

VIRGINIA:

IN THE CIRCUIT COURT OF THE COUNTY OF HENRICO

COMMONWEALTH OF VIRGINIA,)	
EX REL. MARK R. HERRING,)	
ATTORNEY GENERAL,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. _____
)	
FCA US LLC,)	
FIAT CHRYSLER AUTOMOBILES N.V.,)	
V.M. MOTORI S.P.A.,)	
AND V.M. NORTH AMERICA, INC.,)	
)	
Defendants.)	
)	

COMPLAINT

The Plaintiff, Commonwealth of Virginia, by and through its Attorney General, Mark R. Herring, brings this action complaining of FCA US LLC (“FCA”) and Fiat Chrysler Automobiles N.V. (“Fiat N.V.” and, together with FCA, the “Fiat Defendants” or simply “Fiat”); and VM Motori S.p.A. (“VM Italy”) and VM North America, Inc. (“VM America” and, together with VM Italy, the “VM Defendants” or simply “VM”), and states as follows:

I. INTRODUCTION

1. The Commonwealth of Virginia seeks relief for the massive and deliberate deception of consumers and regulators perpetrated by the aforementioned Defendants (collectively “FCA”) in relation to the certification, marketing, and sale to consumers of more than 100,000 model year (“MY”) 2014-2016 “EcoDiesel” Ram 1500 pickup trucks and Jeep Grand Cherokee sport utility

vehicles (the “Diesel Vehicles”¹), including more than 2,000 within the Commonwealth of Virginia (the “Virginia Diesel Vehicles”).

2. Defendants designed, deployed and then concealed from the public and regulators multiple auxiliary emission control devices (“AECs”) in the Diesel Vehicles’ electronic control modules. Those AECs, when used alone or in combination with another device, operated as illegal “defeat devices”: software strategies that optimize emission controls during formal emissions test cycles so that emissions appear to be within legal limits while reducing emission controls outside of those test cycles (“off-cycle”) in normal, real-world operations.²

3. As a result of Defendants’ conduct, in real-world operation, the Diesel Vehicles emit 35 times the legal limits of harmful nitrogen oxides (“NO_x”), a harmful pollutant that causes respiratory illness and premature death and that contributes to the formation of smog and particulate matter pollution, which also cause severe harm to human health.

4. Defendants engaged in this unlawful conduct to: (a) obtain through deceptive means the certification they needed from federal and state regulators to market and sell the Diesel Vehicles in the United States, including within the Commonwealth of Virginia; (b) conceal the fact that the Diesel Vehicles did not comply with applicable state and federal emission standards, subjecting residents of the Commonwealth of Virginia and others to the health risks of added air

¹ The Diesel Vehicles include the following makes and models sold or leased in the United States for the 2014 through 2016 model years:

Model Year	EPA Test Group	Make and Model(s)	50 State Volume
2014	ECRXT03.05PV	FCA Dodge Ram 1500	14,083
2014	ECRXT03.05PV	FCA Jeep Grand Cherokee	14,652
2015	FCRXT03.05PV	FCA Dodge Ram 1500	31,984
2015	FCRXT03.05PV	FCA Jeep Grand Cherokee	8,421
2016	GCRXT03.05PV	FCA Dodge Ram 1500	32,219 (projected)
2016	GCRXT03.05PV	FCA Jeep Grand Cherokee	2,469 (projected)

² See Notices of Violation issued to Fiat and FCA by the U.S. Environmental Protection Agency and the California Air Resources Board on January 12, 2017 and a subsequent May 27, 2017 lawsuit filed by the U.S. Department of Justice on behalf of the EPA.

pollution; and (c) mislead the public into believing that the vehicles, which they branded as “EcoDiesels,” were “clean” and “green” and therefore a good option for purchase by environmentally-conscious consumers.

5. FCA repeatedly highlighted in its consumer marketing that the Diesel Vehicles met emission standards in all 50 states and improved performance and fuel economy, which the vehicles could do only by cheating during formal emissions testing.

6. In light of the consumer fraud wrought by Defendants, the Commonwealth of Virginia seeks imposition of civil penalties, consumer restitution, and such injunctive and other equitable relief as may be determined to be appropriate and equitable to remedy, address, and prevent additional harm from Defendants’ unlawful conduct, together with its reasonable costs of investigation and litigation, including reasonable attorney’s fees, pursuant to the VCPA, Virginia Code §§ 59.1-196 through 59.1-207.

7. Prior to the commencement of this action, the Plaintiff gave the Defendants (a) written notice, through communications by a multistate group of attorneys general, that these proceedings were contemplated, and (b) a reasonable opportunity to demonstrate that no violations of the VCPA had occurred, or, in the alternative, the opportunity to execute an appropriate Assurance of Voluntary Compliance, pursuant to § 59.1-203(B). The Defendants thereafter failed to establish that no violations of the VCPA had occurred, but agreed to execute an acceptable Civil Consent Order and Judgment in lieu of an Assurance of Voluntary Compliance.

II. PARTIES

8. The Plaintiff is the Commonwealth of Virginia appearing by and through its Attorney General, Mark R. Herring.

9. The Attorney General is the chief law enforcement officer of the Commonwealth of Virginia and is authorized to bring this action pursuant to § 59.1-203 of the VCPA.

10. Defendant Fiat N.V. was formed in October of 2014, when Fiat S.p.A. and Fiat Investments N.V. merged. Fiat N.V. is an international automotive group engaged in designing, engineering, manufacturing, distributing and selling new motor vehicles and vehicle components, among other things. Fiat N.V. is organized under the laws of the Netherlands and its principal executive offices are located in London, England. Fiat N.V. owns and controls defendants FCA, VM Italy and VM America.

11. Defendant FCA, formerly known as Chrysler Group LLC, is a Delaware limited liability company, with a principal place of business and headquarters located at 1000 Chrysler Drive, Auburn Hills, Michigan 48326. FCA is incorporated under the laws of the State of Delaware, and is an indirect, wholly-owned subsidiary of Fiat N.V. FCA is registered to do business in Virginia. Fiat N.V.'s predecessor, Fiat S.p.A., began its acquisition of Chrysler Group LLC in 2009 and completed it in January 2014, at which time Chrysler Group LLC became a wholly-owned indirect subsidiary of Fiat N.V. and was renamed FCA.

12. FCA designs, engineers, manufactures, distributes, warrants, sells, and makes available for lease new motor vehicles throughout the United States, including within the Commonwealth of Virginia. In particular, FCA designed, manufactured, imported, distributed, warranted, offered for sale and/or lease, and sold and made available for lease the Diesel Vehicles – the EcoDiesel versions of the Ram 1500 and the Jeep Grand Cherokee – with the knowledge and intent to market and sell them in all 50 states, including through its car dealership agents in the Commonwealth of Virginia.

13. VM Italy is an Italian corporation that, among other things, designs and manufactures diesel-fueled motor vehicle engines. In 2011, defendant Fiat N.V. (known as Fiat S.p.A. at the

time) acquired a 50% ownership interest in VM Italy. In October 2013, VM Italy became an indirect wholly-owned subsidiary of Fiat N.V. VM Italy is an affiliate of FCA. The corporate headquarters of VM Italy is in Cento, Italy. VM Italy communicated regularly with FCA about the Diesel Vehicles.

14. VM America is a Delaware corporation and wholly-owned subsidiary of Fiat N.V., with a principal place of business at 1000 Chrysler Drive, Auburn Hills, Michigan 48326. VM America was created to support VM Italy's North American customers (in particular, FCA, and for a period of time, General Motors).

15. The VM Defendants designed, manufactured, calibrated, and delivered the EcoDiesel engine system for inclusion in the Diesel Vehicles, under the supervision of the Fiat Defendants, knowing and intending that the Diesel Vehicles, along with their engine system, would be marketed, distributed, warranted, sold and leased throughout all 50 states, including in the Commonwealth of Virginia.

16. VM Italy transacts business in the United States. VM Italy employees have been physically present in Auburn Hills, Michigan, while working on engine calibration and air emissions issues related to the Diesel Vehicles. Some VM America employees working in Auburn Hills are also employees of VM Italy. VM Italy employees in Italy communicated regularly about the Diesel Vehicles with the VM America and VM Italy employees located in Auburn Hills.

17. At all relevant times, each of the Defendants worked in concert with the common objective of developing, marketing, selling, and leasing the Diesel Vehicles in the United States, including within the Commonwealth of Virginia, including with the undisclosed AECs and illegal defeat devices described in this Complaint. Each of the Defendants was, and still is, the agent of the others for this purpose, and each has acted, and is acting, for the common goals and

profit of them all. All acts and knowledge ascribed to any one Defendant are properly imputed to the others.

III. JURISDICTION AND VENUE

18. This Court has jurisdiction over the subject matter of this action, personal jurisdiction over the Defendants, and authority to grant the relief requested pursuant to Virginia Code §§ 8.01-620, 17.1-513, 59.1-203, 59.1-205, and 59.1-206.

19. At all relevant times, Defendants have purposefully availed themselves of this forum. Among other things, Fiat N.V. controlled and/or directed its wholly-owned subsidiaries FCA and the VM Defendants in their design, development, certification, marketing, offer, sale, and lease of the Diesel Vehicles within the Commonwealth of Virginia.

20. In addition, FCA transacted business in the Commonwealth of Virginia through dozens of car dealerships, which act as FCA's agents in selling and leasing vehicles, including the Diesel Vehicles, in disseminating marketing messaging and materials and vehicle information to customers. Accordingly, the Court's exercise of jurisdiction over all Defendants is consistent with due process.

21. Venue is preferred in this Court pursuant to Virginia Code § 8.01-261(15)(c) because some or all of the acts to be enjoined are, or were, being done in the County of Henrico. Venue is permissible in this Court pursuant to Virginia Code §§ 8.01-262 (2), (3), and (4) because Defendant FCA US LLC has a registered office in the County of Henrico and has appointed an agent to receive process in the County of Henrico, because all the Defendants regularly conduct substantial business activity in the County of Henrico, and because portions of the cause of action arose in the County of Henrico.

IV. VEHICLE MANUFACTURERS MUST LIMIT HARMFUL NO_x EMISSIONS AND DISCLOSE AECDS TO OBTAIN CERTIFICATION TO MARKET AND SELL THEIR VEHICLES IN THE UNITED STATES.

22. NO_x, a pollutant linked with serious health and environmental dangers, is formed at particularly high rates by combustion of diesel fuel.

23. Because of the serious health and environmental impacts of NO_x emissions, emission standards impose not-to-exceed limits. Vehicle manufacturers must certify to the U.S. Environmental Protection Agency (“EPA”) that their motor vehicles comply with those standards to obtain EPA-issued Certificates of Conformity (“COCs”). The same standards also mandate certain durability requirements for the engine and its components.

24. The federal Clean Air Act permits California to obtain a waiver from the federal government to adopt and enforce its own emission standards for motor vehicles, which must meet or exceed federal standards. Other states may adopt California’s standards. Therefore, to sell vehicles in all fifty states, manufacturers must also certify to the California Air Resources Board (“CARB”) that their vehicles comply with CARB’s NO_x standards to obtain CARB-issued Executive Orders (“EOs”).

25. Of relevance here, the EPA’s Tier 2 Bin 5 emission standard and California’s LEV II emission standard – the standards applicable to the Diesel Vehicles – impose a NO_x emission limit of 0.05 grams per mile (“g/mi”) at a Durability Vehicle Basis of 50,000 miles and 0.07 g/mi at 120,000 miles. In other words, the regulation allows for marginally-increased emissions as the vehicles and their emission control systems age.

26. The EPA also requires vehicles to be equipped with on-board diagnostics (“OBD”) systems that monitor emissions systems for the life of the vehicle and that can detect malfunctions in those emissions control systems and notify the driver when emissions exceed certain designated levels.

A. Federal Law Requires Manufacturers to Disclose AECDs and Prohibits the Use of Defeat Devices.

27. An auxiliary emission control device or “AECD” is any element of design that senses temperature, vehicle speed, engine speed, transmission gear, or any other parameter for the purpose of activating, modulating, delaying, or deactivating the operation of any part of the emission control system.

28. Federal emission regulations require vehicle manufacturers to make extensive written disclosures regarding the existence, impact of, and justification for any devices, including AECDs, that affect the operation of the emission control system.

29. The EPA’s emission certification requirements and test procedures require, among other things, that vehicle manufacturers disclose in their certification applications for emission compliance all AECDs used in their vehicles. Specifically, they require manufacturers to list:

- a. all AECDs installed on their vehicles, including for each a justification and a rationale for why it is not a defeat device; and
- b. the parameters each AECD senses and controls.

30. The EPA’s emission certification requirements and test procedures further prohibit the use of all “defeat devices.” A defeat device is any AECD that circumvents or reduces the effectiveness of the emission control system under normal vehicle operation and is not justified by one of four narrow conditions, none of which is applicable to the Diesel Vehicles at issue in this Complaint.

31. Vehicles equipped with defeat devices may not be certified for sale in the United States.

B. Manufacturers Use Multiple Emission Control Strategies to Reduce NO_x Emissions.

32. To meet relevant emission standards, diesel vehicle manufacturers must balance the goal of implementing effective NO_x reduction controls and strategies (which can place strain on the engine and its components) against the goal of meeting engine durability requirements.

33. Each Diesel Vehicle featured **Exhaust Gas Recirculation (“EGR”)** and **Selective Catalytic Reduction (“SCR”)** hardware controlled by software incorporated into the engine electronic control modules supplied by Robert Bosch LLC and/or Robert Bosch GmbH (together, “Bosch”).

34. EGR is used primarily to reduce NO_x emissions by redirecting exhaust back into the engine’s intake system and mixing it with fresh air, thereby reducing the amount of oxygen in the engine, lowering the combustion temperature and reducing the creation of NO_x.

35. SCR injects an aqueous ammonia solution into the exhaust stream after combustion but prior to emission from the tailpipe of the motor vehicle to produce a chemical reaction to reduce NO_x to nitrogen and water. The ammonia solution is known as diesel exhaust fluid, or “DEF.”

36. While both technologies have emission-related advantages (reducing NO_x emissions), each also has drawbacks (reduced fuel economy and strain on engine components) that impose marketing and engineering challenges.

37. As set forth in greater detail below, Defendants failed to expend the time, effort, or money necessary to address in a lawful manner the engineering trade-offs and challenges posed by the available diesel technology and applicable emission standards. They opted instead to employ illegal defeat device strategies in the Diesel Vehicles to meet design and performance targets and then misrepresented the vehicles as “clean” and “eco-friendly”.

V. DEFENDANTS MADE FALSE AND MISLEADING CERTIFICATIONS AND REPRESENTATIONS TO REGULATORS AND THE PUBLIC CONCERNING THE DIESEL VEHICLES.

38. In or around 2009, Fiat set out to leverage the diesel experience it had developed designing vehicles to meet European emission standards by selling diesel passenger vehicles in the U.S. market.

39. Early in the development process, however, Defendants determined the emission control technology employed in their European engines could not meet U.S. emission standards while still achieving desired design and performance targets.

A. Defendants Used Defeat Devices to Cheat on Official Emissions Tests.

40. Rather than delay release and expend the time and effort required to develop vehicles that could meet these targets while also meeting legal emission and durability requirements, Defendants implemented multiple, undisclosed AECDs (the “Undisclosed AECDs”) that operated to optimize EGR and SCR emission controls during formal emissions tests, but to reduce their effectiveness off-cycle.

41. As calibrated, these Undisclosed AECDs, when used alone or in combination with one or more other devices, constituted illegal defeat devices.

42. Notwithstanding the presence of multiple Undisclosed AECDs that functioned as defeat devices, FCA sought and obtained certification of the Diesel Vehicles under the EPA’s Tier 2 Bin 5 standards and California’s LEV II emission standards by submitting certifications like the ones below:

Defeat Device

Chrysler Group LLC states that any element of design, system, or emission control device installed on or incorporated in Chrysler Group LLC's new motor vehicles or new motor vehicle engines, for the purpose of complying with standards prescribed under Section 202 of the Clean Air Act, are not equipped with auxiliary emission control devices that can be classified as a defeat device as defined in 40 CFR §86.1803.01.

B. Once Caught in Their Deception, the Defendants Refused to Come Clean About the Defeat Devices.

43. In or around November and December 2015, the EPA conducted testing on four Ram 1500s in Ann Arbor, Michigan. All four Ram 1500s failed the EPA’s NO_x testing. NO_x testing that FCA conducted on two Jeep Grand Cherokees likewise failed.

44. On or about May 27, 2016, the EPA sent FCA a letter identifying eight undisclosed AECDs in the Diesel Vehicles and further demanding an explanation why each should not be considered a “defeat device.”

45. Subsequent explanations and disclosures proffered by FCA did not satisfy the EPA. On January 12, 2017, the EPA issued a Notice of Violation to Fiat N.V. and FCA (“EPA NOV”) concluding:

To date, despite having the opportunity to do so, FCA has failed to demonstrate that FCA did not know, or should not have known, that a principal effect of one or more of these AECDs was to bypass, defeat, or render inoperative one or more elements of design installed to comply with emissions standards under the [Clean Air Act].

The EPA NOV explained that its testing found that “some of these AECDs appear to cause the vehicle to perform differently when the vehicle is being tested for compliance with the EPA emission standards using the Federal emission test procedure (e.g., FTP, US06) than in normal operation and use[]” and offered several “discrete examples” involving the interactions of the various AECDs “where the effectiveness of the emission control system is reduced.”

46. CARB issued a similar Notice of Violation the same day.

47. Four months later, on or about May 27, 2017, the EPA, through the U.S. Department of Justice, sued the Defendants.

**C. Off-Cycle Testing Confirms the Diesel Vehicles Emit NO_x
Far in Excess of the Legal Limits.**

48. Laboratory and on-road testing conducted by West Virginia University’s Center for Alternative Fuels, Engines, and Emissions on five MY 2014 and 2015³ Jeep Grand Cherokees and Ram 1500s produced by FCA indicates that these vehicles exhibited, in general, significantly

³ Diesel Vehicles from MY 2016 are identical to the MY 2015 models.

increased harmful emissions of NO_x during on-road operation as compared to the laboratory testing results.

49. The test vehicles were evaluated on a vehicle chassis dynamometer (sometimes called a “rolling dynamometer” or “roller”) representing the test conditions for regulatory compliance, and they also were tested over-the-road using a portable emissions monitoring system (“PEMS”) device during a variety of driving conditions including urban/suburban and highway driving.

50. One of the 2014 Jeep Grand Cherokees and one of the 2014 Ram 1500 vehicles were tested prior to, as well as after, a mandatory vehicle recall in April 2016 of the MY 2014 Diesel Vehicles that included a software “reflash” by FCA that concerned the vehicles’ emission control systems.

51. Results indicated that the MY 2014 Jeep Grand Cherokee and Ram 1500s, including the two re-flashed vehicles, exhibited, in general, significantly increased NO_x emissions during on-road operation as compared to the results observed through testing on the roller.

52. MY 2015 Jeep vehicles produced from 4 to 8 times more NO_x emissions during urban/rural on-road operation than the certification standard, while MY 2015 Ram 1500 vehicles had maximum NO_x emission deviation factors of approximately 25 times above the relevant regulatory standards for highway driving conditions.

53. Real world testing conducted by other parties is corroborative. On the road, over an urban/suburban route, a MY 2014 Ram 1500 vehicle produced average NO_x emissions that exceeded federal certification standards by approximately 15-19 times. When tested on a highway route, the average NO_x emissions measured 35 times the EPA Tier 2 Bin 5 standard.

VI. DEFENDANTS DEFRAUDED CONSUMERS BY PROMISING “CLEAN,” “ECO-FRIENDLY” VEHICLES, WHICH IN FACT UNLAWFULLY POLLUTED THE AIR.

A. Defendants’ “EcoDiesel” Branding Was Deceptive.

54. At all relevant times, to spur sales in the United States, FCA proudly touted the performance and reliability of its diesel vehicles and its purported environmental leadership, intentionally targeting its marketing to environmentally conscious consumers.

55. FCA knew that consumers associated diesel engines with pollution and sought to dispel them by branding the Diesel Vehicles as “environmentally friendly” “EcoDiesels.”

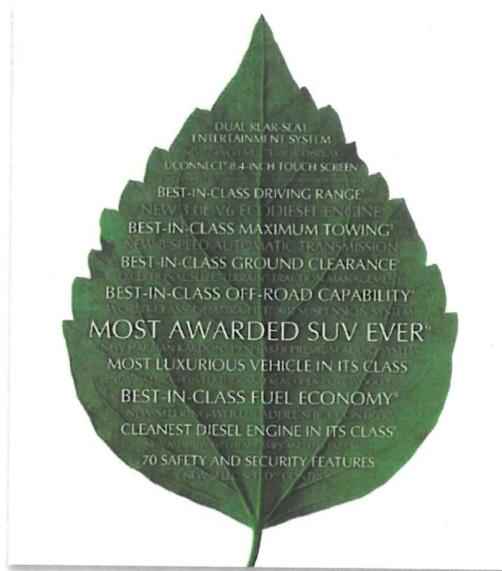
56. To drive home the purported clean, “green,” environmentally-friendly nature of its new engine, FCA also created an “EcoDiesel” badge that incorporated an image of a leaf, which FCA “intended to emphasize the ‘green’ and eco-friendly properties of the engine and bold, stylized interlocking letters, bordered by a trapezoid with interior asymmetrical outlining.”

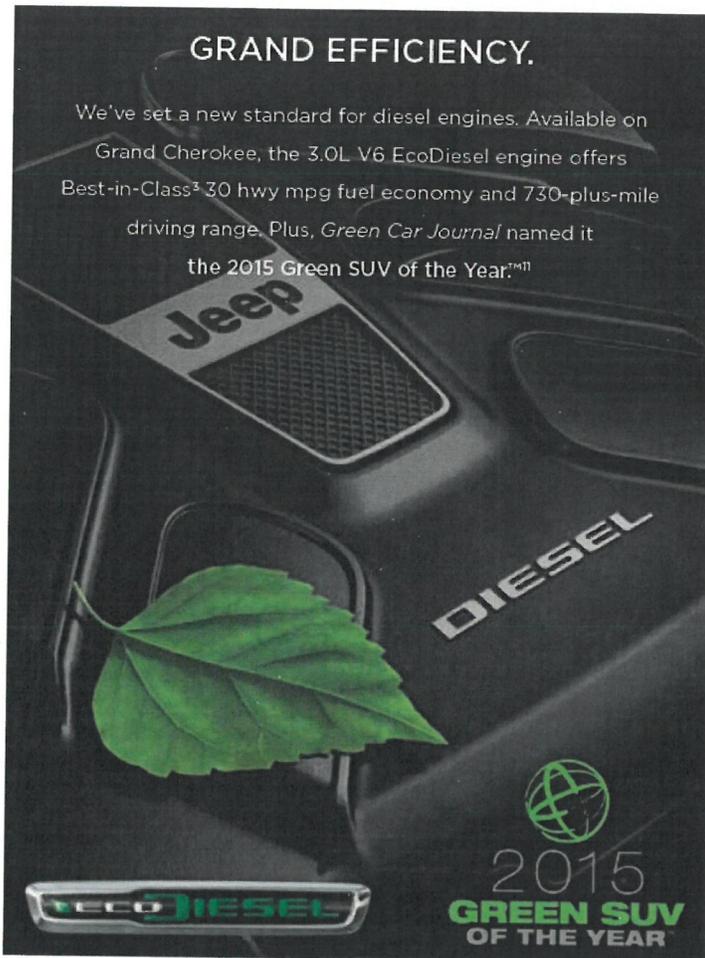


57. From 2013 through 2016, FCA spent tens of millions of dollars to develop and place internet, television and print ads advertising the fuel efficiency, performance, and environmental hygiene of the Diesel Vehicles, to rebrand diesel as a clean-running, fuel-efficient, fun alternative to their gas and hybrid competitors and to associate the FCA brands with progressive ideals, environmental consciousness and innovation.

58. Print advertisements featuring images of evergreen forests and unspoiled fall foliage were overlaid with phrases like “love the planet along with great fuel economy” and “adhere to your principles and get extra points for embracing innovative technology”

59. The EcoDiesel campaign was a success: the Jeep Cherokee was named “2015 Green SUV of the Year,” and the Ram 1500 EcoDiesel was named “Green Truck of the Year,” by *Green Car Journal*. FCA seized on these titles to bolster its claims of eco-friendliness using images and messages like the ones pictured directly below:





RamTrucks @RamTrucks · 6 Nov 2014

It's a lean, green, efficient machine. Ram 1500 EcoDiesel is named Green Truck of the Year by Green Car Journal.

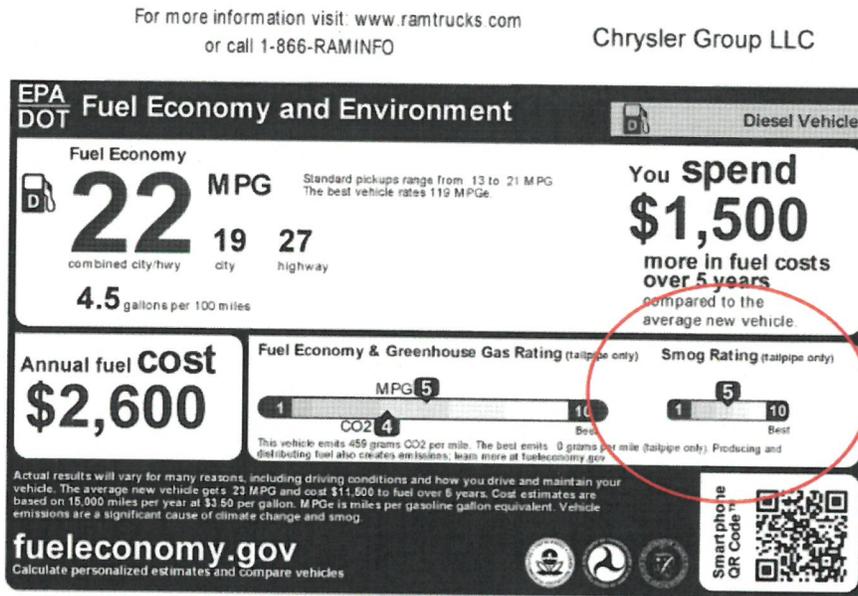


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B. FCA Subjected Buyers and Lessees to False Representations and Warranties at the Point of Sale.

60. In addition to promoting sales through its misleading advertising campaigns, FCA knowingly subjected actual and potential buyers and lessees to additional misrepresentations at the point of sale and after.

61. Window stickers affixed to each of the Diesel Vehicles for sale or lease reflected average “smog ratings” when, in fact, the Diesel Vehicles’ NO_x emissions – a major factor in smog ratings – actually exceeded applicable standards.



62. These express warranties were categorically false in light of the installation and calibration of the Undisclosed AECDs.

C. FCA Trained Dealers to Push the “EcoDiesel” Message of Environmental Friendliness.

63. FCA instructed its dealers how to use the “EcoDiesel” moniker to foster positive feelings in potential buyers and how to overcome the most common negative stereotypes about diesel engine vehicles.

64. FCA created a 2-page “Hot Sheet” for the 2014 Jeep Grand Cherokee that contained

FCA's three key selling messages for the "EcoDiesel" powertrain: (1) best-in-class fuel economy, (2) best-in-class driving range, and (3) "cleanest diesel—lowest CO₂ versus competitive diesel UVs." The hot sheet further instructed the FCA sales force to reinforce the message that EcoDiesel vehicles complied with "50 State emissions" laws thanks to the inclusion of the "DEF injection system & SCR catalyst."

65. FCA gave dealer representatives attending the "Chrysler Academy" the 2014 Jeep Grand Cherokee Product Reference Guide that perpetuated FCA's EcoDiesel advertising strategy, containing statements like:

- "DIRTY POLLUTER? – EXACTLY THE OPPOSITE – CLEANER AND MORE ECOLOGICAL THAN GASOLINE ENGINES."
- "And, for buyers who respect the environment, they should know this is a very clean diesel...very green without question."
- "And, for those with a strong sense of environmental responsibility, our three-liter EcoDiesel V6 engine runs exceptionally clean..."

66. FCA dealers employed this marketing strategy on consumers in each of the 50 states.

D. FCA's "EcoDiesel" Campaign Worked.

67. Consumers purchased and leased Diesel Vehicles based on FCA's false and misleading representations that the vehicles would be environmentally friendly and clean, fuel-efficient, and compliant with all applicable emission standards, and that they would provide superior performance.

68. Purchasers were willing to pay price premiums of thousands of dollars, depending on the model and trim packages, despite the fact that, unbeknownst to them, the Diesel Vehicles they purchased and leased were far from "Eco" friendly. Instead, they grossly violate emission standards during normal operations.

69. If Virginia consumers had known of the true effect of the defeat devices on the operation of the “clean diesel” engine systems and the true levels of pollutants the engines emitted, they would not have purchased or leased the Diesel Vehicles.

CAUSES OF ACTION

COUNT I

VIRGINIA CONSUMER PROTECTION ACT (All Defendants)

70. The Commonwealth of Virginia re-alleges the facts above and incorporates them herein by reference.

71. The Defendants are now, and were at all relevant times mentioned herein, a “supplier[s]” of “goods” or “services” in connection with “consumer transaction[s]” as those terms are defined in § 59.1-198 of the VCPA.

72. Defendants engaged in deceptive acts or practices in the conduct of trade or commerce, in violation of Virginia Code § 59.1-200(A)(2), (5), (6), (8), and (14), by and without limitation:

- a. Misrepresenting, creating false pretenses, and/or falsely certifying and/or warranting the Diesel Vehicles’ compliance with applicable emission standards, certification, and/or other regulatory standards in warranties to consumers, on vehicle stickers, and in advertisements appearing in the stream of Virginia commerce;
- b. Selling, leasing, and offering for sale or lease Diesel Vehicles that failed to comply with applicable emissions, certification, and/or other regulatory standards;
- c. Failing to disclose, omitting, concealing, and/or suppressing from federal environmental regulators the existence of the Undisclosed AECDs and their harmful environmental impact;
- d. Failing to disclose, omitting, concealing, and/or suppressing from consumers the existence of the Undisclosed AECDs and their harmful environmental impact and the fact that they were illegal to sell, lease or otherwise place into commerce in the Commonwealth of Virginia;
- e. Falsely and/or deceptively warranting to each buyer and lessor of a Diesel Vehicle, that the vehicle was designed, built, and equipped to conform, at the time

of sale, to applicable emission standards and other applicable environmental standards;

- f. Falsely and/or deceptively advertising, promoting, and warranting the Diesel Vehicles, as conforming and/or complying with applicable emission standards and other applicable environmental standards that allow automobiles to be placed into the stream of commerce in Virginia;
- g. Falsely and/or deceptively advertising, promoting, and warranting the Diesel Vehicles as “clean” and “green” despite the fact that, in regular driving, they emit NO_x at many multiples of the allowable amounts;
- h. Falsely and/or deceptively advertising, promoting, and warranting the Diesel Vehicles by failing to disclose that certain performance measures could only be met when the Undisclosed AECDs were operating;
- i. Causing a likelihood of confusion or misunderstanding as to the source, sponsorship, approval or certification of the Diesel Vehicles in regards to the following:
 - i. applicable emission standards;
 - ii. applicable environmental standards; and
 - iii. pollution and impact on the environment;
- j. Representing that the Diesel Vehicles had sponsorship, approval, characteristics, uses, benefits, or qualities that they did not;
- k. Representing that the Diesel Vehicles were of a particular standard or quality when they did not have the represented particular standards or qualities;
- l. Advertising the Diesel Vehicles with the intent not to sell them as advertised in regards to the following:
 - i. applicable emission standards;
 - ii. applicable environmental standards; and
 - iii. pollution and impact on the environment; and
- m. Advertising, selling, and leasing the Diesel Vehicles and creating a likelihood of confusion or misunderstanding as to the following:
 - i. applicable emission standards;
 - ii. applicable environmental standards; and
 - iii. pollution and impact on the environment.

73. Defendants’ conduct was knowing and willful.

74. Defendants' conduct has significantly harmed consumers in the Commonwealth of Virginia, who did not receive the benefit of their bargain, and whose vehicles have suffered a diminution in value and who unwittingly bought and drove vehicles that violated the law and contributed to environmental harm notwithstanding that consumers believed they had purchased or leased an environmentally friendly vehicle.

75. Defendants committed a separate and independent violation of the VCPA through each and every deceptive, false, or misleading representation, or omission of material information.

76. Each and every time Defendants sold or enabled a Diesel Vehicle to be driven in the Commonwealth of Virginia, Defendants committed a separate and independent violation of the VCPA through deceptive trade practices.

77. Defendants have engaged in violations of the VCPA by making deceptive, false, or misleading statements; and by omitting material information, with respect to the Diesel Vehicles, since 2009, with multiple violations occurring on each and every day during this period.

WHEREFORE, Plaintiff, Commonwealth of Virginia, prays for the following relief:

A. Permanently enjoining all Defendants from engaging in the following conduct, either directly or indirectly, pursuant to § 59.1-203 of the VCPA:

1. Falsely and/or deceptively advertising, promoting, or marketing any new motor vehicle in the Commonwealth of Virginia equipped with a defeat device or Undisclosed AECD as conforming or complying with applicable emission and environmental standards;
2. Failing to disclose to or concealing from consumers the existence of defeat devices or Undisclosed AECDs and their harmful environmental impact in any new motor vehicles;

3. Engaging in the unlawful, deceptive, and fraudulent business practices alleged in this Complaint; and
 4. Preparing, making, marketing, and advertising false and/or deceptive advertisements related to environmental claims, features or attributes, in or from the Commonwealth of Virginia;
- D. Ordering the Defendants to provide appropriate relief under Virginia Code §§ 59.1-203 and 59.1-205 to Virginia consumers who purchased, leased, or otherwise own a Diesel Vehicle sold or leased by Defendants, including by:
1. Providing a warranty, for the life of the subject vehicle or lease, that it will conform to all applicable emission standards; and
 2. Paying full consumer restitution and damages to each affected consumer, including, without limitation, any damages resulting from any degradation of performance and/or fuel efficiency resulting from any “fix”; and any additional sums spent for purchase of extended warranties that will go unused due to repurchase;
- E. Grant judgment against the Defendants and award to the Commonwealth civil penalties in the amount of \$2,500 per willful violation of the VCPA pursuant to Virginia Code § 59.1-206(A);
- F. Grant judgment against Defendants and award to the Commonwealth its costs, reasonable expenses incurred in investigating and preparing the case up to \$1,000 per violation of the VCPA and its attorneys’ fees, pursuant to Virginia Code § 59.1-206(C); and
- H. Ordering such other relief as the Court deems necessary, proper, and just.

COMMONWEALTH OF VIRGINIA,
EX REL. MARK R. HERRING,
ATTORNEY GENERAL

By: 
Stephen John Sovinsky

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Samuel T. Towell
Deputy Attorney General

Richard S. Schweiker, Jr.
Senior Assistant Attorney General and Chief

Mark S. Kubiak
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CERTIFICATE OF SERVICE

I, Stephen John Sovinsky, certify that on January 29, 2019, a true copy of the foregoing
Complaint was mailed via first class mail to:

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