey Consumer Sub-Class have been damaged in an amount to be proven at trial.

COUNT 35

Violation of the New Jersey Consumer Fraud Act, N.J. Stat. Ann. §§ 56:8-1, *et seq.*

714. This claim is brought only on behalf of the New Jersey Consumer Sub-Class against Volkswagen and Mercedes.

715. Plaintiffs, the Sub-Class, and Defendants are or were "persons" within the meaning of N.J. Stat. Ann. § 56:8-1(d).

716. Defendants engaged in "sales" of "merchandise" within the meaning of N.J. Stat. Ann. § 56:8-1(c), (d).

717. The New Jersey Consumer Fraud Act ("New Jersey CFA") makes unlawful "[t]he act, use or employment by any person of any unconscionable commercial practice, deception, fraud, false pretense, false promise, misrepresentation, or the knowing concealment, suppression or omission of any material fact with the intent that others rely upon such concealment, suppression or omission, in connection with the sale or advertisement of any merchandise or real estate, or with the subsequent performance of such person as aforesaid, whether or not any person has in fact been misled, deceived or damaged thereby…" N.J. Stat. Ann. § 56:8-2. Defendants engaged in unconscionable or deceptive acts or practices that violated the New Jersey CFA as described above and below, and did so with the intent that Class members rely upon their acts, concealment, suppression or omissions.

718. In the course of their business, Defendants failed to disclose and actively concealed the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them as described herein and otherwise engaged in activities with a tendency or capacity to deceive.

719. Defendants also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Class Vehicles and/or the Defective Airbags installed in them.

720. As alleged above, Defendants have known of the Inflator Defect in the Defective Airbags since at least the early 2000s, including through inflator development, testing incidents, and public recalls. Prior to installing the Defective Airbags in their vehicles, Defendants knew or should have known of the Inflator Defect, because Takata informed them that the Defective Airbags contained the volatile and unstable ammonium nitrate and Defendants approved Takata's designs. And Defendants were again made aware of the Inflator Defect in Takata's airbags not later than 2008, when Honda first notified regulators of a problem with its Takata airbags.

Defendants failed to disclose and actively concealed the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them.

721. By failing to disclose and by actively concealing the Inflator Defect in the Class Vehicles and/or the Defective Airbags installed in them, by marketing them as safe, reliable, and of high quality, and by presenting themselves as reputable manufacturers that value safety, Defendants engaged in unfair or deceptive business practices in violation of the New Jersey CFA. Defendants deliberately withheld the information about the propensity of the Defective Airbags to aggressively deploy, and/or violently explode and spray vehicle occupants with lethal amounts of metal debris and shrapnel, instead of protecting vehicle occupants from bodily injury during accidents, in order to ensure that consumers would purchase the Class Vehicles.

722. In the course of Defendants' business, they willfully failed to disclose and actively concealed the dangerous risks posed by the many safety issues and serious defect discussed above. Defendants compounded the deception by repeatedly asserting that the Class Vehicles and/or the Defective Airbags installed in them were safe, reliable, and of high quality, and by claiming to be reputable manufacturers that value safety.

723. Defendants' unfair or deceptive acts or practices, including these concealments, omissions, and suppressions of material facts, had a tendency or capacity to mislead and create a false impression in consumers, and were likely to and did in fact deceive reasonable consumers, including Plaintiffs, about the true safety and reliability of Class Vehicles and/or the Defective Airbags installed in them, the quality of Defendants' brands, and the true value of the Class Vehicles.

724. Defendants intentionally and knowingly misrepresented material facts regarding the Class Vehicles and/or the Defective Airbags installed in them with an intent to mislead Plaintiffs and the New Jersey Consumer Sub-Class.

725. Defendants knew or should have known that their conduct violated the New Jersey CFA.

726. As alleged above, Defendants made material statements about the safety and reliability of the Class Vehicles and/or the Defective Airbags installed in them that were either false or misleading. Defendants' representations, omissions, statements, and commentary have included selling and marketing the Class Vehicles as safe and reliable, despite their knowledge of the Inflator Defect or their failure to reasonably investigate it.

727. To protect their profits and to avoid remediation costs and a public relations nightmare, Defendants concealed the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them and their tragic consequences, and allowed unsuspecting new and used car purchasers to continue to buy/lease the Class Vehicles, and allowed them to continue driving these highly dangerous vehicles.

728. Defendants owed Plaintiffs a duty to disclose the true safety and reliability of the Class Vehicles and/or the Defective Airbags installed in them because Defendants:

a. Possessed exclusive knowledge of the dangers and risks posed by the foregoing;

b. Intentionally concealed the foregoing from Plaintiffs; and/or

c. Made incomplete representations about the safety and reliability of the foregoing generally, while purposefully withholding material facts from Plaintiffs that contradicted these representations.

729. Because Defendants fraudulently concealed the Inflator Defect in Class Vehicles and/or the Defective Airbags installed in them, resulting in a raft of negative publicity once the Inflator Defect finally began to be disclosed, the value of the Class Vehicles has greatly diminished. In light of the stigma attached to Class Vehicles by Defendants' conduct, they are now worth significantly less than they otherwise would be.

730. Defendants' failure to disclose and active concealment of the dangers and risks posed by the Defective Airbags in Class Vehicles were material to Plaintiffs and the New Jersey Consumer Sub-Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more

than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals the Inflator Defect rather than promptly remedies them.

731. Plaintiffs and the Class suffered ascertainable loss caused by Defendants' misrepresentations and their failure to disclose material information. Had they been aware of the Inflator Defect that existed in the Class Vehicles and/or the Defective Airbags installed in them, and Defendants' complete disregard for safety, Plaintiffs either would not have paid as much for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of Defendants' misconduct.

732. Defendants' violations present a continuing risk to Plaintiffs, the Class, as well as to the general public. Defendants' unlawful acts and practices complained of herein affect the public interest.

733. As a direct and proximate result of Defendants' violations of the New Jersey CFA, Plaintiffs and the Class have suffered injury-in-fact and/or actual damage.

734. Plaintiffs and the Class are entitled to recover legal and/or equitable relief including an order enjoining Defendants' unlawful conduct, treble damages, costs and reasonable attorneys' fees pursuant to N.J. Stat. Ann. § 56:8-19, and any other just and appropriate relief.

P. Claims Brought on Behalf of the New York Consumer Sub-Class

COUNT 36

Breach of the Implied Warranty of Merchantability N.Y. U.C.C. Law §§ 2-315 and 2-A-213, *et seq.*

735. In the event the Court declines to certify a Nationwide Consumer Class under the Magnuson-Moss Warranty Act, this claim is brought only on behalf of the New York Consumer Sub-Class against Volkswagen and Mercedes.

736. Defendants are and were at all relevant times "merchant[s]" with respect to motor vehicles under N.Y. U.C.C. Law §§ 2-104(1) and 2-A-103(3), and "seller[s]" of motor vehicles under § 2-103(1)(d).

737. With respect to leases, Defendants are and were at all relevant times "lessor[s]" of motor vehicles under N.Y. U.C.C. Law § 2-A-103(1)(p).

738. The Class Vehicles are and were at all relevant times "goods" within the meaning of N.Y. U.C.C. Law §§ 2-105(1) and 2-A-103(1)(h).

739. A warranty that the Class Vehicles were in merchantable condition and fit for the ordinary purpose for which vehicles are used is implied by law pursuant to N.Y. U.C.C. Law §§ 2-315 and 2-A-213.

740. The Class Vehicles and/or the Defective Airbags installed in them, when sold and at all times thereafter, were not merchantable and are not fit for the ordinary purpose for which cars and airbags are used. Specifically, they are inherently defective and dangerous in that the Defective Airbags: (a) rupture and expel metal shrapnel that tears through the airbag and poses a threat of serious injury or death to occupants; and/or (b) hyper-aggressively deploy and seriously injure occupants through contact with the airbag, instead of protecting vehicle occupants from bodily injury during accidents.

741. Defendants were provided notice of these issues by their knowledge of the issues, by customer complaints, by numerous complaints filed against them and/or others, by internal investigations, and by numerous individual letters and communications sent by the consumers before or within a reasonable amount of time after Honda issued the recalls and the allegations of the Inflator Defect became public.

742. As a direct and proximate result of Defendants' breach of the warranties of merchantability, Plaintiffs and the New York Sub-Class have been damaged in an amount to be proven at trial.

COUNT 37

Violation of the New York General Business Law, N.Y. Gen. Bus. Law § 349

743. This claim is brought on behalf of the New York Consumer Sub-Class against Volkswagen and Mercedes.

744. Plaintiffs and New York Sub-Class are "persons" within the meaning of New York General Business Law ("New York GBL"), N.Y. Gen. Bus. Law § 349(h).

745. Defendants are "persons," "firms," "corporations," or "associations" within the meaning of N.Y. Gen. Bus. Law § 349.

746. The New York GBL makes unlawful "[d]eceptive acts or practices in the conduct of any business, trade or commerce." N.Y. Gen. Bus. Law § 349. Defendants' conduct directed toward consumers, as described above and below, constitutes "deceptive acts or practices" within the meaning of the New York GBL.

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

748. In the course of their business, Defendants failed to disclose and actively concealed the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them as described herein and otherwise engaged in activities with a tendency or capacity to deceive.

749. Defendants also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Class Vehicles and/or the Defective Airbags installed in them.

750. As alleged above, Defendants have known of the Inflator Defect in the Defective Airbags since at least the early 2000s, including through inflator development, testing incidents, and public recalls. Prior to installing the Defective Airbags in their vehicles, Defendants knew or should have known of the Inflator Defect, because Takata informed them that the Defective Airbags contained the volatile and unstable ammonium nitrate and Defendants approved Takata's designs. And Defendants were again made aware of the Inflator Defect in Takata's airbags not later than 2008, when Honda first notified regulators of a problem with its Takata airbags. Defendants failed to disclose and actively concealed the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them.

751. By failing to disclose and by actively concealing the Inflator Defect in the Class Vehicles and/or the Defective Airbags installed in them, by marketing them as safe, reliable, and of high quality, and by presenting themselves as reputable manufacturers that value safety, Defendants engaged in unfair or deceptive business practices in violation of the New York GBL. Defendants deliberately withheld the information about the propensity of the Defective Airbags to aggressively deploy, and/or violently explode and spray vehicle occupants with lethal amounts of metal debris and shrapnel, instead of protecting vehicle occupants from bodily injury during accidents, in order to ensure that consumers would purchase the Class Vehicles.

752. In the course of Defendants' business, they willfully failed to disclose and actively concealed the dangerous risks posed by the many safety issues and serious defect discussed above. Defendants compounded the deception by repeatedly asserting that the Class Vehicles and/or the Defective Airbags installed in them were safe, reliable, and of high quality, and by claiming to be reputable manufacturers that value safety.

753. Defendants' unfair or deceptive acts or practices, including these concealments, omissions, and suppressions of material facts, had a tendency or capacity to mislead and create a false impression in consumers, and were likely to and did in fact deceive reasonable consumers, including Plaintiffs, about the true safety and reliability of Class Vehicles and/or the Defective Airbags installed in them, the quality of Defendants' brands, and the true value of the Class Vehicles.

754. Defendants intentionally and knowingly misrepresented material facts regarding the Class Vehicles and/or the Defective Airbags installed in them with an intent to mislead Plaintiffs and the New York Consumer Sub-Class.

755. Defendants knew or should have known that their conduct violated the New York GBL.

756. As alleged above, Defendants made material statements about the safety and reliability of the Class Vehicles and/or the Defective Airbags installed in them that were either false or misleading. Defendants' representations, omissions, statements, and commentary have

included selling and marketing the Class Vehicles as safe and reliable, despite their knowledge of the Inflator Defect or their failure to reasonably investigate it.

757. To protect their profits and to avoid remediation costs and a public relations nightmare, Defendants concealed the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them and their tragic consequences, and allowed unsuspecting new and used car purchasers to continue to buy/lease the Class Vehicles, and allowed them to continue driving highly dangerous vehicles.

758. Defendants owed Plaintiffs and the New York Consumer Sub-Class a duty to disclose the true safety and reliability of the Class Vehicles and/or the Defective Airbags installed in them because Defendants:

a. Possessed exclusive knowledge of the dangers and risks posed by the foregoing;

b. Intentionally concealed the foregoing from Plaintiffs and the New York Consumer Sub-Class; and/or

c. Made incomplete representations about the safety and reliability of the foregoing generally, while purposefully withholding material facts from Plaintiffs and the New York Consumer Sub-Class that contradicted these representations.

759. Because Defendants fraudulently concealed the Inflator Defect in Class Vehicles and/or the Defective Airbags installed in them, resulting in a raft of negative publicity once the Inflator Defect finally began to be disclosed, the value of the Class Vehicles has greatly diminished. In light of the stigma attached to Class Vehicles by Defendants' conduct, they are now worth significantly less than they otherwise would be.

760. Defendants' failure to disclose and active concealment of the dangers and risks posed by the Defective Airbags in Class Vehicles were material to Plaintiffs and the New York Consumer Sub-Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more

than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

761. Plaintiffs and the New York Consumer Sub-Class suffered ascertainable loss caused by Defendants' misrepresentations and their failure to disclose material information. Had they been aware of the Inflator Defect that existed in the Class Vehicles and/or the Defective Airbags installed in them, and Defendants' complete disregard for safety, Plaintiffs and the New York Consumer Sub-Class either would not have paid as much for their vehicles or would not have purchased or leased them at all. Plaintiffs and the New York Consumer Sub-Class did not receive the benefit of their bargain as a result of Defendants' misconduct.

762. Defendants' violations present a continuing risk to Plaintiffs and the New York Consumer Sub-Class as well as to the general public. Defendants' unlawful acts and practices complained of herein affect the public interest.

763. As a direct and proximate result of Defendants' violations of the New York GBL, Plaintiffs and the New York Consumer Sub-Class have suffered injury-in-fact and/or actual damage.

764. Plaintiffs and the New York Consumer Sub-Class also seek punitive damages against Defendants because Defendants' conduct was egregious. Defendants misrepresented the safety and reliability of millions of Class Vehicles and/or the Defective Airbags installed in them, concealed the Inflator Defect in millions of them, deceived Plaintiffs and the New York Consumer Sub-Class on life-or-death matters, and concealed material facts that only Defendants knew, all to avoid the expense and public relations nightmare of correcting the serious flaw in millions of Class Vehicles and/or the Defective Airbags installed in them. Defendants' egregious conduct warrants punitive damages.

765. Because Defendants' willful and knowing conduct caused injury to the New York Consumer Sub-Class, the New York Consumer Sub-Class seeks recovery of actual damages or $50, whichever is greater, discretionary treble damages up to $1,000, punitive damages, reasonable

attorneys' fees and costs, an order enjoining Defendants' deceptive conduct, and any other just and proper relief available under N.Y. Gen. Bus. Law § 349.

COUNT 38

Violation of the New York General Business Law, N.Y. Gen. Bus. Law § 350

766. This claim is brought on behalf of the New York Consumer Sub-Class against Volkswagen and Mercedes.

767. Defendants were and are engaged in the "conduct of business, trade or commerce" within the meaning of N.Y. Gen. Bus. Law § 350.

768. N.Y. Gen. Bus. Law § 350 makes unlawful "[f]alse advertising in the conduct of any business, trade or commerce." False advertising includes "advertising, including labeling, of a commodity . . . if such advertising is misleading in a material respect," taking into account "the extent to which the advertising fails to reveal facts material in light of . . . representations [made] with respect to the commodity ." N.Y. Gen. Bus. Law § 350-a.

769. Defendants caused to be made or disseminated through New York, through advertising, marketing and other publications, statements that were untrue or misleading, and that were known, or which by the exercise of reasonable care should have been known to Defendants, to be untrue and misleading to consumers, including Plaintiffs and and the New York Consumer Sub-Class.

770. Defendants have violated § 350 because the misrepresentations and omissions regarding the Inflator Defect, and Defendants' failure to disclose and active concealment of the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them, as set forth above, were material and likely to deceive a reasonable consumer.

771. Plaintiffs and the New York Consumer Sub-Class members have suffered an injury, including the loss of money or property, as a result of Defendants' false advertising. In purchasing or leasing Class Vehicles with the Defective Airbags installed in them, Plaintiffs and the New York Consumer Sub-Class relied on the misrepresentations and/or omissions of Defendants with

respect to the safety and reliability of the Class Vehicles and/or the Defective Airbags installed in them. Defendants' representations were false and/or misleading because they concealed the Inflator Defect and safety issues seriously undermining the value of the Class Vehicles. Had Plaintiffs and the New York Consumer Sub-Class known this, they would not have purchased or leased their vehicles and/or paid as much for them.

772. Pursuant to N.Y. Gen. Bus. Law § 350 - e, Plaintiffs and the New York Consumer Sub-Class seek monetary relief against Defendants measured as the greater of (a) actual damages in an amount to be determined at trial and (b) statutory damages in the amount of $500 each for New York Sub-Class member. Because Defendants' conduct was committed willfully and knowingly, Plaintiffs and the New York Consumer Sub-Class are entitled to recover three times actual damages, up to $10,000, for each New York Plaintiff and New York Consumer Sub-Class member.

773. Plaintiffs and the New York Consumer Sub-Class also seek an order enjoining Defendants' unfair, unlawful, and/or deceptive practices and awarding attorneys' fees, and any other just and proper relief available under General Business Law § 350.

Q. Claims Brought on Behalf of the North Carolina Consumer Sub-Class

COUNT 39

Violation of the North Carolina Unfair and Deceptive Trade Practices Act, N.C. Gen. Stat. §§ 75-1.1, *et seq.*

774. This claim is brought on behalf of the North Carolina Consumer Sub-Class against Audi and Mercedes.

775. Defendants engaged in "commerce" within the meaning of N.C. Gen. Stat. § 75-1.1(b).

776. The North Carolina Unfair and Deceptive Trade Practices Act ("UDTPA") broadly prohibits "unfair or deceptive acts or practices in or affecting commerce." N.C. Gen. Stat. § 75-1.1(a). As alleged above and below, Defendants willfully committed unfair or deceptive acts or practices in violation of the North Carolina UDTPA.

777. In the course of their business, Defendants failed to disclose and actively concealed the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them as described herein and otherwise engaged in activities with a tendency or capacity to deceive.

778. Defendants also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Class Vehicles and/or the Defective Airbags installed in them

779. As alleged above, Defendants have known of the Inflator Defect in the Defective Airbags since at least the early 2000s, including through inflator development, testing incidents, and public recalls. Prior to installing the Defective Airbags in their vehicles, Defendants knew or should have known of the Inflator Defect, because Takata informed them that the Defective Airbags contained the volatile and unstable ammonium nitrate and Defendants approved Takata's designs. And Defendants were again made aware of the Inflator Defect in Takata's airbags not later than 2008, when Honda first notified regulators of a problem with its Takata airbags. Defendants failed to disclose and actively concealed the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them.

780. By failing to disclose and by actively concealing the Inflator Defect in the Class Vehicles and/or the Defective Airbags installed in them, by marketing them as safe, reliable, and of high quality, and by presenting themselves as reputable manufacturers that value safety, Defendants engaged in unfair or deceptive business practices in violation of the North Carolina UDTPA. Defendants deliberately withheld the information about the propensity of the Defective Airbags to aggressively deploy and/or violently explode and spray vehicle occupants with lethal amounts of metal debris and shrapnel, instead of protecting vehicle occupants from bodily injury during accidents, in order to ensure that consumers would purchase the Class Vehicles.

781. In the course of Defendants' business, they willfully failed to disclose and actively concealed the dangerous risks posed by the many safety issues and serious defect discussed above. Defendants compounded the deception by repeatedly asserting that the Class Vehicles and/or the

Defective Airbags installed in them were safe, reliable, and of high quality, and by claiming to be reputable manufacturers that value safety.

782. Defendants' unfair or deceptive acts or practices, including these concealments, omissions, and suppressions of material facts, had a tendency or capacity to mislead and create a false impression in consumers, and were likely to and did in fact deceive reasonable consumers, including Plaintiffs and the North Carolina Consumer Sub-Class, about the true safety and reliability of Class Vehicles and/or the Defective Airbags installed in them, the quality of Defendants' brands, and the true value of the Class Vehicles.

783. Defendants intentionally and knowingly misrepresented material facts regarding the Class Vehicles and/or the Defective Airbags installed in them with an intent to mislead Plaintiffs and the North Carolina Consumer Sub-Class.

784. Defendants knew or should have known that their conduct violated the North Carolina UDTPA.

785. As alleged above, Defendants made material statements about the safety and reliability of the Class Vehicles and/or the Defective Airbags installed in them that were either false or misleading. Defendants' representations, omissions, statements, and commentary have included selling and marketing the Class Vehicles as safe and reliable, despite their knowledge of the Inflator Defect or their failure to reasonably investigate it.

786. To protect their profits and to avoid remediation costs and a public relations nightmare, Defendants concealed the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them and their tragic consequences, and allowed unsuspecting new and used car purchasers to continue to buy/lease the Class Vehicles, and allowed them to continue driving highly dangerous vehicles.

787. Defendants owed Plaintiffs and the North Carolina Consumer Sub-Class a duty to disclose the true safety and reliability of the Class Vehicles and/or the Defective Airbags installed in them because Defendants:

a. Possessed exclusive knowledge of the dangers and risks posed by the foregoing;

b. Intentionally concealed the foregoing from Plaintiffs and the North Carolina Consumer Sub-Class; and/or

c. Made incomplete representations about the safety and reliability of the foregoing generally, while purposefully withholding material facts from Plaintiffs and the North Carolina Consumer Sub-Class that contradicted these representations.

788. Because Defendants fraudulently concealed the Inflator Defect in Class Vehicles and/or the Defective Airbags installed in them, resulting in a raft of negative publicity once the Inflator Defect finally began to be disclosed, the value of the Class Vehicles has greatly diminished. In light of the stigma attached to Class Vehicles by Defendants' conduct, they are now worth significantly less than they otherwise would be.

789. Defendants' failure to disclose and active concealment of the dangers and risks posed by the Defective Airbags in Class Vehicles were material to Plaintiffs and the North Carolina Consumer Sub-Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

790. Plaintiffs and the North Carolina Consumer Sub-Class suffered ascertainable loss caused by Defendants' misrepresentations and their failure to disclose material information. Had they been aware of the Inflator Defect that existed in the Class Vehicles and/or the Defective Airbags installed in them, and Defendants' complete disregard for safety, Plaintiffs and the North Carolina Consumer Sub-Class either would not have paid as much for their vehicles or would not have purchased or leased them at all. Plaintiffs and the North Carolina Consumer Sub-Class did not receive the benefit of their bargain as a result of Defendants' misconduct.

791. Defendants' violations present a continuing risk to Plaintiffs, the North Carolina Consumer Sub-Class, and the general public. Defendants' unlawful acts and practices complained of herein affect the public interest.

792. As a direct and proximate result of Defendants' violations of the North Carolina UDTPA, Plaintiffs and the North Carolina Consumer Sub-Class have suffered injury-in-fact and/or actual damage.

793. Plaintiffs and the North Carolina Consumer Sub-Class seek punitive damages against Defendants because Defendants' conduct was malicious, willful, reckless, wanton, fraudulent, and in bad faith.

794. Defendants fraudulently and willfully misrepresented the safety and reliability of the Class Vehicles and/or the Defective Airbags installed in them, deceived Plaintiffs and the North Carolina Consumer Sub-Class on life-or-death matters and concealed material facts that only Defendants knew, all to avoid the expense and public relations nightmare of correcting the myriad flaws in the Class Vehicles and/or the Defective Airbags installed in them. Because Defendants' conduct was malicious, willful, reckless, wanton, fraudulent, and in bad faith, it warrants punitive damages.

795. Plaintiffs and the North Carolina Sub-Class seek an order for treble their actual damages, an order enjoining Defendants' unlawful acts and awarding costs of Court, attorneys' fees, and any other just and proper relief available under the North Carolina UDTPA, N.C. Gen. Stat. § 75-16.

R. Claims Brought on Behalf of the Ohio Consumer Sub-Class

COUNT 40

[Dismissed]

S. Claims Brought on Behalf of the Oregon Consumer Sub-Class

COUNT 41

Violation of the Oregon Unlawful Trade Practices Act, Or. Rev. Stat. §§ 646.605, *et seq.*

796. This claim is brought only on behalf of the Oregon Consumer Sub-Class against Mercedes.

797. Plaintiffs, the Oregon Consumer Sub-Class, and Defendants are persons within the meaning of Or. Rev. Stat. § 646.605(4).

798. The Oregon Unfair Trade Practices Act ("Oregon UTPA") prohibits a person from, in the course of the person's business, doing any of the following: (e) "[r]epresent[ing] that . . . goods . . . have . . . characteristics . . . uses, benefits, . . .or qualities that the . . . goods . . . do not have . . .;" (g) "[r]epresent[ing] that . . . goods . . . are of a particular standard [or] quality . . .if the . . . goods . . . are of another;" (i) "[a]dvertis[ing] . . . goods or services with intent not to provide . . . the goods . . . as advertised . . . ;" and (u) "engag[ing] in any other unfair or deceptive conduct in trade or commerce." Or. Rev. Stat. § 646.608(1).

799. Defendants engaged in unlawful trade practices, including representing that the Class Vehicles and/or the Defective Airbags installed in them have characteristics, uses, benefits, and qualities which they do not have; representing that they are of a particular standard and quality when they are not; advertising them with the intent not to sell or lease them as advertised; and engaging in other unfair or deceptive acts.

800. Defendants also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Class Vehicles and/or the Defective Airbags installed in them.

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

802. As alleged above, Defendants have known of the Inflator Defect in the Defective Airbags since at least the early 2000s, including through inflator development, testing incidents, and public recalls. Prior to installing the Defective Airbags in their vehicles, Defendants knew or should have known of the Inflator Defect, because Takata informed them that the Defective Airbags contained the volatile and unstable ammonium nitrate and Defendants approved Takata's designs. And Defendants were again made aware of the Inflator Defect in Takata's airbags not later than 2008, when Honda first notified regulators of a problem with its Takata airbags. Defendants failed to disclose and actively concealed the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them.

803. By failing to disclose and by actively concealing the Inflator Defect in the Class Vehicles and/or the Defective Airbags installed in them, by marketing them as safe, reliable, and of high quality, and by presenting themselves as reputable manufacturers that value safety, Defendants engaged in unfair or deceptive business practices in violation of the Oregon UTPA. Defendants deliberately withheld the information about the propensity of the Defective Airbags to aggressively deploy and/or violently explode and spray vehicle occupants with lethal amounts of metal debris and shrapnel, instead of protecting vehicle occupants from bodily injury during accidents, in order to ensure that consumers would purchase the Class Vehicles.

804. In the course of Defendants' business, they willfully failed to disclose and actively concealed the dangerous risks posed by the many safety issues and serious defect discussed above. Defendants compounded the deception by repeatedly asserting that the Class Vehicles and/or the Defective Airbags installed in them were safe, reliable, and of high quality, and by claiming to be reputable manufacturers that value safety.

805. Defendants' unfair or deceptive acts or practices, including these concealments, omissions, and suppressions of material facts, had a tendency or capacity to mislead and create a false impression in consumers, and were likely to and did in fact deceive reasonable consumers,

including Plaintiffs, about the true safety and reliability of Class Vehicles and/or the Defective Airbags installed in them, the quality of Defendants' brands, and the true value of the Class Vehicles.

806. Defendants intentionally and knowingly misrepresented material facts regarding the Class Vehicles and/or the Defective Airbags installed in them with an intent to mislead Plaintiffs and the Oregon Consumer Sub-Class.

807. Defendants knew or should have known that their conduct violated the Oregon UTPA.

808. As alleged above, Defendants made material statements about the safety and reliability of the Class Vehicles and/or the Defective Airbags installed in them that were either false or misleading. Defendants' representations, omissions, statements, and commentary have included selling and marketing the Class Vehicles as safe and reliable, despite their knowledge of the Inflator Defect or their failure to reasonably investigate it.

809. To protect their profits and to avoid remediation costs and a public relations nightmare, Defendants concealed the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them and their tragic consequences, and allowed unsuspecting new and used car purchasers to continue to buy/lease the Class Vehicles, and allowed them to continue driving highly dangerous vehicles.

810. Defendants owed Plaintiffs and the Oregon Consumer Sub-Class a duty to disclose the true safety and reliability of the Class Vehicles and/or the Defective Airbags installed in them because Defendants:

a. Possessed exclusive knowledge of the dangers and risks posed by the foregoing;

b. Intentionally concealed the foregoing from Plaintiffs and the Oregon Consumer Sub-Class; and/or

c. Made incomplete representations about the safety and reliability of the foregoing generally, while purposefully withholding material facts from

Plaintiffs and the Oregon Consumer Sub-Class that contradicted these representations.

811. Because Defendants fraudulently concealed the Inflator Defect in Class Vehicles and/or the Defective Airbags installed in them, resulting in a raft of negative publicity once the Inflator Defect finally began to be disclosed, the value of the Class Vehicles has greatly diminished. In light of the stigma attached to Class Vehicles by Defendants' conduct, they are now worth significantly less than they otherwise would be.

812. Defendants' failure to disclose and active concealment of the dangers and risks posed by the Defective Airbags in Class Vehicles were material to Plaintiffs and the Oregon Consumer Sub-Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

813. Plaintiffs and the Oregon Consumer Sub-Class suffered ascertainable loss caused by Defendants' misrepresentations and their failure to disclose material information. Had they been aware of the Inflator Defect that existed in the Class Vehicles and/or the Defective Airbags installed in them, and Defendants' complete disregard for safety, Plaintiffs and the Oregon Consumer Sub-Class either would not have paid as much for their vehicles or would not have purchased or leased them at all. Plaintiffs and the Oregon Consumer Sub-Class did not receive the benefit of their bargain as a result of Defendants' misconduct.

814. Defendants' violations present a continuing risk to Plaintiffs, the Oregon Consumer Sub-Class, and the general public. Defendants' unlawful acts and practices complained of herein affect the public interest.

815. As a direct and proximate result of Defendants' violations of the Oregon UTPA, Plaintiffs and the Oregon Consumer Sub-Class have suffered injury-in-fact and/or actual damage.

816. Plaintiffs and the Oregon Consumer Sub-Class are entitled to recover the greater of actual damages or $200 pursuant to Or. Rev. Stat. § 646.638(1). Plaintiffs and the Oregon

Consumer Sub-Class are also entitled to punitive damages because Defendants engaged in conduct amounting to a particularly aggravated, deliberate disregard of the rights of others.

T. Claims Brought on Behalf of the Pennsylvania Consumer Sub-Class

COUNT 42

Breach of the Implied Warranty of Merchantability
13 Pa. Stat. and Cons. Stat. Ann. § 2314

817. In the event the Court declines to certify a Nationwide Consumer Class under the Magnuson-Moss Warranty Act, this claim is brought only on behalf of the Pennsylvania Consumer Sub-Class against VW AG, VW America and Mercedes.

818. Defendants are and were at all relevant times merchants with respect to motor vehicles and/or airbags within the meaning of 13 Pa. Stat. and Cons. Stat. Ann. § 2104.

819. A warranty that the Class Vehicles and/or the Defective Airbags installed in them were in merchantable condition was implied by law in Class Vehicle transactions, pursuant to 13 Pa. Stat. and Cons. Stat. Ann. § 2314.

820. The Class Vehicles and/or the Defective Airbags installed in them, when sold and at all times thereafter, were not merchantable and are not fit for the ordinary purpose for which cars and airbags are used. Specifically, they are inherently defective and dangerous in that the Defective Airbags: (a) rupture and expel metal shrapnel that tears through the airbag and poses a threat of serious injury or death to occupants; and/or (b) hyper-aggressively deploy and seriously injure occupants through contact with the airbag, instead of protecting vehicle occupants from bodily injury during accidents.

821. Defendants were provided notice of these issues by their knowledge of the issues, by customer complaints, by numerous complaints filed against them and/or others, by internal investigations, and by numerous individual letters and communications sent by consumers before or within a reasonable amount of time after Honda issued the recalls and the allegations of the Inflator Defect became public.

822. As a direct and proximate result of Defendants' breach of the warranties of merchantability, Plaintiffs and the Pennsylvania Consumer Sub-Class have been damaged in an amount to be proven at trial.

COUNT 43

[Dismissed]

U. Claims Brought on Behalf of the Rhode Island Consumer Sub-Class

COUNT 44

Breach of the Implied Warranty of Merchantability
R.I. Gen. Laws Ann. § 6A-2-314

823. In the event the Court declines to certify a Nationwide Class under the Magnuson-Moss Warranty Act, this claim is brought only on behalf of the Rhode Island Consumer Sub-Class against Mercedes.

824. Defendants are and were at all relevant times merchants with respect to motor vehicles and/or airbags within the meaning of R.I. Gen. Laws Ann. § 6A-2-314.

825. A warranty that the Class Vehicles and/or the Defective Airbags installed in them were in merchantable condition was implied by law in Class Vehicle transactions, pursuant to R.I. Gen. Laws Ann. § 6A-2-314.

826. The Class Vehicles and/or the Defective Airbags installed in them, when sold and at all times thereafter, were not merchantable and are not fit for the ordinary purpose for which cars and airbags are used. Specifically, they are inherently defective and dangerous in that the Defective Airbags aggressively deploy and/or violently explode and spray vehicle occupants with lethal amounts of metal debris and shrapnel, instead of protecting vehicle occupants from bodily injury during accidents.

827. Defendants were provided notice of these issues by their knowledge of the issues, by customer complaints, by numerous complaints filed against them and/or others, by internal investigations, and by numerous individual letters and communications sent by consumers before

or within a reasonable amount of time after Honda issued the recalls and the allegations of the Inflator Defect became public.

828. As a direct and proximate result of Defendants' breach of the warranties of merchantability, Plaintiffs and the Rhode Island Consumer Sub-Class have been damaged in an amount to be proven at trial.

COUNT 45

Violation of the Rhode Island Unfair Trade Practices and Consumer Protection Act R.I. Gen. Laws Ann. § 16-13.1, *et seq.*

829. This claim is brought only on behalf of the Rhode Island Consumer Sub-Class against Mercedes.

830. Plaintiffs and the Rhode Island Consumer Sub-Class are persons who purchased or leased one or more Class Vehicles with Defective Airbags installed in them primarily for personal, family, or household purposes within the meaning of R.I. Gen. Laws Ann. § 6-13.1-5.2(a).

831. Rhode Island's Unfair Trade Practices and Consumer Protection Act ("Rhode Island CPA") prohibits "unfair or deceptive acts or practices in the conduct of any trade or commerce" including: (v) "[r]epresenting that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that they do not have . . .;" (vii) "[r]epresenting that goods or services are of a particular standard, quality, or grade . . . , if they are of another"; (ix) "[a]dvertising goods or services with intent not to sell them as advertised;" (xii) "[e]ngaging in any other conduct that similarly creates a likelihood of confusion or of misunderstanding;" (xiii) "[e]ngaging in any act or practice that is unfair or deceptive to the consumer;" and (xiv) "[u]sing any other methods, acts, or practices that mislead or deceive members of the public in a material respect." R.I. Gen. Laws Ann. § 6-13.1-1(6).

832. Defendants engaged in unlawful trade practices, including: (1) representing that the Class Vehicles have characteristics, uses, benefits, and qualities which they do not have; (2) representing that the Class Vehicles are of a particular standard and quality when they are not; (3)

advertising the Class Vehicles with the intent not to sell or lease them as advertised; and (4) otherwise engaging in conduct that is unfair or deceptive and likely to deceive.

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

834. In the course of their business, Defendants failed to disclose and actively concealed the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them as described herein and otherwise engaged in activities with a tendency or capacity to deceive. Defendants also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the Class Vehicles and/or the Defective Airbags installed in them.

835. As alleged above, Defendants have known of the Inflator Defect in the Defective Airbags since at least the early 2000s, including through inflator development, testing incidents, and public recalls. Prior to installing the Defective Airbags in their vehicles, Defendants knew or should have known of the Inflator Defect, because Takata informed them that the Defective Airbags contained the volatile and unstable ammonium nitrate and Defendants approved Takata's designs. And Defendants were again made aware of the Inflator Defect in Takata's airbags not later than 2008, when Honda first notified regulators of a problem with its Takata airbags. Defendants failed to disclose and actively concealed the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them.

836. By failing to disclose and by actively concealing the Inflator Defect in the Class Vehicles and/or the Defective Airbags installed in them, by marketing them as safe, reliable, and of high quality, and by presenting themselves as reputable manufacturers that value safety, Defendants engaged in unfair or deceptive business practices in violation of the Rhode Island CPA. Defendants deliberately withheld the information about the propensity of the Defective Airbags violently exploding and/or expelling vehicle occupants with lethal amounts of metal debris and

shrapnel, instead of protecting vehicle occupants from bodily injury during accidents, in order to ensure that consumers would purchase the Class Vehicles.

837. In the course of Defendants' business, they willfully failed to disclose and actively concealed the dangerous risks posed by the Inflator Defect discussed above. Defendants compounded the deception by repeatedly asserting that the Class Vehicles and/or the Defective Airbags installed in them were safe, reliable, and of high quality, and by claiming to be reputable manufacturers that value safety.

838. Defendants' unfair or deceptive acts or practices, including these concealments, omissions, and suppressions of material facts, had a tendency or capacity to mislead and create a false impression in consumers, and were likely to and did in fact deceive reasonable consumers, including Plaintiffs, about the true safety and reliability of Class Vehicles and/or the Defective Airbags installed in them, the quality of Defendants' brands, and the true value of the Class Vehicles.

839. Defendants intentionally and knowingly misrepresented material facts regarding the Class Vehicles and/or the Defective Airbags installed in them with an intent to mislead Plaintiffs and the Rhode Island Sub-Class.

840. Defendants knew or should have known that their conduct violated the Rhode Island CPA.

841. As alleged above, Defendants made material statements about the safety and reliability of the Class Vehicles and/or the Defective Airbags installed in them that were either false or misleading. Defendants' representations, omissions, statements, and commentary have included selling and marketing the Class Vehicles as safe and reliable, despite their knowledge of the Inflator Defect or their failure to reasonably investigate it.

842. To protect their profits and to avoid remediation costs and a public relations nightmare, Defendants concealed the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them and their tragic consequences, and allowed unsuspecting new and used car purchasers to continue to buy/lease the Class Vehicles, and allowed them to continue

driving highly dangerous vehicles. Defendants owed Plaintiffs and the Rhode Island Consumer Sub-Class a duty to disclose the true safety and reliability of the Class Vehicles and/or the Defective Airbags installed in them because Defendants:

a. Possessed exclusive knowledge of the dangers and risks posed by the foregoing;

b. Intentionally concealed the foregoing from Plaintiffs and the Rhode Island Consumer Sub-Class; and/or

c. Made incomplete representations about the safety and reliability of the foregoing generally, while purposefully withholding material facts from Plaintiffs and the Rhode Island Consumer Sub-Class that contradicted these representations.

843. Because Defendants fraudulently concealed the Inflator Defect in Class Vehicles and/or the Defective Airbags installed in them, resulting in a raft of negative publicity once the Inflator Defect finally began to be disclosed, the value of the Class Vehicles has greatly diminished. In light of the stigma attached to Class Vehicles by Defendants' conduct, they are now worth significantly less than they otherwise would be.

844. Defendants' failure to disclose and active concealment of the dangers and risks posed by the Defective Airbags in Class Vehicles were material to Plaintiffs and the Rhode Island Consumer Sub-Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

845. Plaintiffs and the Rhode Island Consumer Sub-Class suffered ascertainable loss caused by Defendants' misrepresentations and their failure to disclose material information. Had they been aware of the Inflator Defect that existed in the Class Vehicles and/or the Defective Airbags installed in them, and Defendants' complete disregard for safety, Plaintiffs either would not have paid as much for their vehicles or would not have purchased or leased them at all.

Plaintiffs and the Rhode Island Consumer Sub-Class did not receive the benefit of their bargain as a result of Defendants' misconduct.

846. Defendants' violations present a continuing risk to Plaintiffs, the Rhode Island Sub-Class, and the general public. Defendants' unlawful acts and practices complained of herein affect the public interest.

847. As a direct and proximate result of Defendants' violations of the Rhode Island CPA, Plaintiffs and the Rhode Island Consumer Sub-Class have suffered injury-in-fact and/or actual damage.

848. Plaintiffs and the Rhode Island Consumer Sub-Class are entitled to recover the greater of actual damages or $200 pursuant to R.I. Gen. Laws Ann. § 6-13.1-5.2(a). Plaintiffs and the Rhode Island Consumer Sub-Class also seek punitive damages in the discretion of the Court because of Defendants' egregious disregard of consumer and public safety and their long-running concealment of the serious Inflator Defect and its tragic consequences.

V. Claims Brought on Behalf of the South Carolina Consumer Sub-Class

COUNT 46

[Dismissed]

COUNT 47

[Dismissed]

COUNT 48

[Dismissed]

W. Claims Brought on Behalf of the Tennessee Consumer Sub-Class

COUNT 49

[Dismissed]

X. Claims Brought on Behalf of the Texas Consumer Sub-Class

COUNT 50

Breach of the Implied Warranty of Merchantability
Tex. Bus. & Com. Code Ann. § 2.314

849. In the event the Court declines to certify a Nationwide Consumer Class under the Magnuson-Moss Warranty Act, this claim is brought only on behalf of the Texas Consumer Sub-Class against Volkswagen and Mercedes.

850. Defendants are and were at all relevant times merchants with respect to motor vehicles and/or airbags within the meaning of Tex. Bus. & Com. Code Ann. § 2.104.

851. A warranty that the Class Vehicles and/or the Defective Airbags installed in them were in merchantable condition was implied by law in Class Vehicle transactions, pursuant to Tex. Bus. & Com. Code Ann. § 2.314.

852. The Class Vehicles and/or the Defective Airbags installed in them, when sold and at all times thereafter, were not merchantable and are not fit for the ordinary purpose for which

cars and airbags are used. Specifically, they are inherently defective and dangerous in that the Defective Airbags: (a) rupture and expel metal shrapnel that tears through the airbag and poses a threat of serious injury or death to occupants; and/or (b) hyper-aggressively deploy and seriously injure occupants through contact with the airbag, instead of protecting vehicle occupants from bodily injury during accidents.

853. Defendants were provided notice of these issues by their knowledge of the issues, by customer complaints, by numerous complaints filed against them and/or others, by internal investigations, and by numerous individual letters and communications sent by consumers before or within a reasonable amount of time after Honda issued the recalls and the allegations of the Inflator Defect became public.

854. As a direct and proximate result of Defendants' breach of the warranties of merchantability, Plaintiffs and the Texas Consumer Sub-Class have been damaged in an amount to be proven at trial.

COUNT 51

Violation of the Deceptive Trade Practices Act, Tex. Bus. & Com. Code Ann. §§ 17.41, *et seq.*

855. This claim is brought only on behalf of the Texas Consumer Sub-Class against Volkswagen and Mercedes.

856. Plaintiffs and the Texas Consumer Sub-Class are individuals, partnerships and corporations with assets of less than $25 million (or are controlled by corporations or entities with less than $25 million in assets). *See* Tex. Bus. & Com. Code Ann. § 17.41.

857. The Texas Deceptive Trade Practices-Consumer Protection Act ("Texas DTPA") prohibits "[f]alse, misleading, or deceptive acts or practices in the conduct of any trade or commerce," Tex. Bus. & Com. Code § 17.46(a), and an "unconscionable action or course of action," which means "an act or practice which, to a consumer's detriment, takes advantage of the lack of knowledge, ability, experience, or capacity of the consumer to a grossly unfair degree," Tex. Bus. & Com. Code Ann. § 17.45(5); Tex. Bus. & Com. Code Ann. § 17.50(a)(3). Defendants

have committed false, misleading, unconscionable, and deceptive acts or practices in the conduct of trade or commerce.

858. Defendants also violated the Texas DTPA by: (1) representing that the Class Vehicles and/or the Defective Airbags installed in them have characteristics, uses, benefits, and qualities which they do not have; (2) representing that they are of a particular standard, quality, and grade when they are not; (3) advertising them with the intent not to sell or lease them as advertised; and (4) failing to disclose information concerning them with the intent to induce consumers to purchase or lease them.

859. In the course of their business, Defendants failed to disclose and actively concealed the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them as described herein and otherwise engaged in activities with a tendency or capacity to deceive.

860. Defendants also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Class Vehicles and/or the Defective Airbags installed in them.

861. As alleged above, Defendants have known of the Inflator Defect in the Defective Airbags since at least the early 2000s, including through inflator development, testing incidents, and public recalls. Prior to installing the Defective Airbags in their vehicles, Defendants knew or should have known of the Inflator Defect, because Takata informed them that the Defective Airbags contained the volatile and unstable ammonium nitrate and Defendants approved Takata's designs. And Defendants were again made aware of the Inflator Defect in Takata's airbags not later than 2008, when Honda first notified regulators of a problem with its Takata airbags. Defendants failed to disclose and actively concealed the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them.

862. By failing to disclose and by actively concealing the Inflator Defect in the Class Vehicles and/or the Defective Airbags installed in them, by marketing them as safe, reliable, and of high quality, and by presenting themselves as reputable manufacturers that value safety,

Defendants engaged in unfair or deceptive business practices in violation of the Texas DTPA. Defendants deliberately withheld the information about the propensity of the Defective Airbags violently exploding and/or expelling vehicle occupants with lethal amounts of metal debris and shrapnel, instead of protecting vehicle occupants from bodily injury during accidents, in order to ensure that consumers would purchase the Class Vehicles.

863. In the course of Defendants' business, they willfully failed to disclose and actively concealed the dangerous risks posed by the many safety issues and serious defect discussed above. Defendants compounded the deception by repeatedly asserting that the Class Vehicles and/or the Defective Airbags installed in them were safe, reliable, and of high quality, and by claiming to be reputable manufacturers that value safety.

864. Defendants' unfair or deceptive acts or practices, including these concealments, omissions, and suppressions of material facts, had a tendency or capacity to mislead and create a false impression in consumers, and were likely to and did in fact deceive reasonable consumers, including Plaintiffs and the Texas Consumer Sub-Class, about the true safety and reliability of Class Vehicles and/or the Defective Airbags installed in them, the quality of Defendants' brands, and the true value of the Class Vehicles.

865. Defendants intentionally and knowingly misrepresented material facts regarding the Class Vehicles and/or the Defective Airbags installed in them with an intent to mislead Plaintiffs and the Texas Consumer Sub-Class.

866. Defendants knew or should have known that their conduct violated the Texas DTPA.

867. As alleged above, Defendants made material statements about the safety and reliability of the Class Vehicles and/or the Defective Airbags installed in them that were either false or misleading. Defendants' representations, omissions, statements, and commentary have included selling and marketing the Class Vehicles as safe and reliable, despite their knowledge of the Inflator Defect or their failure to reasonably investigate it.

868. To protect their profits and to avoid remediation costs and a public relations nightmare, Defendants concealed the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them and their tragic consequences, and allowed unsuspecting new and used car purchasers to continue to buy/lease the Class Vehicles, and allowed them to continue driving highly dangerous vehicles.

869. Defendants owed Plaintiffs and the Texas Consumer Sub-Class a duty to disclose the true safety and reliability of the Class Vehicles and/or the Defective Airbags installed in them because Defendants:

a. Possessed exclusive knowledge of the dangers and risks posed by the foregoing;

b. Intentionally concealed the foregoing from Plaintiffs and the Texas Consumer Sub-Class; and/or

c. Made incomplete representations about the safety and reliability of the foregoing generally, while purposefully withholding material facts from Plaintiffs and the Texas Consumer Sub-Class that contradicted these representations.

870. Because Defendants fraudulently concealed the Inflator Defect in Class Vehicles and/or the Defective Airbags installed in them, resulting in a raft of negative publicity once the Inflator Defect finally began to be disclosed, the value of the Class Vehicles has greatly diminished. In light of the stigma attached to Class Vehicles by Defendants' conduct, they are now worth significantly less than they otherwise would be.

871. Defendants' failure to disclose and active concealment of the dangers and risks posed by the Defective Airbags in Class Vehicles were material to Plaintiffs and the Texas Consumer Sub-Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

872. Plaintiffs and the Texas Consumer Sub-Class suffered ascertainable loss caused by Defendants' misrepresentations and their failure to disclose material information. Had they been aware of the Inflator Defect that existed in the Class Vehicles and/or the Defective Airbags installed in them, and Defendants' complete disregard for safety, Plaintiffs and the Texas Consumer Sub-Class either would not have paid as much for their vehicles or would not have purchased or leased them at all. Plaintiffs and the Texas Consumer Sub-Class did not receive the benefit of their bargain as a result of Defendants' misconduct.

873. Defendants' violations present a continuing risk to Plaintiffs, the Texas Sub-Class, and the general public. Defendants' unlawful acts and practices complained of herein affect the public interest.

874. As a direct and proximate result of Defendants' violations of the Texas DTPA, Plaintiffs and the Texas Consumer Sub-Class have suffered injury-in-fact and/or actual damage.

875. Pursuant to Tex. Bus. & Com. Code Ann. § 17.50(a)(1) and (b), Plaintiffs and the Texas Consumer Sub-Class seek monetary relief against Defendants measured as actual damages in an amount to be determined at trial, treble damages for Defendants' knowing violations of the Texas DTPA, and any other just and proper relief available under the Texas DTPA.

876. For those Plaintiffs and the Texas Consumer Sub-Class members who wish to rescind their purchases, they are entitled under Tex. Bus. & Com. Code Ann. § 17.50(b)(4) to rescission and other relief necessary to restore any money or property that was acquired from them based on violations of the Texas DTPA.

877. Plaintiffs and the Texas Consumer Sub-Class also seek court costs and attorneys' fees under § 17.50(d) of the Texas DTPA.

878. In accordance with Tex. Bus. & Com. Code Ann. § 17.505(a), Plaintiffs' counsel, on behalf of Plaintiffs and the Texas Consumer Sub-Class, served Defendants with notice of their alleged violations of the Texas DTPA relating to the Class Vehicles and/or the Defective Airbags installed in them purchased by Plaintiffs and the Texas Consumer Sub-Class, and demanded that Defendants correct or agree to correct the actions described therein. As Defendants failed to do so,

Plaintiffs seek compensatory and monetary damages to which Plaintiffs and the Texas Consumer Sub-Class are entitled.

Y. Claims Brought on Behalf of the Virginia Consumer Sub-Class

COUNT 52

Violation of the Virginia Consumer Protection Act
Va. Code Ann. §§ 59.1-196, *et seq.*

879. This claim is brought on behalf of the Virginia Consumer Sub-Class against Audi.

880. Audi is a "supplier" under Va. Code Ann. § 59.1-198.

881. The sale of the Class Vehicles with the Defective Airbags installed in them to the Class members was a "consumer transaction" within the meaning of Va. Code Ann. § 59.1-198.

882. The Virginia Consumer Protection Act ("Virginia CPA") lists prohibited "practices," which include: "5. Misrepresenting that good or services have certain characteristics;" "6. Misrepresenting that goods or services are of a particular standard, quality, grade style, or model;" "8. Advertising goods or services with intent not to sell them as advertised, or with intent not to sell at the price or upon the terms advertised;" "9. Making false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions;" and "14. Using any other deception, fraud, or misrepresentation in connection with a consumer transaction." Va. Code Ann. § 59.1-200.

883. Audi violated the Virginia CPA by misrepresenting that the Class Vehicles and/or the Defective Airbags installed in them had certain quantities, characteristics, ingredients, uses, or benefits; misrepresenting that they were of a particular standard, quality, grade, style, or model when they were another; advertising them with intent not to sell or lease them as advertised; and otherwise "using any other deception, fraud, false pretense, false promise, or misrepresentation in connection with a consumer transaction."

884. In the course of its business, Audi failed to disclose and actively concealed the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them as described herein and otherwise engaged in activities with a tendency or capacity to deceive. Audi also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Class Vehicles and/or the Defective Airbags installed in them.

885. Prior to installing the Defective Airbags in its vehicles, Audi knew or should have known of the Inflator Defect, because Takata informed Audi that the Defective Airbags contained the volatile and unstable ammonium nitrate and Audi approved Takata's designs. And Audi was again made aware of the Inflator Defect in Takata's airbags not later than 2008, when Honda first notified regulators of a problem with its Takata airbags. Audi failed to disclose and actively concealed the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them.

886. By failing to disclose and by actively concealing the Inflator Defect in the Class Vehicles and/or the Defective Airbags installed in them, by marketing them as safe, reliable, and of high quality, and by presenting itself as a reputable manufacturer that values safety, Audi engaged in unfair or deceptive business practices in violation of the Virginia CPA. Audi deliberately withheld the information about the propensity of the Defective Airbags to aggressively deploy and/or violently explode and spray vehicle occupants with lethal amounts of metal debris and shrapnel, instead of protecting vehicle occupants from bodily injury during accidents, in order to ensure that consumers would purchase the Class Vehicles.

887. In the course of Audi's business, it willfully failed to disclose and actively concealed the dangerous risks posed by the many safety issues and serious defect discussed above. Audi compounded the deception by repeatedly asserting that the Class Vehicles and/or the Defective Airbags installed in them were safe, reliable, and of high quality, and by claiming to be a reputable manufacturer that values safety.

888. Audi's unfair or deceptive acts or practices, including these concealments, omissions, and suppressions of material facts, had a tendency or capacity to mislead and create a false impression in consumers, and were likely to and did in fact deceive reasonable consumers, including Plaintiffs, about the true safety and reliability of Class Vehicles and/or the Defective Airbags installed in them, the quality of Audi's brands, and the true value of the Class Vehicles.

889. Audi intentionally and knowingly misrepresented material facts regarding the Class Vehicles and/or the Defective Airbags installed in them with an intent to mislead Plaintiffs and the Virginia Sub-Class.

890. Audi knew or should have known that its conduct violated the Virginia CPA.

891. As alleged above, Audi made material statements about the safety and reliability of the Class Vehicles and/or the Defective Airbags installed in them that were either false or misleading. Audi's representations, omissions, statements, and commentary have included selling and marketing the Class Vehicles as "safe" and "reliable," despite its knowledge of the Inflator Defect or its failure to reasonably investigate it.

892. To protect its profits and to avoid remediation costs and a public relations nightmare, Audi concealed the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them and their tragic consequences, and allowed unsuspecting new and used

car purchasers to continue to buy/lease the Class Vehicles, and allowed them to continue driving highly dangerous vehicles.

893. Audi owed Plaintiffs a duty to disclose the true safety and reliability of the Class Vehicles and/or the Defective Airbags installed in them because Audi:

a. Possessed exclusive knowledge of the dangers and risks posed by the foregoing;

b. Intentionally concealed the foregoing from Plaintiffs; and/or

c. Made incomplete representations about the safety and reliability of the foregoing generally, while purposefully withholding material facts from Plaintiffs that contradicted these representations.

894. Because Audi fraudulently concealed the Inflator Defect in Class Vehicles and/or the Defective Airbags installed in them, resulting in a raft of negative publicity once the Inflator Defect finally began to be disclosed, the value of the Class Vehicles has greatly diminished. In light of the stigma attached to Class Vehicles by Audi's conduct, they are now worth significantly less than they otherwise would be.

895. Audi's failure to disclose and active concealment of the dangers and risks posed by the Defective Airbags in Class Vehicles were material to Plaintiffs and the Virginia Sub-Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

896. Plaintiffs and the Virginia Sub-Class suffered ascertainable loss caused by Audi's misrepresentations and its failure to disclose material information. Had they been aware of the Inflator Defect that existed in the Class Vehicles and/or the Defective Airbags installed in them,

and Audi's complete disregard for safety, Plaintiffs either would not have paid as much for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of Audi's misconduct.

897. Audi's violations present a continuing risk to Plaintiffs, the Virginia Sub-Class, as well as to the general public. Audi's unlawful acts and practices complained of herein affect the public interest.

898. As a direct and proximate result of Audi's violations of the Virginia CPA, Plaintiffs and the Virginia Sub-Class have suffered injury-in-fact and/or actual damage.

899. Pursuant to Va. Code Ann. § 59.1-204, Plaintiffs and the Virginia Sub-Class seek monetary relief against Audi measured as the greater of (a) actual damages in an amount to be determined at trial and (b) statutory damages in the amount of $500 for each Plaintiff and each Virginia Sub-Class member. Because Audi's conduct was committed willfully and knowingly, Plaintiffs are entitled to recover, for each Plaintiff and each Virginia Sub-Class member, the greater of (a) three times actual damages or (b) $1,000.

900. Plaintiffs also seek an order enjoining Audi's unfair and/or deceptive acts or practices, punitive damages, and attorneys' fees, and any other just and proper relief available under General Business Law § 59.1-204, *et seq.*

COUNT 53

Breach of the Implied Warranty of Merchantability
Va. Code Ann. § 8.2-314

901. In the event the Court declines to certify a Nationwide Consumer Class under the Magnuson-Moss Warranty Act, this claim is brought on behalf of the Virginia Consumer Sub-Class against Audi.

902. Audi is and was at all relevant times a merchant with respect to motor vehicles and/or airbags within the meaning of Va. Code Ann. § 8.2-314.

903. A warranty that the Class Vehicles and/or the Defective Airbags installed in them were in merchantable condition was implied by law in Class Vehicle transactions, pursuant to Va. Code Ann. § 8.2-314.

904. The Class Vehicles and/or the Defective Airbags installed in them, when sold and at all times thereafter, were not merchantable and are not fit for the ordinary purpose for which cars and airbags are used. Specifically, they are inherently defective and dangerous in that the Defective Airbags: (a) rupture and expel metal shrapnel that tears through the airbag and poses a threat of serious injury or death to occupants; and/or (b) hyper-aggressively deploy and seriously injure occupants through contact with the airbag, instead of protecting vehicle occupants from bodily injury during accidents.

905. Audi was provided notice of these issues by customer complaints, by numerous complaints filed against it and/or others, by internal investigations, and by numerous individual letters and communications sent by consumers before or within a reasonable amount of time after Audi issued the recalls and the allegations of the Inflator Defect became public.

906. As a direct and proximate result of Audi's breach of the warranties of merchantability, Plaintiffs and the Virginia Sub-Class have been damaged in an amount to be proven at trial.

Z. Claims Brought on Behalf of the Washington Consumer Sub-Class

COUNT 54

Violation of the Consumer Protection Act,
Wash. Rev. Code Ann. §§ 19.86.010, *et seq.*

907. This claim is brought only on behalf of the Washington Consumer Sub-Class against Mercedes.

908. Defendants committed the acts complained of herein in the course of "trade" or "commerce" within the meaning of Wash. Rev. Code Ann. § 19.96.010.

909. The Washington Consumer Protection Act ("Washington CPA") broadly prohibits "[u]nfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce." Wash. Rev. Code Ann. § 19.96.010. Defendants engaged in unfair and deceptive acts and practices and violated the Washington CPA by failing to disclose and by actively concealing the Inflator Defect in the Class Vehicles and/or the Defective Airbags installed in them.

910. In the course of their business, Defendants failed to disclose and actively concealed the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them as described herein and otherwise engaged in activities with a tendency or capacity to deceive. Defendants also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Class Vehicles and/or the Defective Airbags installed in them.

911. As alleged above, Defendants have known of the Inflator Defect in the Defective Airbags since at least the early 2000s, including through inflator development, testing incidents, and public recalls. Prior to installing the Defective Airbags in their vehicles, Defendants knew or should have known of the Inflator Defect, because Takata informed them that the Defective Airbags contained the volatile and unstable ammonium nitrate and Defendants approved Takata's designs. And Defendants were again made aware of the Inflator Defect in Takata's airbags not

later than 2008, when Honda first notified regulators of a problem with its Takata airbags. Defendants failed to disclose and actively concealed the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them.

912. By failing to disclose and by actively concealing the Inflator Defect in the Class Vehicles and/or the Defective Airbags installed in them, by marketing them as safe, reliable, and of high quality, and by presenting themselves as reputable manufacturers that value safety, Defendants engaged in unfair or deceptive business practices in violation of the Washington CPA. Defendants deliberately withheld the information about the propensity of the Defective Airbags to aggressively deploy, and/or violently explode and spray vehicle occupants with lethal amounts of metal debris and shrapnel, instead of protecting vehicle occupants from bodily injury during accidents, in order to ensure that consumers would purchase the Class Vehicles.

913. In the course of Defendants' business, they willfully failed to disclose and actively concealed the dangerous risks posed by the many safety issues and serious defect discussed above. Defendants compounded the deception by repeatedly asserting that the Class Vehicles and/or the Defective Airbags installed in them were safe, reliable, and of high quality, and by claiming to be reputable manufacturers that value safety.

914. Defendants' unfair or deceptive acts or practices, including these concealments, omissions, and suppressions of material facts, had a tendency or capacity to mislead and create a false impression in consumers, and were likely to and did in fact deceive reasonable consumers, including Plaintiffs, about the true safety and reliability of Class Vehicles and/or the Defective Airbags installed in them, the quality of Defendants' brands, and the true value of the Class Vehicles.

915. Defendants intentionally and knowingly misrepresented material facts regarding the Class Vehicles and/or the Defective Airbags installed in them with an intent to mislead Plaintiffs and the Washington Consumer Sub-Class.

916. Defendants knew or should have known that their conduct violated the Washington CPA.

917. As alleged above, Defendants made material statements about the safety and reliability of the Class Vehicles and/or the Defective Airbags installed in them that were either false or misleading. Defendants' representations, omissions, statements, and commentary have included selling and marketing the Class Vehicles as safe and reliable, despite their knowledge of the Inflator Defect or their failure to reasonably investigate it.

918. To protect their profits and to avoid remediation costs and a public relations nightmare, Defendants concealed the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them and their tragic consequences, and allowed unsuspecting new and used car purchasers to continue to buy/lease the Class Vehicles, and allowed them to continue driving highly dangerous vehicles.

919. Defendants owed Plaintiffs and the Washington Consumer Sub-Class a duty to disclose the true safety and reliability of the Class Vehicles and/or the Defective Airbags installed in them because Defendants:

a. Possessed exclusive knowledge of the dangers and risks posed by the foregoing;

b. Intentionally concealed the foregoing from Plaintiffs and the Washington Consumer Sub-Class; and/or

c. Made incomplete representations about the safety and reliability of the foregoing generally, while purposefully withholding material facts from Plaintiffs and the Washington Consumer Sub-Class that contradicted these representations.

920. Because Defendants fraudulently concealed the Inflator Defect in Class Vehicles and/or the Defective Airbags installed in them, resulting in a raft of negative publicity once the Inflator Defect finally began to be disclosed, the value of the Class Vehicles has greatly diminished. In light of the stigma attached to Class Vehicles by Defendants' conduct, they are now worth significantly less than they otherwise would be.

921. Defendants' failure to disclose and active concealment of the dangers and risks posed by the Defective Airbags in Class Vehicles were material to Plaintiffs and the Washington Consumer Sub-Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

922. Plaintiffs and the Washington Consumer Sub-Class suffered ascertainable loss caused by Defendants' misrepresentations and their failure to disclose material information. Had they been aware of the Inflator Defect that existed in the Class Vehicles and/or the Defective Airbags installed in them, and Defendants' complete disregard for safety, Plaintiffs and the Washington Consumer Sub-Class either would not have paid as much for their vehicles or would not have purchased or leased them at all. Plaintiffs and the Washington Consumer Sub-Class did not receive the benefit of their bargain as a result of Defendants' misconduct.

923. Defendants' violations present a continuing risk to Plaintiffs, the Washington Consumer Sub-Class, as well as to the general public. Defendants' unlawful acts and practices complained of herein affect the public interest.

924. As a direct and proximate result of Defendants' violations of the Washington Act, Plaintiffs and the Washington Consumer Sub-Class have suffered injury-in-fact and/or actual damage.

925. Defendants are liable to Plaintiffs and the Washington Consumer Sub-Class for damages in amounts to be proven at trial, including attorneys' fees, costs, and treble damages, as well as any other remedies the Court may deem appropriate under Wash. Rev. Code Ann. § 19.86.090.

AA. Claims Brought on Behalf of the Wisconsin Consumer Sub-Class

COUNT 55

Violation of the Wisconsin Deceptive Trade Practices Act, Wisc. Stat. §§ 100.18(1), *et seq.*

926. This claim is brought by Wisconsin Consumer Plaintiffs individually and on behalf of the Wisconsin Consumer Class against VW AG and VW America.

927. Plaintiffs and the Wisconsin Consumer Sub-Class are consumers and members of the general public within the meaning of Wisconsin Deceptive Trade Practices Act ("WDTPA"), Wis. Stat. § 100.18(1).

928. The WDTPA prohibits a seller from making untrue, deceptive, or misleading statements, directly or indirectly, to the public with the intent to sell, distribute, or in any way dispose of merchandise or any other offering, or with intent to induce the public in any manner to enter into any contract or obligation relating to the purchase, sale, use, or lease of any merchandise.

929. Through advertisements, marketing representations, and other public communications, Defendants intended to and did misrepresent to Plaintiffs and the Wisconsin Consumer Sub-Class, at all relevant times, that the Class Vehicles they were selling were safe and defect-free in order to induce Plaintiffs and the Wisconsin Consumer Sub-Class to purchase Class Vehicles.

930. Defendants also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, and misrepresentations with intent that Plaintiffs, the Wisconsin Consumer Sub-Class, and the general public rely upon such deceptive, false, and misleading statements in connection with the sale of the Class Vehicles and/or the Defective Airbags installed in them.

931. Defendants knew or should have known of the Inflator Defect because Takata informed them that the Defective Airbags contained the volatile and unstable ammonium nitrate and Defendants approved the design of the airbags. Defendants were against made aware of the Inflator Defect in the Defective Airbags not later than 2008 when Honda first notified regulators

of a problem with its Takata airbags. Defendants actively concealed the dangers and risks posed by the Class Vehicles and/or the Defective Airbags installed in them.

932. By misrepresenting the Inflator Defect in the Class Vehicles and/or the Defective Airbags installed in them, by marketing the Class Vehicles as safe, reliable, and of high quality, and by presenting themselves as reputable manufacturers that value safety, Defendants engaged in unfair or deceptive business practices in violation of the WDTPA. Defendants knew about the propensity of the Defective Airbags to aggressively deploy and /or violently explode and spray vehicle occupants with lethal amounts of metal debris and shrapnel, instead of protecting vehicle occupants from bodily injury during accidents, in order to ensure that consumers would purchase the Class Vehicles.

933. Defendants' unfair or deceptive acts or practices, including these misrepresentations of material facts, had a tendency or capacity to mislead and create a false impression in consumers, and were likely to and did in fact deceive reasonable consumers, including Plaintiffs and the Wisconsin Consumer Sub-Class, about the true safety, reliability, and quality of Class Vehicles and/or the Defective Airbags installed in them, the quality of Defendants' brand, and the true value of the Class Vehicles.

934. Defendants intentionally and knowingly misrepresented material facts regarding the Class Vehicles and/or the Defective Airbags installed in them with an intent to mislead Plaintiffs and the Wisconsin Consumer Sub-Class.

935. Defendants knew or should have known that their conduct violated the WDTPA.

936. As alleged above, Defendants made material statements about the safety and reliability of the Class Vehicles and/or the Defective Airbags installed in them that were either false or misleading. Defendants' representations, statements, and other commentary have included selling and marketing the Class Vehicles as safe and reliable, despite their knowledge of the Inflator Defect or their failure to reasonably investigate it.

937. To protect their profits and to avoid remediation costs and a public relations nightmare, Defendants continued to misrepresent the dangers and risks posed by the Class

Vehicles and/or the Defective Airbags installed in them and their tragic consequences, and allowed unsuspecting new and used car purchasers to continue to buy or lease the Class Vehicles, and allowed Plaintiffs and the Wisconsin Consumer Sub-Class to continue driving the highly dangerous vehicles and vehicle parts.

938. Defendants owed Plaintiffs and the Wisconsin Consumer Sub-Class a duty to disclose the true safety and reliability of the Class Vehicles and/or the Defective Airbags installed in them because Defendants:

a. Possessed exclusive knowledge of the dangers and risks posed by the foregoing;

b. Intentionally concealed the foregoing from Plaintiffs and the Wisconsin Consumer Sub-Class; and/or

c. Made misleading representations about the safety and reliability of the foregoing generally, despite knowing material facts that contradicted these representations.

939. Because Defendants fraudulently concealed the Inflator Defect in Class Vehicles and/or the Defective Airbags installed in them, resulting in a raft of negative publicity once the Inflator Defect finally began to be disclosed, the value of the Class Vehicles has greatly diminished. In light of the stigma attached to Class Vehicles by Defendants' conduct, they are now worth significantly less than they otherwise would be.

940. Defendants' misrepresentations of the dangers and risks posed by the Defective Airbags in Class Vehicles were material to Plaintiffs and the Wisconsin Consumer Sub-Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

941. Plaintiffs and the Wisconsin Consumer Sub-Class suffered ascertainable pecuniary loss caused by Defendants' misrepresentations. Had they been aware of the Inflator Defect that existed in the Class Vehicles and/or the Defective Airbags installed in them, and Defendants

complete disregard for safety, Plaintiffs and the Wisconsin Consumer Sub-Class either would not have paid as much for their vehicles or would not have purchased them at all. Plaintiffs and the Wisconsin Consumer Sub-Class did not receive the benefit of their bargain as a result of Defendants' misconduct.

942. Plaintiffs and the Wisconsin Consumer Sub-Class risk irreparable injury as a result of Defendants acts and omissions in violation of the WDTPA, and these violations present a continuing risk to Plaintiffs and the Wisconsin Consumer Sub-Class, and the general public. Defendants' unlawful acts and practices complained of herein affect the public interest. The recalls and repairs instituted by Defendants have not been adequate.

943. As a direct and proximate result of Defendants' violations of the WDTPA, Plaintiffs and the Wisconsin Consumer Sub-Class have suffered injury-in-fact and/or actual damage.

944. Plaintiffs and the Wisconsin Consumer Sub-Class are entitled to recover pecuniary damages, costs, and attorneys' fees under Wis. Stat. § 100.18(11)(b)(2).

945. Plaintiffs and the Wisconsin Consumer Sub-Class also seek an order enjoining Defendants' unfair, unlawful, and/or deceptive practices, declaratory relief, and any other just and proper relief available under the WDTPA.

PRAYER FOR RELIEF

Plaintiffs, on behalf of themselves and all others similarly situated, request the Court to enter judgment against Defendants, as follows:

A. An order certifying the proposed Classes, designating Plaintiffs as the named representatives of the Classes, designating the undersigned as Class Counsel, and making such further orders for the protection of Class members as the Court deems appropriate, under Fed. R. Civ. P. 23;

B. A declaration that the airbags in Class Vehicles are defective;

C. An order enjoining Defendants to desist from further deceptive distribution, sales,

and lease practices with respect to the Class Vehicles, and such other injunctive relief that the Court deems just and proper;

D. An award to Plaintiffs and Class Members of compensatory, exemplary, and punitive remedies and damages and statutory penalties, including interest, in an amount to be proven at trial;

E. An award to Plaintiffs and Class Members for the return of the purchase prices of the Class Vehicles, with interest from the time it was paid, for the reimbursement of the reasonable expenses occasioned by the sale, for damages and for reasonable attorney fees;

F. A Defendant-funded program, using transparent, consistent, and reasonable protocols, under which out-of-pocket and loss-of-use expenses and damages claims associated with the Defective Airbags in Plaintiffs' and Class Members' Class Vehicles, can be made and paid, such that Defendants, not the Class Members, absorb the losses and expenses fairly traceable to the recalls of the vehicles and correction of the Defective Airbags;

G. A declaration that Defendants must disgorge, for the benefit of Plaintiff and Class Members, all or part of the ill-gotten profits they received from the sale or lease of the Class Vehicles, or make full restitution to Plaintiffs and Class Members;

H. An award of attorneys' fees and costs, as allowed by law;

I. An award of prejudgment and post judgment interest, as provided by law;

J. Leave to amend this Complaint to conform to the evidence produced at trial; and

K. Such other relief as may be appropriate under the circumstances.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiffs demand a jury trial as to all issues triable by a jury.

DATED: June 26, 2020

PODHURST ORSECK, P.A.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on June 26, 2020, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify the foregoing document is being served this day on all counsel of record via transmission of Notice of Electronic Filing generated by CM/ECF.

By: /s/Peter Prieto
Peter Prieto