

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

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JULIE KIMBALL, Individually and on behalf of  
all others similarly situated,

*Plaintiffs,*

v.

Civil Action No. 2:22-cv-04163-MAH

VOLKSWAGEN GROUP OF AMERICA, INC.,

*Defendant.*

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**DECLARATION OF GARY S. GRAIFMAN IN SUPPORT  
OF PLAINTIFF'S BRIEF IN RESPONSE TO OBJECTORS**

GARY S. GRAIFMAN, ESQ. declares as follows:

1. I am a member of the law firm of Kantrowitz, Goldhamer & Graifman, P.C. ("KGG"), co-counsel for Plaintiff in the above matter, together with the law firm of Thomas P. Sobran, P.C. I am fully familiar with the facts contained herein based upon my personal knowledge and the books and records kept in the ordinary course of KGG's business. I submit this declaration in support of Plaintiff's Brief in Response to Objectors. The subsequent exhibits listed are true and correct copies of the following documents described herein.
2. The objection of Alicia Bankston is attached hereto as **Exhibit 1.**
3. The objection of Roger Campos is attached hereto as **Exhibit 2.**
4. The objection of Shady Ali is attached hereto as **Exhibit 3.**
5. The objection of Straker Carryer is attached hereto as **Exhibit 4.**

6. A copy of the decision granting final approval to the class settlement in the matter *Herremans v. BMW of N.A., LLC*, CV 14-2363-GW (PJWX) (C.D. Cal.), is attached hereto as **Exhibit 5**.

I hereby declare under penalty of perjury that the foregoing facts are true and correct.

  
\_\_\_\_\_  
GARY S. GRAIFMAN

Dated: November 19, 2025



# EXHIBIT 1

UNITED STATES DISTRICT COURT OF THE DISTRICT OF NEW JERSEY

AFFIDAVIT OF ALICIA BANKSTON

*Kimball v. Volkswagen Group of America, Inc., et al.*, Civil Action No. 2:22-CV-04163-MAH

INTRODUCTION

1. As a Generation One Class Member of Civil Action No. 2:22-CV-04163-MAH, I am filing an objection to the current settlement terms. This action challenges the settlement terms for class subset Generation One on grounds that the vehicle owners most impacted by the turbochargers in dispute are not provided fair, reasonable or adequate injunctive relief in the settlement terms. This action requests that the proposed allocation plan for the settlement fund be amended to incorporate the total damages of the the potential class recovery if plaintiffs had fully prevailed on each of their claims, claim by claim, and a justification of any discount applied to the claims reflected in the settlement figure as required by Rule 23 of the Federal Rules of Civil Procedure, Class Actions. Specifically, this action requests that the proposed allocation plan treat class members equitably relative to each other as required by Federal Rule of Civil Procedure Rule 23 (e)(2)(D). This action requests that the court review the differences of subset class Generation One with regard to the total value of their submitted claims in comparison to the other class subsets. Additionally, this action requests that the class action previously certified under Rule 23(b)(3) be allowed a new opportunity to request exclusion to individual class members who had an earlier opportunity to request exclusion but did not do so as required by Federal Rule of Civil Procedure Rule 23(e)(4) and 23(e)(5) if the court accepts this statement of facts. This action requests that the questions of fact common to subset Generation One class members are reviewed to determine if subset class Generation One claims predominate over the other class subsets. This action requests that final approval of the settlement is denied or

postponed until the claims of subset class Generation One are thoroughly reviewed by the court and counsel.

Volkswagen Group of America, Inc. (VGoA) was not required to provide new water pump system replacement in the final settlement terms of *Coffeng v. Volkswagen Group of America, Inc.*

A request for copies of all class counsel attorney fee requests for *Kimball v. Volkswagen Group of America, Inc., et al.*, Civil Action No. 2:22-CV-04163-MAH was made on October 15, 2025.

#### STATEMENT OF FACTS

2. The vehicle's bill of sale is included in Appendix A.
3. The vehicle's history of warning and indicator lights is included in Appendix B.
4. The vehicle's service history is included in Appendix C. Copies of all invoices were filed on the Alternative Document System (ADS), file name: Alicia Bankston Invoices.
5. The class member's written communication with class counsel, defense counsel and the class settlement administrator is included in Appendix D.
6. A photo index and photos of the ongoing engine/turbo issues are included in Appendix E.
7. A list of witnesses is included in Appendix F.

“For a 2012 Volkswagen Tiguan, the turbo engine is the 2.0L TSI (CCTA), and oil splatter is a very common issue with these models. The likely cause of the splatter is a faulty Positive Crankcase Ventilation (PCV) system, which can create excessive pressure that forces oil out of seals and gaskets. The 2012 Volkswagen Tiguan is equipped with the 2.0L TSI (EA888 Gen 1) turbocharged engine. The engine code for this version is CCTA. Likely causes for oil splatter

Given the CCTA engine's known problems, oil splatter on or around the engine bay can be traced to a few common failures. Faulty PCV system: The most frequent cause of oil leaks and splatter is a failing PCV valve or the entire breather system. How it works: When the PCV system fails, it can cause the crankcase to over-pressurize. This pressure will force oil out through the engine's weakest points, such as seals and gaskets. Common leak locations: The high pressure often leads to leaks at the main rear seal, the front crankshaft seal, or the upper timing cover gaskets. Worn turbocharger seals: If the turbocharger's internal oil seals fail, it can leak oil into the intake or exhaust side of the turbo. In addition to external splatter, you may also see: A loss of power. Blue-gray smoke from the exhaust. High-pressure fuel pump (HPFP) seal leak: On 2.0L TSI engines, a failure of the HPFP seal can leak oil into the crankcase, which may cause oil contamination or cause splatter. Failed timing cover gasket: Oil running down the front of the engine is often caused by a leaking upper timing cover gasket. This can be made worse by excessive crankcase pressure from a faulty PCV. Exhaust manifold seal: If you notice a whistling or hissing noise from the engine and a smell of burning oil, a faulty exhaust manifold seal where the turbocharger is mounted could be the culprit. Recommended next steps: Since the root cause could be one of several common failures, a professional diagnosis is recommended. Inspect the PCV: Because it's a common failure point and a relatively inexpensive part, a mechanic may suggest replacing the PCV valve first, especially if the leak is widespread. Pressure test the crankcase: A specialist can perform a test to check for excessive crankcase pressure, which would point toward a PCV system failure. Perform a smoke test: This test can help pinpoint the exact location of a leak by forcing smoke through the system and watching where it escapes. Inspect other seals: Your mechanic

will also visually inspect the seals on the timing cover, oil filter housing, and turbocharger oil lines to check for damage.”

A professional diagnosis is scheduled for October 15, 2025—the earliest date available. This is an ongoing issue that is still being diagnosed by numerous businesses.

#### CLAIM FOR RELIEF

I filed a claim for covered expenses before the November 15, 2025 deadline provided by the Settlement Administrator at [www.TurboClassSettlement.com](http://www.TurboClassSettlement.com).

All estimates were filed in the Alternative Document System (ADS), file name: Alicia Bankston Estimates.

A list of expenses not covered by the pending settlement are included below:

1. Decarbonization: \$400/hour, estimate of 2-4 hours; various estimates
2. Engine Oil System Diagnostic: \$119.00; various estimates
3. New Oil Change: \$100.00, service and parts
4. Turbo Engine Replacement various estimates:
  - A. 2021: See Karen Radley Volkswagen Estimate
  - B. 2022: See Estimate
  - C. 2025: See Various Estimates

The expenses listed above represent required work for the vehicle to be safe to operate. The vehicle is currently my only means of transportation.

CERTIFICATE OF SERVICE & JURAT

A copy of the objection was filed on the Alternative Document System (ADS) on October 15, 2025.

A copy of the objection was electronically filed with class counsel at [GGraifman@kgglaw.com](mailto:GGraifman@kgglaw.com) on October 15, 2025.

A copy of the objection was electronically filed with defense counsel at [MGallub@shb.com](mailto:MGallub@shb.com) on October 15, 2025.

Notice of Intention to Appear before the Honorable Michael A. Hammer, United States District Court Judge:

I request to speak (virtually) at the Fairness Hearing tentatively scheduled for December 4, 2025 at 11:00 AM EST.



I hereby affix my signature to swear and affirm that under penalty of perjury, the above statements are true, complete, and correct to the best of my knowledge.

Alicia Bankston Signature  
10/15/25 Date

Alicia Lynn Bankston, Pro Se  
Class Member Civil Action No. 2:22-CV-04163-MAH  
*Kimball v. Volkswagen Group of America, Inc., et al.* U.S. District Court of the District of New Jersey

Current Address: 600 City View Loop, Apartment 2323 Midlothian, VA 23113

Phone Number: 804-735-6993

Vehicle: 2012 Volkswagen Tiguan 2.0 Turbo

VIN: WVGBV7AX5CW097028

I have not filed an objection in any class action settlement in the previous five years.

Alexandria Gardner

ALEXANDRIA GARDNER  
NOTARY PUBLIC  
REG. #00345755  
COMMONWEALTH OF VIRGINIA  
MY COMMISSION EXPIRES AUGUST 31, 2029



# APPENDIX A BILL OF SALE



**DANA MOTORS**  
2046 GRAND AVE.  
BILLINGS MT, 59102  
Phone (406) 656-7654  
Toll Free # 800-821-7340

## Bill of Sale

Sale Date: 11/30/2016

### Buyer

Name: **ALICIA LYNN BANKSTON**  
Address: **4041 PATHFINDER CT**  
**BILLINGS MT 59106**  
Phone: **(406) 656-0721**  
Email:  
Dri. #: **080000104664**

### Co-Buyer

Name:  
Address:  
Phone:  
Dri. #:

### SOLD VEHICLE:

Stock#	Year	Make	Model	Color	Mileage	VIN	Series
P2073A	2012	VOLKSWAGEN	TIGUAN-4 CYL	GRAY	45228	WVG8V7AX5CW097028	SE 4MOTION

### TRADE IN VEHICLE :

Stock#	Year	Make	Model	Color	Mileage	VIN	Series

Trade Amount: \$	0.00	Cash Price: \$	14500.00	Doc Fee: \$	N/A
Payoff Balance: \$	0.00	Accessories: \$	N/A	Service Contract: \$	N/A
MFR's Rebate: \$	N/A	Filing Fee: \$	N/A	Servc Cont Paid To:	
Total Deferred: \$	N/A	Tax Rate:	0.00	Gap Contract: \$	N/A
Cash Down: \$	500.00	Sales Tax: \$	N/A	Gap Paid To:	
Total Down: \$	500.00	Title Fee: \$	N/A	Total Down: \$	500.00
		License: \$	N/A	Balance Due: \$	14000.00
		Registration: \$	N/A		

Purchaser agrees that this order includes all of the terms and conditions hereof, that this order cancels and supercedes any prior agreement written or oral. Purchaser agrees to pay the total of the payments in accordance with the above payment schedule. This order shall not become binding until accepted by the DEALER or his authorized representative. I have read the face of this order and agree to this purchase price. I hereby certify that I am 18 years of age or older.

**ALICIA LYNN BANKSTON**

**11/30/2016**

Purchaser(s)

Signature

Date

NOTICE : DEALER PROVIDES NO INSURANCE

☒ Buyer agrees to furnish full coverage insurance.

☒ SOLD AS IS

I MAKE THIS PURCHASE KNOWINGLY WITHOUT ANY GUARANTEE EXPRESSED OR IMPLIED, BY THIS DEALER OR HIS AGENT.

I AGREE TO NOTIFY LIENHOLDER, IF CHANGE OF ADDRESS OCCURS AND/OR CHANGE OF EMPLOYMENT OCCURS.

FINANCING IS SUBJECT TO CREDIT APPROVAL.

**DANA MOTORS**

**11/30/2016**

Seller

Signature

Date



APPENDIX B  
HISTORY OF WARNING AND INDICATOR LIGHTS

1. The vehicle was purchased on November 30, 2016 from Dana Motors, Billings, MT, see Appendix A. Recorded mileage at the bill of sale: 45,228.

2. The vehicle was stored in a garage and not in regular use during the years 2016-2017, see vehicle mileage in vehicle service history, see Appendix B.

3. The vehicle experienced its first warning indicator light on October 9, 2017, mileage: 47,843. See Dana Motor Invoice No.: 24347 filed in Alternative Document System (ADS), file name: Alicia Bankston Invoices.

Dana Motor Invoice No.: 24347:

Check Engine light was present and reported a misfire on cylinder #3. The vehicle's powertrain control module (PCM) registered a diagnostic trouble code (DTC) P0303.

4. The vehicle experienced the same warning indicator light on October 16, 2017, mileage: 47,979. See Dana Motor Invoice No.: 24430 filed in Alternative Document System (ADS), file name: Alicia Bankston Invoices.

Dana Motor Invoice No.: 24430:

Check Engine light was present and reported three misfires on cylinder #3. The vehicle's powertrain control module (PCM) registered a diagnostic trouble code (DTC) P0303. Techron fuel additive was added. Top tier gasoline was recorded. A copy of gasoline receipts from 2016-2025 is available upon request. Volkswagen Technical Service Bulletin (TSB) No. V001602 2033846; NHTSA ID Number: 10121124 was provided on October 16, 2017 by Dana Motors. See October 16, 2017 recorded timestamp in Dana Motor Invoice No.: 24430 in the vehicle service history filed in Alternative Document System (ADS), file name: Alicia Bankston

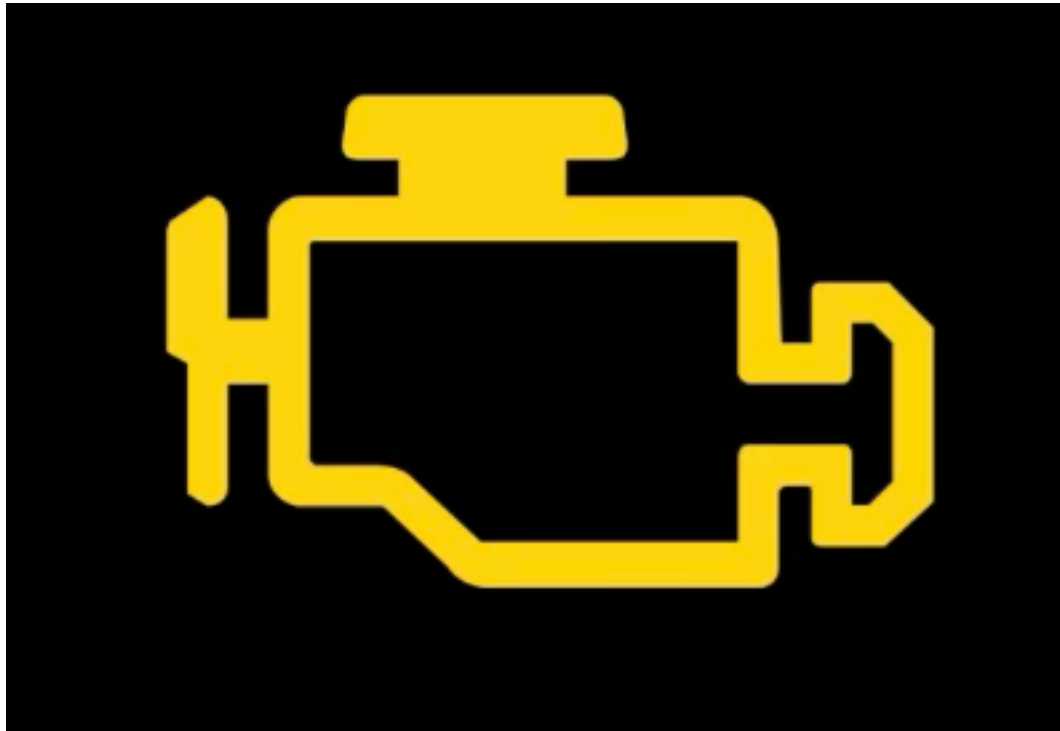
Invoices.. See a copy of Volkswagen TSB No. V001602 2033846; NHTSA ID Number: 10121124 filed in Alternative Document System (ADS), file name: Alicia Bankston Invoices.

5. The vehicle experienced the next warning indicator light on April 19, 2023, mileage: 73,866. See Karen Radley Volkswagen, Invoice No.: VWCS570127 filed in Alternative Document System (ADS), file name: Alicia Bankston Invoices. Check Engine Light was on at the time of service—Amber—“Lights up: Engine Control Malfunction. Flashes: Misfire.” See Diagram A for an illustration.

6. The vehicle experienced the next warning indicator light on September 27, 2025. The red “Stop! Engine oil pressure too low” warning indicator flashed briefly at least seven times on September 27, 2025 while I was driving out of town on the interstate in a severe rain storm. The first time that it flashed I pulled over in the rain and checked the oil level. The vehicle had an oil change on September 9, 2025, see invoice filed in Alternative Document System (ADS), file name: Alicia Bankston, Invoices. I had oil in the vehicle and I added approximately 2 fluid ounces. The warning indicator stopped flashing for approximately 15 miles of interstate driving and then flashed briefly again. I pulled over a second time and checked the oil level. The oil level was at its maximum level. I did not add additional oil. The warning indicator stopped flashing. I drove approximately 10 miles in a loop on county roads with various starts and stops (I was on an Autumn House Tour in Charles County, Virginia—there were five different locations within a 10 mile radius). However, on my return trip home, the red “Stop! Engine oil pressure too low” warning indicator flashed briefly at least four more times when I could not immediately pull over and then stopped flashing. Since it was a Saturday, I took the vehicle to Advanced Auto Parts and requested a basic diagnostic reading using an OBD-II scanner. No diagnostic trouble codes were identified on September 27, 2025 after the red “Stop! Engine oil pressure too low” warning indicator flashed briefly at least seven times, see report filed in Alternative Document System (ADS), file name: Alicia Bankston, Invoices. See Diagram B.

DIAGRAM A  
WARNING INDICATOR LIGHT

Amber—Lights up: Engine Control Malfunction. Flashes: Misfire.



WARNING INDICATOR LIGHT B



APPENDIX C  
VEHICLE SERVICE HISTORY INDEX  
INVOICES — FILED ON ALTERNATIVE DOCUMENT SYSTEM (ADS)  
FILE NAME: ALICIA BANKSTON INVOICES

1. Volkswagen Billings, Invoice No. 5010093  
Date: 05/15/2017 Mileage: Not Recorded/Mileage at the Bill of Sale: 45,228  
Summary: Dust filter.
2. Dana Motors, Invoice No. 23603  
Date: 08/04/2017 Mileage: 47,171  
Summary: Oil Change, Brake System Flush, System Check.
3. Dana Motors, Invoice No. 24347  
Date: 10/09/2017 Mileage: 47,843  
Summary: Engine Light, Cylinder Misfire/s, Spark Plug.
4. Dana Motors, Invoice No. 24430  
Date: 10/16/2017 Mileage: 47,979  
Summary: Engine Light, Cylinder Misfire/s, Techron Fuel Additive, Top Tier Gas, Copy of Volkswagen Technical Service Bulletin provided.
5. MasterLube Invoice No. 676928  
Date: 04/03/2018 Mileage: 67,692 [This mileage is in error]  
Summary: Oil Change—Mobil One Full Synthetic—Customer supplied oil and filter.
6. MasterLube Invoice No. 692483  
Date: 10/04/2018 Mileage: 69,2483 [This mileage is in error]  
Summary: Oil Change—Mobil One Full Synthetic—Customer supplied oil and filter.
7. Dana Motors Invoice No. 28268  
Date: 11/16/2018 Mileage: Not Recorded  
Summary: Safety Inspection, Fluid Check, Lights, Belts, Hoses, Brakes, Tires, Suspension and Exhaust.
8. Firestone Complete Auto Care Invoice No. 179907  
Date: 04/03/2019 Mileage: 52,806  
Summary: VIN is listed. Vehicle Model is listed incorrectly, license plate number is recorded correctly, license plate state is recorded incorrectly. Drain plug was leaking after oil change—Mobil One Full Synthetic—Customer supplied oil and filter.

9. Capital Volkswagen Invoice No. 125956

Date: 11/19/2019 Mileage: 55,858

Summary: Oil change—Mobil One Full Synthetic—Customer supplied oil and filter.  
Fluid Check. Multi-point Inspection.

10. Capital Volkswagen Invoice No. 127819

Date: 01/22/2020 Mileage: 56,567

Summary: Car was leaking antifreeze—coolant. Replaced engine water pump system under the Limited Warranty Extension as provided in *Coffeng v. Volkswagen Group of America, Inc., et al.* Civil Action No. 3:17-CV-01825-JD in the United States District Court of the Northern District of California.

I was a class member in *Coffeng v. Volkswagen Group of America, Inc.* I did not file an objection or exclude myself from the settlement before the February 14, 2020 deadline. Without knowledge of the class action settlement, I claimed the Limited Warranty Extension for an engine water pump system replacement on January 22, 2020. I claimed the warranty extension before receiving the class action materials sent by the settlement class administrator. I was not informed of my rights according to the class action settlement rules according to the materials provided to class members, see the Engine Water Pump Settlement materials provided to action class members in *Coffeng v. Volkswagen Group of America, Inc.* in Appendix C until after January 22, 2020.

See Capital Volkswagen Invoice No. 127819 for a list of the the part numbers used during the Limited Warranty Extension in Appendix B.

I discovered on March 17, 2025 that the engine water pump system part numbers used during the Limited Warranty Extension on January 22, 2020 were the same part numbers as the original engine water pump system part numbers recorded at the vehicle's date of delivery on June 28, 2012.

Water Pump System part numbers listed on Capital Volkswagen Invoice No. 127819:

06H-121-026-DD Water Pump—Regulator

06H-121-131-C Union

WHT-006-407 Seal Ring

Water Pump System part numbers listed at the vehicle's date of delivery in 2012:

06H-121-026-DD Water Pump—Regulator

06H-121-131-C Union

WHT-006-407 Seal Ring

Water Pump System part numbers listed on Safford Brown of Richmond Volkswagen

Estimate No. PQ3645:

06H-121-026-ED Water Pump-Regulator

06H-121-131-C Union

WHT-006-407 Seal Ring

I filed a complaint with the National Highway Traffic Administration (NHTSA), see  
Complaint No. 11648866 on March 17, 2025.

National Highway Traffic Safety Administration Complaint Number: 11648866

What component or system failed or malfunctioned, and is it available for inspection  
upon request? Defective Primary Engine Water Pump, yes. The original primary engine  
water pump system for a 2012 VW Tiguan 2.0 was replaced under the VW extended  
warranty in 2020 by an authorized dealer as a the result of the class action suit---please  
see Water Pump Class Action and Limited Warranty Extension bulletin issued by  
NHTSA. The replacement primary engine water pump system installed in 2020 has

been found to be defective in March 2025 and the primary engine water pump requires replacement a second time -- without a warranty extension and less than five years from the date of service of the replacement under the Water Pump Class Action and Limited Warranty Extension issued by NHTSA. VW is still using defective primary engine water pump systems throughout the [extended] warranty period----does the NHTSA have any evidence that VW made modifications to the primary engine water pump system after the bulletin issued by NHTSA? Was it a requirement that VW modify the primary engine water pump system? I have been informed that no changes were made to the VW primary engine water pump that was used to replace defective primary engine water pump systems as a result of the Water Pump Class Action and Limited Warranty Extension. How was your safety or the safety of others put at risk? A defective primary engine water pump is a safety risk because it creates a potential for engine failure. Has the problem been reproduced or confirmed by a dealer or independent service center? The problem has been confirmed by an authorized VW dealer. Has the vehicle or component been inspected by the manufacturer, police, insurance representatives or others? UNKNOWN Were there any warning lamps, messages or other symptoms of the problem prior to the failure, and when did they first appear? Indicator warning lights on dash—RED.

The complaint was acknowledged by the NHTSA on March 18, 2025.

From: NHTSA Service Desk <noreply@us.4me.com>

Subject: Request #1632139 Volkswagen AG & Volkswagen Group of North America, Inc. Primary Engine Water Pump System (2.0) & NHTSA Complaint 11648866

Date: March 18, 2025 at 2:07:38 PM EDT

To: Alicia Bankston

Reply-To: NHTSA Service Desk <nhtsa@mail.us.4me.com>



Dear Alicia Bankston,

A Ambrose mentioned you in the following request:

Request #1632139 Volkswagen AG & Volkswagen Group of North America, Inc. Primary  
Engine Water Pump System (2.0) & NHTSA Complaint 11648866

I filed a complaint with Volkswagen Group of America, Inc. (VGoA), see Customer Case  
No. 06719052.

From: Alicia Bankston

Subject: Volkswagen AG & Volkswagen Group of North America, Inc. Primary Engine  
Water Pump System (2.0) & NHTSA Complaint 11648866

Date: March 17, 2025 at 11:20:09 PM EDT

To: customercare@volkswagen.de, compliance@volkswagen.de,  
warranty.helpline@vw.com

Cc: kundenbetreuung@volkswagen.de, io@volkswagen.de, info@sstrialawyers.com,  
mds@sstrialawyers.com, dr-buchert@dr-buchert.de, dr-jacob@dr-buchert.de,  
kanzlei@dr-buchert.de, christian.schiebold@volkswagen.de,  
jens.katemann@volkswagen.de, maleen.boesenberg@volkswagen.de,  
michael.lowder@vw.com, nhtsa.webmaster@dot.gov, ntinaro@crowncars.com, Donald  
Wood <dwood@saffordbrown.com>, crichards@saffordbrown.com,  
ksoloe@saffordbrown.com

To: Volkswagen AG, Volkswagen Group of America, Inc.

Re: Volkswagen Customer CARE USA— Case 06719052

Re: Policy & Procedures Bulletin Warranty Information Number: VWP-22-06 —  
Volkswagen Group of America, Inc.

Re: Water Pump Limited Warranty Extension

Re: National Highway Traffic Safety Administration Complaint Number: 11648866

Vehicle's Original In-Service Date: June 28, 2012

Vehicle Identification Number: WVGBV7AX5CW097028

SAGA CLAIM history

Service Number Code: 1950 —Coolant Pump Remove + Reinstall

VW Parts: 06H-121-026-DD (Water Pump); 06H-121-131-C (Union); WHT-006-407  
(Seal Ring)

SAGA CLAIM/Invoice Claim: Dealer: Capital Euro Cars

Dealer Address: 3963 W. Tennessee St. Tallahassee, FL 32304

Shop Registration Number: MV-76860

Dealer Telephone: 1-850-574-3777

Invoice Number: 127819

Invoice Date: January 22, 2020

Vehicle Mileage at time of service: 56,567

VW Diagnostic Test: "Pressure tested system and found water pump/thermostat  
housing leaking coolant rec new water pump/thermostat housing"

Vehicle Mileage at time of service: 90,216

Cost: \$191.31

Performed by: Safford Brown VW Richmond on March 17, 2025

Dealer Telephone: 804-379-7283

Estimate (parts/labor): VW Parts: 06H-121-026—ED (Regulator—Water Pump);  
06H-121-131-C (Union); WHT-006-407 (Seal Ring).

Parts: \$640.35

Labor: \$1,400 (6 hours)

Estimate Total: \$2,100

For applicable Settlement Class Vehicles, the New Vehicle Limited Warranty was extended to cover repair or replacement (by an authorized Volkswagen dealer—Capital Euro Cars, Tallahassee, Florida) of a failed Primary Engine Water Pump (“Water Pump”), Thermostat and/or Thermostat Housing based on the vehicle’s original in-service date. Vehicle Identification Number WVGBV7AX5CW097028 Original In-Service Date is June 28, 2012. Vehicle Identification Number: WVGBV7AX5CW097028 qualified for the extended warranty in 2020, see SAGA Claim History. A “Water Pump” replacement was installed in the vehicle by an authorized Volkswagen dealer within the original Water Pump Limited Warranty Extension period.

NHTSA Complaint Number: 11648866

A RED indicator light flashed on the vehicle’s dash on March 14, 2025. Coolant fluid was immediately added to the vehicle before re-starting the vehicle. The vehicle was serviced in February 2025 and all vehicle fluid systems were checked and working, please see records. Coolant fluid was checked regularly. The vehicle has all service and maintenance records on file.

The vehicle has not been drivable since March 14, 2025 and the vehicle will not be drivable again until the “Water Pump” replacement is replaced a second time. The vehicle is my sole source of transportation. Therefore, I am without transportation until a replacement “water pump” system can be installed in the vehicle.

The vehicle's original in-service date is defined in Volkswagen's Policies and Procedures Bulletin Number VWP-22-06 as the date the vehicle was delivered to either the original purchaser or the original lessee.

However, given that Volkswagen Group of North America, Inc. was not required to modify the "Water Pump" system or "Water Pump" parts subsequent to class action and/or during the extended warranty period— it is likely that all VW "Water Pumps" remain defective in part or whole. Therefore, I request that in the event of subsequent "Water Pump" failures after the replacement of a failed VW "Water Pump" under extended warranty that the date of the last "Water Pump" replacement is allowed to be substituted for the original in-service date given that the Primary Engine Water Pump System has continued to prematurely fail and the year of the "Water Pump" replacement is a more accurate condition of the vehicle's "Water Pump" system than the original date in service. If this allowance were provided, the "effective date" of the existing "water pump" in the vehicle would be 2020 for purposes of the extended warranty and not 2012 when the vehicle was put in service. This allowance would also take into consideration any modifications that were made to the VW "Water Pump" subsequent to 2012 but which failed to address defects of the "Water Pump" in 2020 and 2025. If the vehicle was allowed to claim an adjusted extended warranty based on the year of the last "Water Pump" replacement rather than the original in service date, I would be able to receive a new but still likely unmodified and therefore possibly defective VW Primary Engine Water Pump replacement for my vehicle which I would very much prefer to paying \$2,100 out of pocket for a VW Primary Engine Water Pump that has not likely been modified and/or which will also likely fail early because it continues to be possibly defective.

I do intend to share with the U.S. Department of Transportation/National Highway Traffic Safety Administration my concerns regarding their past policy of allowing auto manufacturers to sell cars in the U.S. market with known defects and without modification.

I am also sharing my concern with the Volkswagen AG Ombudsman group—in case knowingly using defective auto parts such as a water pump without proper safety modifications qualifies as a whistle blower complaint at Volkswagen AG.

Thank you for considering my request. I look forward to hearing from you.

Alicia Bankston

CC:

U.S. Department of Transportation, National Highway Transportation Safety  
Administration

Buchert Jacob Partner —Ombudsman Volkswagen Auto Group

Saunders Schelkopf LLC

VW Capital Euro Cars—Tallahassee, Florida

Safford Brown VW Richmond, Virginia

Enclosure:

National Highway Traffic Safety Administration Complaint Number: 11648866

What component or system failed or malfunctioned, and is it available for inspection upon request? Defective Primary Engine Water Pump, yes. The original primary engine water pump system for a 2012 VW Tiguan 2.0 was replaced under the VW extended warranty in 2020 by an authorized dealer as a result of the class action suit---please see Water Pump Class Action and Limited Warranty Extension bulletin issued by NHTSA. The replacement primary engine water pump system installed in 2020 has been found to be defective in March 2025 and the primary engine water pump requires

replacement a second time -- without a warranty extension and less than five years from the date of service of the replacement under the Water Pump Class Action and Limited Warranty Extension issued by NHTSA. VW is still using defective primary engine water pump systems throughout the [extended] warranty period----does the NHTSA have any evidence that VW made modifications to the primary engine water pump system after the bulletin issued by NHTSA? Was it a requirement that VW modify the primary engine water pump system? I have been informed that no changes were made to the VW primary engine water pump that was used to replace defective primary engine water pump systems as a result of the Water Pump Class Action and Limited Warranty Extension. How was your safety or the safety of others put at risk? A defective primary engine water pump is a safety risk because it creates a potential for engine failure. Has the problem been reproduced or confirmed by a dealer or independent service center? The problem has been confirmed by an authorized VW dealer. Has the vehicle or component been inspected by the manufacturer, police, insurance representatives or others? UNKNOWN Were there any warning lamps, messages or other symptoms of the problem prior to the failure, and when did they first appear? Indicator warning lights on dash—RED.

I filed a complaint with Volkswagen Auto Group Germany, see Case No. 0003485327.

From: Volkswagen Kundenbetreuung <kundenbetreuung@volkswagen.de>

Subject: 202503\_DE\_0001232740: wurde erstellt/has been created

Date: March 17, 2025 at 11:56:04 PM EDT

To: Alicia Bankston

Guten Tag, wir haben Ihre Anfrage erhalten und zur Bearbeitung an unsere Mitarbeiterinnen und Mitarbeiter weitergeleitet. Diese Mitteilung wurde von unserem System automatisch erzeugt. Sollten Sie Rückfragen zu Ihrem Anliegen haben, beziehen Sie sich bei Ihrer Kontaktaufnahme bitte auf die im Betreff genannte

Vorgangsnummer. \*Werden wir durch Ihre Nachricht aufgefordert, Ihre Zuschrift von einem Web-Portal abzurufen, ist dies leider nicht möglich. Bitte senden Sie uns deshalb Ihr Anliegen direkt zu. Viele Grüße Ihre Volkswagen Kundenbetreuung  
Volkswagen Aktiengesellschaft Sitz: Wolfsburg Registergericht: Amtsgericht  
Braunschweig HRB Nr.: 100484 Vorsitzender des Aufsichtsrats: Hans Dieter Pötsch  
Vorstand: Oliver Blume (Vorsitzender), Arno Antlitz, Ralf Brandstätter, Gernot Döllner, Manfred Döss, Gunnar Kilian, Thomas Schäfer, Thomas Schmall-von Westerholt, Hauke Stars  
Wichtiger Hinweis: Die vorgenannten Angaben werden jeder E-Mail automatisch hinzugefügt und lassen keine Rückschlüsse auf den Rechtscharakter der E-Mail zu.  
Informationen zum Umgang mit Ihren personenbezogenen Daten finden Sie unter [volkswagen.de/de/mehr/rechtliches/datenschutzerklaerung-allgemeine-kommunikation.html](https://www.volkswagen.de/de/mehr/rechtliches/datenschutzerklaerung-allgemeine-kommunikation.html)

Hello, we have received your request and forwarded it to our staff for processing.  
This message has been generated automatically by our system. In case you have further questions and want to contact us, please refer to the above noted reference number. \*Unfortunately, we are unable to retrieve a message from a web portal. In this case, we kindly ask you to send us your request directly. Kind regards, Your  
Volkswagen Customer Care Volkswagen Aktiengesellschaft  
Registered Seat: Wolfsburg | Registration Court: Amtsgericht Braunschweig  
Commercial Register No.: 100484  
Chairman of the Supervisory Board: Hans Dieter Pötsch  
Board of Management: Oliver Blume (Chairman), Arno Antlitz, Ralf Brandstätter, Gernot Döllner, Manfred Döss, Gunnar Kilian, Thomas Schäfer, Thomas Schmall-von Westerholt, Hauke Stars

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Information about our handling of your personal data can be found here:

[volkswagen.de/de/mehr/rechtliches/privacy-policy-for-general-communication.html](https://volkswagen.de/de/mehr/rechtliches/privacy-policy-for-general-communication.html)

I received Reference No. 06719052 from the Executive Office of Volkswagen of America (VGoA).

From: "VWExecutiveMail@vw.com" <vwexecutivemail@vw.com>

Subject: Volkswagen Executive Case Reference #06719052

Date: March 18, 2025 at 3:51:18 PM EDT

To: Alicia Bankston

Hello, Thank you for contacting the Executive Office of Volkswagen of America. As I do not have a phone number for you, I wished to follow up with you by email. It is our desire for our customers to enjoy a worry-free ownership from start to finish, and I regret your experience has not reflected this. I would like the opportunity to talk with you and discuss your situation in further detail. So that I may ensure your feedback is properly documented, please send me your phone number. You can reach me directly at (800) 822-8987, select Prompt #9, enter my direct extension of 43465. If you would prefer to correspond via email, please reply to this email. I look forward to speaking with you. Regards, Oliver G Executive Specialist

Information submitted via email communications are subject to our privacy statement, available at [www.vw.com/privacy](https://www.vw.com/privacy).

ref:!00D6A04FLg.!500Rc0NFfoq:ref



I reported the issue to the Volkswagen Investigation Office and the Volkswagen Warranty Helpline.

Volkswagen Group of America, Inc. (VGoA) was not required to provide new engine water pump system replacement in the final settlement terms of *Coffeng v. Volkswagen Group of America, Inc.*

On March 24 2025, I paid out of pocket \$1,157.07 to Cullop's Import to install a metal housing engine water pump after Cullop's Import found a leak on the bottom of the previously installed plastic housing water pump. This was a difference of \$942.93 from the estimate to replace the engine water pump received from Safford Brown of Richmond Volkswagen on March 17, 2025. See Safford Brown of Richmond Volkswagen Estimate Invoice No. PQ3645 filed on the Alternative Document System (ADS), file name: Alicia Bankston Invoices.

The vehicle's mileage at the date of service of the Limited Warranty Extension engine water pump system replacement installation was 55,858 miles. See Invoice No. 127819, Capital Euro Cars Volkswagen, Tallahassee, Florida.

The vehicle's mileage at the date of service of the water pump system failure in March of 2025 was 90,216 miles. See Invoice No. VWCS124510, Safford Brown Volkswagen, Richmond, Virginia.

The engine water pump system installed under the manufacturer's Limited Warranty Extension as the result of *Coffeng, et al. v. Volkswagen Group of America, Inc.* failed in under five years and 34,358 miles.

Safford Brown Volkswagen of Richmond pressure tested the engine water pump system on March 17, 2025 as a result of the vehicle suddenly leaking coolant rapidly (6.5 L within a 6-8 hour period). Safford Brown Volkswagen of Richmond found that the engine water pump, thermostat and housing were leaking coolant which required a total engine water pump system replacement to make the vehicle safe to operate. The estimate provided by Safford Brown Volkswagen of Richmond on March 17, 2025 for a total water pump system replacement was in the amount of \$2,100.00. See Safford Brown of Richmond Volkswagen Invoice No. VWCS124510 from. I made a verbal request for an itemized estimate to Safford Brown of Richmond Volkswagen on March 17, 2025 in accordance with Virginia state law, Code of Virginia 59.1-207. Safford Brown Richmond of Volkswagen provided Estimate No. PQ3645, Page One. Upon examination of Estimate No. PQ3645, Page One, Safford Brown of Richmond Volkswagen did not list the actual part number for the regulator (water pump) correctly. Compare Estimate No. PQ3645, Page One with Page Two from Safford Brown of Richmond Volkswagen. Page One from Safford Brown of Richmond Volkswagen lists a part no. 06K121026 in the amount of \$645.28 as a list price with a net price of five hundred and fifty seven dollars and thirty-one cents \$557.31. The bin number is also missing from Page One. After noticing the discrepancies in the part number, part description, bin number, list price, net price and the amount listed information in Estimate No. PQ3645, the General Manager at Safford Brown of Richmond Volkswagen corrected the estimate to reflect the actual part number for the regulator (water pump). The part number used to replace the regulator (water pump) in 2025 was part number 06H-121-026-ED. The part number used to replace the regulator (water pump) in 2020 was part number 06H-121-026-DD. The regulator (water pump) was updated by Volkswagen after 2020 and before 2025.

The class settlement administrator for *Coffeng, et al. v. Volkswagen Group of America, Inc.* was listed as:

Engine Water Pump Settlement Administrator  
P.O. Box 2530  
Portland, OR 97208

The class counsel listed for *Coffeng, et al. v. Volkswagen Group of America, Inc.* was listed as:

Gary Grafiman, Kantrowitz, Goldhamer & Graifman, P.C.  
747 Chestnut Ridge Road  
Chestnut Ridge, NY 10977

Michael B. Gallub, Hertfeld & Rubin, P.C.  
125 Broad Street  
New York, NY 10004

Volkswagen Group of America, Inc. did not offer new engine water pump system replacement parts for authorized Volkswagen service centers until after the Limited Warranty Extension for water pump replacements had closed or had nearly closed.

I understand that the matter before the court in *Kimball v. Volkswagen Group of America, Inc., et al.* cannot review the engine water pump system warranty.

I beg the court to consider my experience as a result of the engine water pump system final settlement in *Coffeng v. Volkswagen Group of America, Inc.* This final settlement is an example of the potential adverse costs and liabilities to vehicle owners if a settlement agreement is reached that does not weigh the potential risks to class subset members, i.e. not requiring the manufacturer to provide a new engine water pump system replacement in the final settlement terms of *Coffeng v. Volkswagen Group of America, Inc.*

11. Karen Radley Volkswagen, Invoice No. VWCS530614

Date: 04/21/2021

Mileage: 60,367

Summary: 29 Point Inspection. Changed Battery, Replaced Spark Plugs and Cut-Off Valve. Valve number: 06H-145710 J. Recorded turbo boost valve leaking oil badly. Replaced valve. Retested. Operating to VWOA specifications at this time.

Cut-Off Valve - Volkswagen (06H-145-710-J)

2009-2025 Volkswagen - 6h145710j

Genuine Volkswagen Parts

Manufacturer: Volkswagen

Part Number: 06H-145-710-J

Replaces: 06H-145-710-C, 06H-145-710-E

Brand:

SKU: 06H-145-710-J

Other Names: Valve, Solenoid, By-Pass Control Valve, Turbocharger Boost Pressure Safety Switch, Actuator

Description:

This OEM Volkswagen cutoff valve, part number 06H-145-710-J, is a boost pressure safety switch for the turbochargers in select VW vehicles from between the 2009 and 2021 model years. It fits cars like Eos, GTI, and Jetta and SUVs like Tiguan, Atlas, and Atlas Cross Sport, depending on the year. It's even compatible with models like Beetle, Golf, and Arteon. What it does is regulate back pressure in the engine, so it can continue to run as well as it can. The cutoff valve replaces VW boost pressure safety switches with factory part number 06H-145-710-C or 06H-145-710-E.

Notes:

Included with turbocharger. Included with exhaust manifold.

Replaces: 06H-145-710-C, 06H-145-710-E

Invoice Total: \$843.11

Total Costs Associated with Engine/Turbo for Invoice No. VWCS530614: **\$643.35**

Engine Misc: \$145.00

Part Number: 06H-905-601-A

SPARK PLUG Units: 4

\$72.68

Labor to replace spark plugs: \$145.00

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\$217.68

Cut-Off Valve - Volkswagen (06H-145-710-J)

\$207.99

Turbo Boost

Labor

\$145.00

12. Karen Radley Volkswagen, Invoice No.: VWCS532849  
Date: 05/21/2021 Mileage: 61,834  
Summary: Customer states check for fluid leak—using a lot of oil. Upper timing chain seeping but not enough to account for large amount of oil usage. Customer states rattling noise from engine is abnormal noise—detected it is from the turbo. Turbo estimate provided: \$1,930.00. Customer declined at this time. Multi-point inspection. Oil change—Mobil One Full Synthetic—Customer supplied oil and filter. Turbo rattle noted on the VW Multi-Point Inspection. See Invoice No.: VWCS532849 filed in Alternative Document System (ADS), file name: Alicia Bankston Invoices.
13. Karen Radley Volkswagen, Invoice No.: VWCS548015  
Date: 02/25/2022 Mileage: 67,545  
Summary: Oil change—Mobil One Full Synthetic—Customer supplied oil and filter. Brake check. Customer states check for oil leak. No oil leaks detected at this time. Checked lights and mirrors. 27 Point Inspection.
14. Karen Radley Volkswagen, Invoice No.: VWCS570127  
Date: 04/19/2023 Mileage: 73,866  
Summary: Check Engine Light is on—Amber—“Lights up: Engine Control Malfunction. Flashes: Misfire.” See Diagram A. Found fault code: P0304. Random/Multiple Misfire. Ran test plan and found cold start misfire occurring. Found severe carbon build up on intake valves. Recommend manual decarb cleaning. Customer declined at this time. Oil change. 27 Point Inspection. Manual decarb service estimate: \$1,345.33. See Invoice No.: VWCS570127 filed in Alternative Document System (ADS), file name: Alicia Bankston Invoices. Service Advisor R. Schleicher informed me that would be safe to run the vehicle without the manual decarb service and turbo replacement until the vehicle started to display signs of losing power. I followed the service advisor’s advice since I was completing graduate school at the time. Recommendations: manual decarb service (\$1,345.33), both front control arm brackets (\$1,034.20), alignment (\$159.99), front brakes (\$782.56), driver turn signal (\$187.86), coolant flush (\$275.00).

Invoice Total: \$312.93

Total Costs Associated with Engine/Turbo for Invoice No.: VWCS570127: **\$169.99**  
Check Engine Light labor \$169.99

15. Karen Radley Volkswagen, Invoice No.: VWCS588217  
Date: 04/12/2024 Mileage: 79,187  
Summary: Oil change. Replaced front brakes pads and rotors. Customer states replace front driver front turn signal. Customer declined ordering part. Customer states check on first start up unusual noise. Verify if there is an issue. Tested multiple times—no abnormal noises at this time. Service Advisor R. Schleicher informed me that would be safe to run the vehicle without the manual decarb service and turbo replacement

until the vehicle started to display signs of losing power. I followed the service advisor's advice since I was completing graduate school at the time.

Invoice Total: \$608.93

Total Costs Associated with Engine/Turbo for Invoice No.: VWCS588217: \$0

16. Safford Brown of Richmond Volkswagen, Invoice No.: 116121

Date: 06/07/2024 Mileage: 81,949

Summary: Hit and Run Accident in Richmond.

Invoice Total: \$800.25

Total Costs Associated with Engine/Turbo for Invoice No.: VWCS570127: \$0

16. Safford Brown of Richmond Volkswagen, Invoice No.: VWCS124510

Date: 03/17/2025 Mileage: 90,216

Summary: Customer states having to add coolant very frequently. Pressure tested the system and found water pump/thermostat/housing leaking coolant. Multi-Point Inspection. Diagnose electrical system. Customer stated clock spring air bag light on. Checked codes and found no codes in airbag system at all, to Volkswagen specifications at this time. See attached documents. See diagnostic LOG included in Invoice No.: VWCS124510 filed in Alternative Document System (ADS), file name: Alicia Bankston Invoices. The air bag codes are detected on the diagnostic LOG. The turbo code P0299: "Turbo/Supercharger Underboost Intermittent" was also listed on the diagnostic LOG. Safford Brown of Richmond Volkswagen failed to acknowledge either code on March 17, 2025 and on October 11, 2025. See complaints filed with the Office of the Attorney General of Virginia and with VGoA filed in Alternative Document System (ADS), file name: Alicia Bankston Safford Brown of Richmond Complaint.

Invoice Total: \$191.31

Total Costs Associated with Engine/Turbo for Invoice No.: VWCS124510: TBD

17. Express Oil Change #0701, Invoice Nos.: 00701-75811

Date: 08/14/2024 Mileage: 85,591

Summary: Oil change—Mobil One Full Synthetic—Customer supplied oil and filter. Replaced Alternator Drive Belt.

Invoice Total: \$202.83

Total Costs Associated with Engine/Turbo for Invoice No.: VWCS124510: TBD, possibly \$173.83 if belt was damaged prematurely by oil/excessive carbon splatter.

18. Express Oil Change #070, Invoice No.: 00701-86394

Date: 02/07/2025 Mileage: 89,387

Summary: Oil change—Mobil One Full Synthetic—Customer supplied oil and filter.

FS3 RBI AF. FS3 (Flexible Service System): This is part of Volkswagen's maintenance interval system, which uses sensors to determine when an oil change is needed based on driving conditions. FS3 indicates that the vehicle's computer is telling you it is time for a service. RBI (Repair Body Information): This refers to technical documentation for the vehicle body and frame. It is unrelated to routine maintenance and refers to factory service materials. AF (Advanced Lighting System): This code refers to the optional adaptive and Bi-Xenon headlights on higher trim levels of the 2012 Tiguan. Like RBI, this is a factory designation for a specific feature, not an oil change code. Notes: Oil level was full after service. Air Filter #AF4622 was installed. No estimates were provided.

19. Express Oil Change #0705, Invoice No.: 00705-3228

Date: 09/19/2025 Mileage: 93,575

Summary: Oil change—Mobil One Full Synthetic—Customer supplied oil and filter.

FS5 LOW MOL RRB. LOW: This most likely indicates a low oil pressure warning, which is a common and critical dashboard message on Volkswagen vehicles. When this light appears, you should stop driving immediately." I was not informed by Express Oil Change to stop driving the vehicle immediately. MOL: This abbreviation may be a user's interpretation of a dashboard message. It is almost certainly a reference to "motor oil" or "low oil level," given the context of the other symbols. It is not a standard VW trouble code. RRB: This is not a standard VW mechanical code. It's likely an internal dealership reference. Recommended Parts and Labor: Oil Pan Gasket (MOPG). Replace engine oil pan gasket(s), change engine oil and oil filter, adjustments as required. Inspect balance of engine for leaks and related components.

Oil pan set: \$44.64

Labor Description: Remove and replace oil pan &/or gasket—lower. 1.8 @ \$170.00

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Total: \$350.64

20. Express Oil Change #0705, Invoice No.: 00705-3751

Date: 10/13/2025 Mileage: 94,111

Summary: Customer stated red oil light was flashing but oil level was within safe area, added Lucas Engine Oil Stop Leak, Recorded Level 1 Diagnostic to find issue. Oil leak along passenger side of engine. Engine air filter and cabin air filter changed.

Scheduled appointment for 10/15/25 at 8:00 AM to run complete diagnostic test with liquid dye.

Lucas additive was added per advice Volkswagen Ohio.

APPENDIX D

COMMUNICATION WITH CLASS COUNSEL & THE SETTLEMENT CLASS ADMINISTRATOR

From: Alicia Bankston

Subject: Class Action Member Inquiry Re: Class Action Kimball v. Volkswagen Group of America, Inc., et al., Civil Action No. 2:22-CV-04163-MAH

Date: October 14, 2025 at 9:02:41 AM EDT

To: "Gary S. Graifman Esq." <ggraifman@kgglaw.com>, mgallub@shb.com

Cc: info@turboclasssettlement, akonstantin@sanfordheisler.com, alec.konstantin@sanfordheisler.com, ecfhelp@njdcourts.gov, litigation@citizen.org, contact@autosafety.org, jlevine@autosafety.org, david.sanford@sanfordheisler.com, vwcustomercare@vw.com, vwexecutivemail@vw.com, vwgoacorporatecompliance@vw.com, Volkswagen Kundenbetreuung <kundenbetreuung@volkswagen.de>, NHTSA-ODI-Consumer-Communication <nhtsa-odi-consumer-communication@dot.gov>, kanzlei@dr-buchert.de

I am a class member in Kimball v. Volkswagen Group of America, Inc., et al., Civil Action No. 2:22-CV-04163-MAH. Generation One.

I am preparing to file an objection pro se.

Please answer the following:

1. Can the objection be modified or a supplement added to the objection once it is filed with the court and with class counsel on October 15?
2. Can I still file a claim in the settlement before the November 15 deadline if I am objecting on October 15?
3. Can I retain counsel after the objection is filed pro se on October 15?

NHTSA case no.: 11648866

Volkswagen (VGoA) Customer Case Nos.: 07078907; 07081007; 07083213; 06719052

VGoA Executive Team Reference No.: 06719052

Volkswagen AG Case No.: 0003485327



Alicia Lynn Bankston

VIN WVGBV7AX5CW097028

Current Address: 600 City View Loop, Apartment 2323  
Midlothian, VA 23113

Phone Number: 804-735-6993

Vehicle Model/Year: 2012 Volkswagen Tiguan 2.0 Turbo

<Attached copy of PHOTO A>

<Attached copy of PHOTO B>

From: Alec Konstantin <akonstantin@sanfordheisler.com>

Subject: Sanford Heisler Sharp McKnight, LLP: Correspondence from Alec Konstantin

Date: October 13, 2025 at 9:30:06 AM EDT

To: Alicia Bankston

Cc: "alec.konstantin@sanfordheisler.com" <alec.konstantin@sanfordheisler.com>

Hi,

Thank you for contacting Sanford Heisler Sharp McKnight regarding your experiences. We are sorry for what you have endured. Unfortunately, after careful consideration, the firm has determined it is unable to represent you in your potential legal claims.

Our decision is in part due to the demands of our existing caseload. Please note that in declining to represent you, the firm is not expressing any opinion regarding your claims or the likelihood of success should you initiate a legal action.

You are, of course, free to pursue your claims on your own or with other counsel, and we encourage you to contact other attorneys who may not share in our analysis. Because most legal rights have strict time limitations within which a claim must be filed, we suggest that you contact another attorney immediately if you plan to pursue this matter.

We wish you the best of luck in your pursuit of your claims.

-Alec Konstantin, Chief Operating Officer at Sanford Heisler Sharp McKnight

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I am a class member of *Kimball v. Volkswagen Group of America, Inc., et al.*, Civil Action No. 2:22-CV-04163-MAH. I was also a class member of *Coffeng v. Volkswagen Group of America, Inc., et al.* Civil Action No. 3:17-CV-01825-JD. I am filing an objection in Civil Action No. 2:22-CV-04163-MAH and I am asking for injunctive relief (monetary and non-monetary) [ . . . ] Are you aware of any deadlines related to your potential legal claims?

The deadline to object to the class action is October 15, 2025. I am currently without counsel and I have written my correspondence to the court and class counsel accordingly. However, I have yet to file these documents with the court or with class counsel. [ . . . ] The instructions provided to class members who submit an objection include acknowledgment of counsel. Therefore, I plan to submit the objection stating that I have no counsel presently but that I am seeking legal assistance with the injunctive relief portion of the objection of the settlement.

I have also reached out to Anita Rosenbaum and Wirtz Law APC but I have not received a response.

I have ongoing engine/turbo issues with my vehicle. I am [sic] attached a photo and the photo index of my affidavit and objection.

Photo Index:

Photo A: October 13, 2025 at Express Oil Change, Invoice No. 00705-3751

Photo Description: Carbon build-up and oil splatter around turbo/engine well and casing.

"For a 2012 Volkswagen Tiguan, the turbo engine is the 2.0L TSI (CCTA), and oil splatter is a very common issue with these models. The likely cause of the splatter is a faulty Positive Crankcase Ventilation (PCV) system, which can create excessive pressure that forces oil out of seals and gaskets. The 2012 Volkswagen Tiguan is equipped with the 2.0L TSI (EA888 Gen 1) turbocharged engine. The engine code for this version is CCTA. Likely causes for oil splatter  
Given the CCTA engine's known problems, oil splatter on or around the engine bay can be traced to a few common failures. Faulty PCV system: The most frequent cause of oil leaks and splatter is a failing PCV valve or the entire breather system. How it works: When the PCV system fails, it can cause the crankcase to over-pressurize. This pressure will force oil out through the engine's weakest points, such as seals and gaskets. Common leak locations: The high pressure often leads to leaks at the main rear seal, the front crankshaft seal, or the upper timing cover gaskets. Worn turbocharger seals: If the turbocharger's internal oil seals fail, it can leak oil into the intake or exhaust side of the turbo. In addition to external splatter, you may also see: A loss of power. Blue-gray smoke from the exhaust. High-pressure fuel pump (HPFP) seal leak: On 2.0L TSI engines, a failure of the HPFP seal can leak oil into the crankcase, which may cause oil contamination or cause splatter. Failed timing cover gasket: Oil running down the front of the engine is often caused by a leaking upper timing cover gasket. This can be made worse by excessive crankcase pressure from a faulty PCV. Exhaust manifold seal: If you notice a whistling or hissing noise from the engine and a smell of burning oil, a faulty exhaust manifold seal where the turbocharger is mounted could be the culprit. Recommended next steps: Since the root cause could be one of several common failures, a professional diagnosis is recommended. Inspect the PCV: Because it's a common failure point and a relatively inexpensive part, a mechanic may suggest replacing the PCV valve first, especially if the leak is widespread. Pressure test the crankcase: A specialist can perform a test to check for excessive crankcase pressure, which would point toward a PCV system failure. Perform a smoke test: This test can help pinpoint the exact location of a leak by forcing smoke through the system and watching where it escapes. Inspect other seals: Your mechanic will also visually inspect the seals on the timing cover, oil filter housing, and turbocharger oil lines to check for damage."

A professional diagnosis is scheduled for October 15, 2025—the earliest date available.

Photo B

Photo taken: October 13, 2025 at Express Oil Change, Invoice No. 00705-3751

Photo Description: Carbon build-up and oil splatter around turbo/engine well and casing.

"For a 2012 Volkswagen Tiguan, the turbo engine is the 2.0L TSI (CCTA), and oil splatter is a very common issue with these models. The likely cause of the splatter is a faulty Positive Crankcase Ventilation (PCV) system, which can create excessive pressure that forces oil out of seals and gaskets. The 2012 Volkswagen Tiguan is equipped with the 2.0L TSI (EA888 Gen 1) turbocharged engine. The engine code for this version is CCTA. Likely causes for oil splatter  
Given the CCTA engine's known problems, oil splatter on or around the engine bay can be traced to a few common failures. Faulty PCV system: The most frequent cause of oil leaks and splatter is a failing PCV valve or the entire breather system. How it works: When the PCV system fails, it can cause the crankcase to over-pressurize. This pressure will force oil out through the engine's weakest points, such as seals and gaskets. Common leak locations: The high pressure often leads to leaks at the main rear seal, the front crankshaft seal, or the upper timing cover gaskets. Worn turbocharger seals: If the turbocharger's internal oil seals fail, it can leak oil into the intake or exhaust side of the turbo. In addition to external splatter, you may also see: A loss of power. Blue-gray smoke from the exhaust. High-pressure fuel pump (HPFP) seal leak: On 2.0L TSI engines, a failure of the HPFP seal can leak oil into the crankcase, which may cause oil contamination or cause splatter. Failed timing cover gasket: Oil running down the front of the engine is often caused by a leaking upper timing cover gasket. This can be made worse by excessive crankcase pressure from a faulty PCV. Exhaust manifold seal: If you notice a whistling or hissing noise from the engine and a smell of burning oil, a faulty exhaust manifold seal where the turbocharger is mounted could be the culprit. Recommended next steps: Since the root cause could be one of several common failures, a professional diagnosis is recommended. Inspect the PCV: Because it's a common failure point and a relatively inexpensive part, a mechanic may suggest replacing the PCV valve first, especially if the leak is widespread. Pressure test the crankcase: A specialist can perform a test to check for excessive crankcase pressure, which would point toward a PCV system failure. Perform a smoke test: This test can help pinpoint the exact location of a leak by forcing smoke through the system and watching where it escapes. Inspect other seals: Your mechanic will also visually inspect the seals on the timing cover, oil filter housing, and turbocharger oil lines to check for damage."

A professional diagnosis is scheduled for October 15, 2025—the earliest date available.

Photo C

Photo taken: October 13, 2025 at Express Oil Change, Invoice No. 00705-3751

Photo Description: The area under the hood is clean with the exception of the engine area near the turbo.

Photo D

Photo taken: October 13, 2025 at Express Oil Change, Invoice No. 00705-3751

Photo Description: The existing engine air filter on the vehicle was clean and the new engine air filter (Part No. SA9711) that was purchased at Auto Zone Store No. 04641 on 10/13/2025 was not installed on October 13, 2025 at Express Oil Change. Receipt No. 075400.

WARNING and Indicator Lights (Red, Amber) The history of these indicator/warnings is included in my affidavit, objection and covered repair claim.



A.

Amber—Lights up: Engine Control Malfunction. Flashes: Misfire.

B.

Amber—Engine control malfunction.

C.

Red—Stop! Engine oil pressure too low.

The red "Stop! Engine oil pressure too low" warning indicator flashed briefly at least seven times on September 27, 2025 while I was driving out of town on the interstate in a severe rain storm. The first time that it flashed I pulled over in the rain and checked the oil level. The vehicle had an oil change on September 9, 2025, see Annexure R. I had oil in the vehicle and I added approximately 2 fluid ounces. The warning indicator stopped flashing for approximately 15 miles of interstate driving and then flashed briefly again. I pulled over a second time and checked the oil level. The oil level was at its maximum level. I did not add additional oil. The warning indicator stopped flashing. I drove approximately 10 miles in a loop on county roads with various starts and stops (I was on an Autumn House Tour in Charles County, Virginia—there were five different locations within a 10 mile radius). However, on my return trip home, the red "Stop! Engine oil pressure too low" warning indicator flashed briefly at least four more times when I could not immediately pull over and then stopped flashing. Since it was a Saturday, I took the vehicle to Advanced Auto Parts and requested a basic diagnostic reading using an OBD-II scanner. No diagnostic trouble codes were identified on September 27, 2025 after the red "Stop! Engine oil pressure too low" warning indicator flashed briefly at least seven times, see Annexure P for a copy of the report.

Turbo replacement estimates:

2021: \$1,930

2022: \$4,150

2025: \$7,500

Begin forwarded message:

From: Alicia Bankston

Subject: Re: Class Action Member Inquiry Re: Class Action Kimball v. Volkswagen Group of America, Inc., et al., Civil Action No. 2:22-CV-04163-MAH

Date: October 14, 2025 at 7:32:34 PM EDT

To: "Gary S. Graifman Esq." <ggraifman@kgglaw.com>

Cc: "info@turboclasssettlement" <info@turboclasssettlement>, Liz Moccia

<lmoccia@kgglaw.com>, "mgallub@shb.com" <mgallub@shb.com>, "Thomas Sobran (tsobran@gmail.com)" <tsobran@gmail.com>

Thank you for writing. I am not represented by counsel.

On Oct 14, 2025, at 10:46 AM, Gary Graifman <ggraifman@kgglaw.com> wrote:  
Dear Ms. Bankston.

Before I respond directly to you, I need to ask—are you represented by counsel in which case I would need to direct any responses to your counsel?  
I ask because your email chain seems to have emails with various counsel below your email and the email itself appears to copy other attorneys.

Very truly yours,

GARY S. GRAIFMAN  
KANTROWITZ GOLDHAMER  
& GRAIFMAN, P.C.  
135 CHESTNUT RIDGE ROAD, SUITE 200  
MONTVALE, NJ 07645  
T: 201-391-7000, X136 • www.kgglaw.com  
F: 201-307-1086

---

16 SQUADRON DRIVE, SUITE 106  
NEW CITY, NY 10956  
T: 845-356-2570, X136 • www.kgglaw.com  
F: 845-356-4335

Begin forwarded message:

From: Alicia Bankston  
Subject: Re: Class Action Member Inquiry Re: Class Action Kimball v. Volkswagen Group of America, Inc., et al., Civil Action No. 2:22-CV-04163-MAH  
Date: October 15, 2025 at 6:33:42 AM EDT  
To: "Gary S. Graifman Esq." <ggraifman@kgglaw.com>, mgallub@shb.com, info@turboclasssettlement.com  
Cc: info@turboclasssettlement, akonstantin@sanfordheisler.com, alec.konstantin@sanfordheisler.com, ecfhelp@njd.uscourts.gov, litigation@citizen.org, contact@autosafety.org, jlevine@autosafety.org, david.sanford@sanfordheisler.com, vwcustomercare@vw.com, vwexecutivemail@vw.com, vwgoacorporatecompliance@vw.com, Volkswagen Kundenbetreuung <kundenbetreuung@volkswagen.de>, NHTSA-ODI-Consumer-Communication <nhtsa-odi-consumer-communication@dot.gov>, kanzlei@dr-buchert.de

Class Counsel  
Gary Graifman, Esq.  
Kantrowitz, Goldhamer & Graifman PC  
135 Chestnut Ridge Road, Suite 200  
Montvale, NJ 07645

Defense Counsel  
Michael B. Gallub, Esq.  
Shook, Hardy & Bacon LLP  
1 Rockefeller Plaza, Suite 2801  
New York, NY 10020

Re: *Kimball v. Volkswagen Group of America, Inc., et al.*, Civil Action No. 2:22-CV-04163-MAH

Please provide the specific rules of the settlement regarding requests to withdraw an objection filed by October 15 (once filed with the court—U.S. District Court of the District of New Jersey) in order to opt out and pursue individual litigation.

AI Gemini: Yes, you can withdraw an objection to a class action settlement and opt out to pursue your own litigation, but you may need court approval to do so, depending on the specific rules and deadlines. To be safe, it is best to consult the settlement notice or speak with class counsel for specific instructions on withdrawing your objection and correctly opting out by the deadline.

How to proceed

Check the settlement notice for instructions: The original notice you received about the class action should have specific instructions for opting out, including the deadline and where to send your request.

Withdraw the objection: You may need to file a separate motion or letter with the court to officially withdraw your objection. The court may need to approve this withdrawal, especially if you are also opting out.

Submit your opt-out request: Follow the instructions in the notice to formally opt out of the settlement. This typically involves submitting a signed, written request to the court or the settlement administrator by the specified deadline.

Be aware of the consequences: By opting out, you give up your right to any compensation from the class action settlement but preserve your right to file an individual lawsuit against the defendant.

Important considerations

Deadlines are critical: You must meet the deadlines for both withdrawing your objection and opting out, or you risk being automatically included in the class action.

Consult a lawyer: Given the potential complexity, it is advisable to consult with an attorney to ensure your rights are protected and that you correctly follow the correct procedures.

Begin forwarded message:

From: Alicia Bankston

Subject: Re: Class Action Member Inquiry Re: Class Action *Kimball v. Volkswagen Group of America, Inc., et al.*, Civil Action No. 2:22-CV-04163-MAH

Date: October 15, 2025 at 9:48:18 AM EDT

To: "Gary S. Graifman Esq." <ggraifman@kgglaw.com>, info@turboclasssettlement.com

Cc: mgallub@shb.com, akonstantin@sanfordheisler.com, alec.konstantin@sanfordheisler.com, litigation@citizen.org, contact@autosafety.org, jlevine@autosafety.org, david.sanford@sanfordheisler.com, vwcustomer care@vw.com, vwexecutivemail@vw.com, vwgoacorporatecompliance@vw.com, Volkswagen Kundenbetreuung <kundenbetreuung@volkswagen.de>, kanzlei@dr-buchert.de

Please provide copies of all class counsel attorney fee requests for *Kimball v. Volkswagen Group of America, Inc., et al.*, Civil Action No. 2:22-CV-04163-MAH.

Thank you,  
Alicia Bankston  
Class member

APPENDIX E  
PHOTO INDEX

Photo A: October 13, 2025 at Express Oil Change, see Invoice No. 00705-3751 in Appendix B.

Photo Description: Carbon build-up and oil splatter around turbo/engine well and casing.

“For a 2012 Volkswagen Tiguan, the turbo engine is the 2.0L TSI (CCTA), and oil splatter is a very common issue with these models. The likely cause of the splatter is a faulty Positive Crankcase Ventilation (PCV) system, which can create excessive pressure that forces oil out of seals and gaskets. The 2012 Volkswagen Tiguan is equipped with the 2.0L TSI (EA888 Gen 1) turbocharged engine. The engine code for this version is CCTA. Likely causes for oil splatter Given the CCTA engine's known problems, oil splatter on or around the engine bay can be traced to a few common failures. Faulty PCV system: The most frequent cause of oil leaks and splatter is a failing PCV valve or the entire breather system. How it works: When the PCV system fails, it can cause the crankcase to over-pressurize. This pressure will force oil out through the engine's weakest points, such as seals and gaskets. Common leak locations: The high pressure often leads to leaks at the main rear seal, the front crankshaft seal, or the upper timing cover gaskets. Worn turbocharger seals: If the turbocharger's internal oil seals fail, it can leak oil into the intake or exhaust side of the turbo. In addition to external splatter, you may also see: A loss of power. Blue-gray smoke from the exhaust. High-pressure fuel pump (HPFP) seal leak: On 2.0L TSI engines, a failure of the HPFP seal can leak oil into the crankcase, which may cause oil contamination or cause splatter. Failed timing cover gasket: Oil running down the front of the engine is often caused by a leaking upper timing cover gasket. This can be made worse by excessive crankcase pressure from a faulty PCV. Exhaust manifold seal: If you notice a whistling or hissing noise from the engine and a smell of burning oil, a faulty exhaust manifold seal where the turbocharger is mounted could be the culprit. Recommended next steps: Since the root cause could be one of several common failures, a professional diagnosis is recommended. Inspect the PCV: Because it's a common failure point and a relatively inexpensive part, a mechanic may suggest replacing the PCV valve first, especially if the leak is widespread. Pressure test the crankcase: A specialist can perform a test to check for excessive crankcase pressure, which would point toward a PCV system failure. Perform a smoke test: This test can help pinpoint the exact location of a leak by forcing smoke through the system and watching where it escapes. Inspect other seals: Your mechanic will also visually inspect the seals on the timing cover, oil filter housing, and turbocharger oil lines to check for damage.”

A professional diagnosis is scheduled for October 15, 2025—the earliest date available.

Photo B: October 13, 2025 at Express Oil Change, see Invoice No. 00705-3751 in Appendix B.

Photo Description: Carbon build-up and oil splatter around turbo/engine well and casing.

“For a 2012 Volkswagen Tiguan, the turbo engine is the 2.0L TSI (CCTA), and oil splatter is a very common issue with these models. The likely cause of the splatter is a faulty Positive Crankcase Ventilation (PCV) system, which can create excessive pressure that forces oil out of seals and gaskets. The 2012 Volkswagen Tiguan is equipped with the 2.0L TSI (EA888 Gen 1) turbocharged engine. The engine code for this version is CCTA. Likely causes for oil splatter Given the CCTA engine's known problems, oil splatter on or around the engine bay can be traced to a few common failures. Faulty PCV system: The most frequent cause of oil leaks and splatter is a failing PCV valve or the entire breather system. How it works: When the PCV system fails, it can cause the crankcase to over-pressurize. This pressure will force oil out through the engine's weakest points, such as seals and gaskets. Common leak locations: The high pressure often leads to leaks at the main rear seal, the front crankshaft seal, or the upper timing cover gaskets. Worn turbocharger seals: If the turbocharger's internal oil seals fail, it can leak oil into the intake or exhaust side of the turbo. In addition to external splatter, you may also see: A loss of power. Blue-gray smoke from the exhaust. High-pressure fuel pump (HPFP) seal leak: On 2.0L TSI engines, a failure of the HPFP seal can leak oil into the crankcase, which may cause oil contamination or cause splatter. Failed timing cover gasket: Oil running down the front of the engine is often caused by a leaking upper timing cover gasket. This can be made worse by excessive crankcase pressure from a faulty PCV. Exhaust manifold seal: If you notice a whistling or hissing noise from the engine and a smell of burning oil, a faulty exhaust manifold seal where the turbocharger is mounted could be the culprit. Recommended next steps: Since the root cause could be one of several common failures, a professional diagnosis is recommended. Inspect the PCV: Because it's a common failure point and a relatively inexpensive part, a mechanic may suggest replacing the PCV valve first, especially if the leak is widespread. Pressure test the crankcase: A specialist can perform a test to check for excessive crankcase pressure, which would point toward a PCV system failure. Perform a smoke test: This test can help pinpoint the exact location of a leak by forcing smoke through the system and watching where it escapes. Inspect other seals: Your mechanic will also visually inspect the seals on the timing cover, oil filter housing, and turbocharger oil lines to check for damage.”

A professional diagnosis is scheduled for October 15, 2025—the earliest date available.

Photo C

Photo taken: October 13, 2025 at Express Oil Change, Invoice No. 00705-3751

Photo Description: The area under the hood is clean with the exception of the engine area near the turbo.

Photo D

Photo taken: October 13, 2025 at Express Oil Change, Invoice No. 00705-3751

Photo Description: The existing engine air filter on the vehicle was clean and the new engine air filter (Part No. SA9711) that was purchased at Auto Zone Store No. 04641 on 10/13/2025 was not installed on October 13, 2025 at Express Oil Change. Receipt No. 075400.



APPENDIX E  
PHOTOS

PHOTO A



PHOTO B





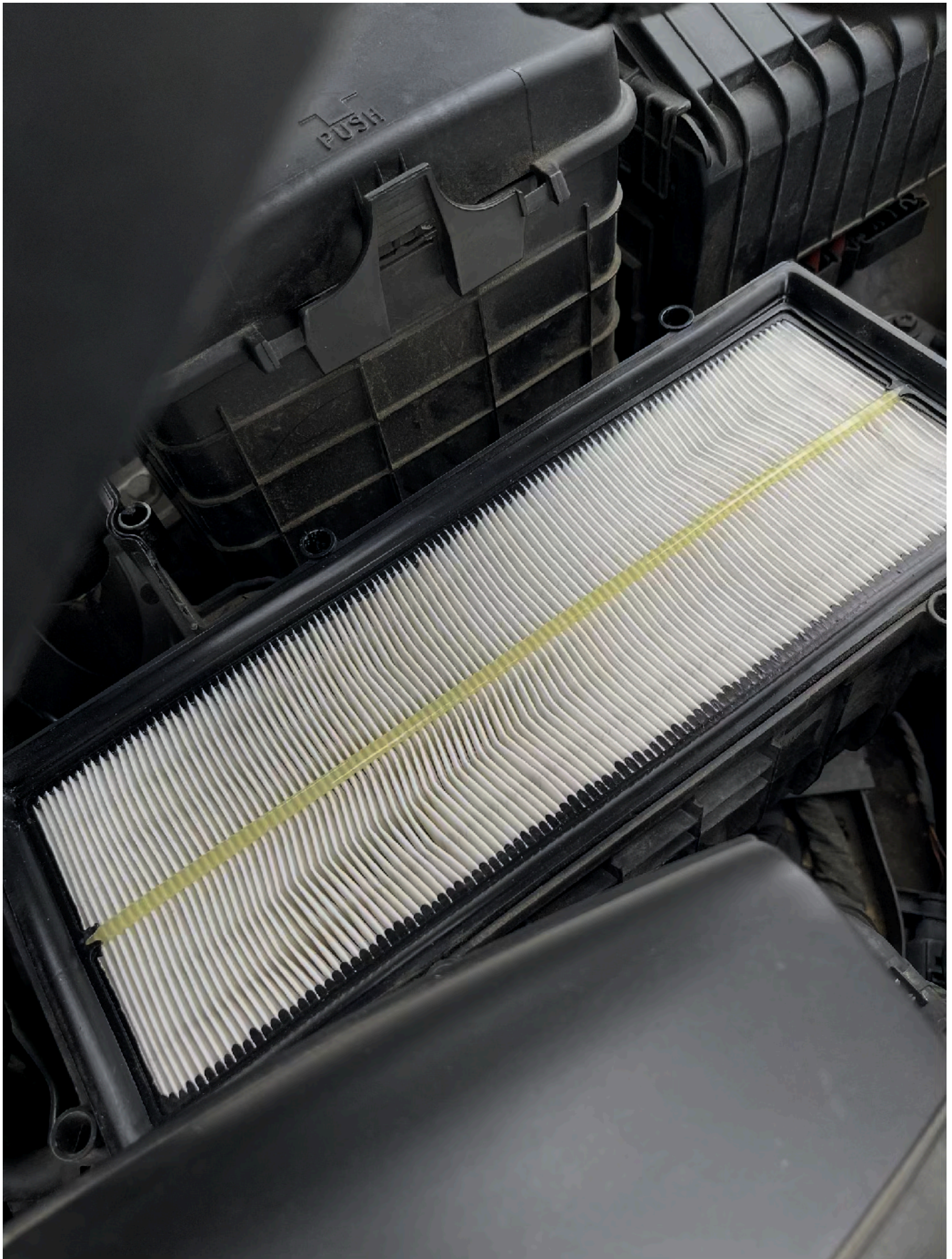
PHOTO C





PHOTO D





APPENDIX F  
LIST OF BUSINESS AND INDIVIDUAL WITNESSES

The following businesses and individuals can attest that the presented facts are accurate and true:

1. Terry Bankston  
4041 Pathfinder Court  
Billings, MT 59106  
  
Telephone: 406-670-7480
2. Dana Motors  
2046 Grand Avenue  
Billings, MT 59102  
  
Telephone: 406-656-7654
3. Capital Volkswagen formerly Capital Euro Car, Volkswagen  
1800 Capital Circle NE  
Tallahassee, FL 32308  
  
Telephone: 833-248-9090
4. Karen Radley Auto Group Volkswagen  
14700 Richmond Highway  
Woodbridge, VA 22191  
  
Telephone: 571-569-0122
5. Safford Brown of Richmond Volkswagen  
10501 Midlothian Turnpike  
Richmond, VA 23235  
  
Telephone: 804-379-7283

6. Cullop's Import Volkswagen  
11002-I West Broad Street, Unit 1  
Glen Allen, VA 23060

Telephone: 804-270-4907

7. Express Oil Change #0705  
1840 Stavemill Crossing Lane  
Powhatan, VA 23139

Telephone: 804-381-6464

APPENDIX G  
CLAIM FOR RELIEF & REQUIRED WORK ESTIMATES RELATED TO ENGINE/TURBO

Estimates were filed in the Alternative Document System (ADS), file name: Alicia Bankston, Estimates.

# EXHIBIT 2

Date October 15 Number of pages \_\_\_\_\_ (including cover page)

To:

Name JND Legal Administration

Company Turbocharger Class Settlement

Telephone 1-855-779-6685

Fax \_\_\_\_\_

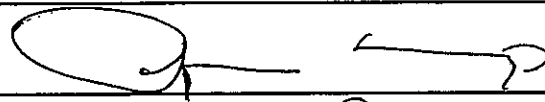
From:

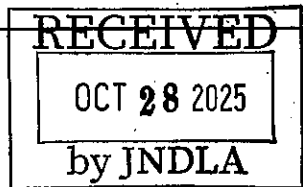
Name Roger Campos

Company \_\_\_\_\_

Telephone (214) 729-3851

Comments Objection to Settlement

  
Roger Campos





**Notice of Proposed Class Action Settlement**

If you currently or previously owned or leased a certain Model Year 2008-2021 VW GTI, 2008-2019 VW Golf R, 2012-2013 VW Beetle, 2009 VW Jetta Sportwagen, 2008-2013 or 2019-2024 VW Jetta or Jetta GLI, 2009-2016 VW Eos, 2008-2010 VW Passat, 2009-2017 VW CC, 2009-2018 VW Tiguan, 2015-2018 VW Golf, 2015-2019 Golf Sportwagen or Alltrack, 2019-2021 VW Arteon, 2018-2023 VW Atlas or 2020-2023 VW Atlas Cross Sport vehicle in the United States or Puerto Rico, you may be entitled to benefits under a class action settlement. This Notice is being mailed to you because you have been identified as owning or leasing such a vehicle.

For more information on the proposed Settlement and its benefits, your rights, important deadlines and procedures, how and when to file a claim for reimbursement, and the deadline and procedures for objecting to, or excluding yourself from, the Settlement, visit the Settlement Website at [www.TurboClassSettlement.com](http://www.TurboClassSettlement.com) or call toll-free at 1-855-779-6685.

**Do not contact the Court for information about the Settlement.**

**Turbocharger Class Settlement**

c/o JND Legal Administration  
PO Box 91184  
Seattle, WA 98111

**Electronic Service Requested**

Postal Service: Please do not mark barcode

KVW NHADEV83Q

108835020384993 T679 P2  
ROGER CAMPOS  
1315 SHADY SPRING CT W  
IRVING, TX 75060-6027

Presorted  
First-Class Mail  
U.S. Postage  
**PAID**  
Philadelphia, PA  
Permit No. 5634

**Notice of Proposed Class Action Settlement**

If you currently or previously owned or leased a certain Model Year 2008-2021 VW GTI, 2008-2019 VW Golf R, 2012-2013 VW Beetle, 2009 VW Jetta Sportwagen, 2008-2013 or 2019-2024 VW Jetta or Jetta GLI, 2009-2016 VW Eos, 2008-2010 VW Passat, 2009-2017 VW CC, 2009-2018 VW Tiguan, 2015-2018 VW Golf, 2015-2019 Golf Sportwagen or Alltrack, 2019-2021 VW Arteon, 2018-2023 VW Atlas or 2020-2023 VW Atlas Cross Sport vehicle in the United States or Puerto Rico, you may be entitled to benefits under a class action settlement. This Notice is being mailed to you because you have been identified as owning or leasing such a vehicle.

For more information on the proposed Settlement and its benefits, your rights, important deadlines and procedures, how and when to file a claim for reimbursement, and the deadline and procedures for objecting to, or excluding yourself from, the Settlement, visit the Settlement Website at [www.TurboClassSettlement.com](http://www.TurboClassSettlement.com) or call toll-free at 1-855-779-6685.

**Do not contact the Court for information about the Settlement.**

**Turbocharger Class Settlement**  
c/o JND Legal Administration  
PO Box 91184  
Seattle, WA 98111

**Electronic Service Requested**

Postal Service: Please do not mark barcode

KVW NTWMBX9VCH

108835020384968 T679 P2  
ROGER CAMPOS  
1315 SHADY SPRING CT W  
IRVING, TX 75060-6027

Presorted  
First-Class Mail  
U.S. Postage  
**PAID**  
Philadelphia, PA  
Permit No. 5634



Carefully separate this Address Change Form at the perforation.

Name: \_\_\_\_\_

Current Address: \_\_\_\_\_

\_\_\_\_\_

**Address Change Form**

To make sure your information remains up-to-date in our records, please confirm your address by filling in the above information and depositing this postcard in the U.S. Mail.

Place  
Stamp  
Here

Turbocharger Class Settlement  
c/o JND Legal Administration  
PO Box 91184  
Seattle, WA 98111

Carefully separate this Address Change Form at the perforation.

Name: \_\_\_\_\_

Current Address: \_\_\_\_\_

\_\_\_\_\_

**Address Change Form**

To make sure your information remains up-to-date in our records, please confirm your address by filling in the above information and depositing this postcard in the U.S. Mail.

Place  
Stamp  
Here

Turbocharger Class Settlement  
c/o JND Legal Administration  
PO Box 91184  
Seattle, WA 98111



Roger Campos  
1315 Shady Spring Ct  
Irving, TX 75060 - 6027

Retail



98111

RDC01

0 Lb 0.30 Oz

U.S. POSTAGE PAID  
USPS Ground Advig  
DALLAS, TX 75260  
OCT 15, 2025

**\$8.10**

S2324M504845-35

~~Timbochager Class Settlement~~  
~~% JND Legal Administration~~  
~~PO Box 91134~~  
~~Seattle, WA 98111~~

~~PAID 07-000~~  
~~PAID 07-000~~

USPS TRACKING® #



9500 1122 0455 5288 3821 78

TH CARE

OCT 26 2025

OCT 28 2025

OCT 28 2025

Water and Tear Resistant

# EXHIBIT 3

9-30-25

To Whom It May Concern:

I, Shady Ali, am the current owner of a 2016 VW Tiguan. On November 9, 2024 my check engine light came on. I got in contact with my local VW dealer where the vehicle was originally purchased and scheduled it for a diagnostic two days later. The vehicle was brought into Northtown VW.

I was diagnosed with a "faulty Turbo Waste Gate Stuck Open". I was told by the Technician "these do not get repaired, they get replaced". I was also informed there is no coverage such as warranty or recall at the time. I was told this would be an out-of-pocket expense of \$3750 plus the diagnostic fee of \$211 plus taxes. I cannot afford to do a repair for this amount. I have provided the diagnostic for proof of the faulty Turbo. The car has been meticulously taken care of and has not been modified in any way, shape or form. I have filed a claim at [www.turboclasssettlement.com](http://www.turboclasssettlement.com) as well. My claim number: P67XZ5P8RE.

I, Shady Ali, of 937 Castlebar Drive, North Tonawanda, New York, 14120, owner of a 2016 VW Tiguan VIN No. WVGBV7AX2GW559857, am providing a copy of my Title, Registration, Bill of Sale, as proof of ownership. I ask the court to deny approval, and I object to the proposed settlement of 50%. In the case of *Kimball v. Volkswagen Group of America, Inc., et al.*, United States District Court for the District of New Jersey, Civil Action No. 2:22-cv-04163-MAH. If you have any questions or concerns to my objection, you can reach me at (716) 257-0593.

Sincerely,



Shady Ali



ALI, SHADY, N  
6918 JOANNE  
NIAGARA FALLS

NY 14304

01019

# CERTIFICATE OF TITLE

## NEW YORK STATE

dmv.ny.gov

**\* \* LIENS \* \***

Document No.

895966X

Date Issued

2/12/19

Title and Identification No.

WVGBV7AX2GW559857  
WVGBV7AX2GW559857

Year

2016

Make

VOLKS

Model Code

TGN

Body/Hull

SUBN

Color

WH

Wt./Sts./Lgth.

3521

Fuel

GAS

Cyl./Prop.

4

New or Used

USED

Type of Title

VEHICLE

Name and Address of Owner(s)

ALI, SHADY, N  
6918 JOANNE  
NIAGARA FALLS NY 14304

ODOMETER READING: 28257

**ACTUAL MILEAGE**

28257

This document is your proof of ownership for this vehicle, boat or manufactured home. Keep it in a safe place, not with your license or registration or in your vehicle or boat. To dispose of your vehicle, boat or manufactured home, complete the transfer section on the back and give this title to the new owner.

Lienholder

STATE EMPLOYEES  
FEDERAL CREDIT UNION  
PO BOX 12-189  
ALBANY NY 12212

Lienholder

02

**\* ONE LIEN RECORDED \***

Lienholder

**\* ONE LIEN RECORDED \***

Lienholder

**\* ONE LIEN RECORDED \***

MV-999 (1/15)

DEPARTMENT OF MOTOR VEHICLES

VOID IF ALTERED


VOID IF ALTERED



Keep this document to show to the police and courts.

MV-699CR (8/21) NEW YORK STATE REGISTRATION DOCUMENT

X PAS  
KEB4133  
2016 VOLKS NONTRANSFERABLE  
SUBN WH WVGBV7AX2GW559857  
3521 G 4 I4276187 MAR 31 2025  
Wt/Seats Fuel/Cyl WEB WEBCDA  
Expires 05/07/27  
ALI, SHADY, N  
937 CASTLEBAR DR  
NORTH TONAWAND NY 14120 ANNUAL CHG 28.25  
458309EQ AMT PAID (INCL ADD CHG)  
VOID IF ALTERED EXCEPT FOR ADDRESS 76.50





SHADY N ALI  
937 CASTLEBAR DR  
N TONAWANDA, NY 14120-2913

PAID

NOV 11 2024

PAGE 1



northtown  
toyota volkswagen

1135 Millersport Hwy | Amherst NY 14226  
Sales (716) 836-4600 | Service 716 923 2101  
Visit us at: www.northtownauto.com

SERVICE ADVISOR NICHOLAS LENNERT

MC V DI AX CA CK GC

REPAIR ORDER WRITTEN	DATE READY	STOCK NO.	VEHICLE IDENTIFICATION	CUST. NO.	TAG NO.	P.O. NO.	INVOICE PRINTED	INVOICE NO.
11NOV24	11NOV24	VP8643	WVGBV7AX2GW559857	479074	T9857		11NOV24	125001
TIME IN	TIME READY	YEAR	MAKE & MODEL	TELEPHONE NO.	DELIVERY DATE	IN SERVICE DATE	CLOSED BY	OPENED BY
13:44	16:26	16	Volkswagen TIGUAN	.		09NOV24	4855	4855
MILEAGE IN	MILEAGE OUT	LICENSE NO.						
77418	77419							

A CUSTOMER STATES CHECK ENGINE LITE ON - SCAN  
FOR VAULTS AND DIAGNOSE

CAUSE: TURBO

CEL FOUND VEHICLE WILL NEED A NEW TURBO

6364 CV1

211.00

211.00

FOUND TURBO WASTE GATE STUCK OPEN WILL NEED

NEW TURBO \$3750 ALSO FOUND OIL SEEPAGE AT

VALVE COVER VACUUM PUMP GASKET AND UPPER

TIMING COVER GASKET. \$1311 CONTROL ARM BUSHING

TORN \$1150 REAR BRAKES NEEDED SOON \$594

B PERFORM MULT POINT INSPECTION AND ENSURE

FLOOR MATS ARE INSTALLED PROPERLY WITHIN  
THE VEHILCE

27 PERFORM MULT POINT INSPECTION AND

ENSURE FLOOR MATS ARE INSTALLED

PROPERLY WITHIN THE VEHILCE

6364 CV1

0.00

0.00

**Warranty Disclaimer:** Any warranties on the products supplied hereby are those made by the manufacturer. The seller expressly disclaims all warranties, either express or implied, including any implied warranty of merchantability or fitness for a particular purpose. And neither assumes nor authorizes any other person to assume for it any liability in connection with the sale of said products. Labor performed in connection with these services is warranted by the seller for the lesser of 90 days or 4,000 miles. Customer shall not be entitled to recover from the dealership any consequential damages, damages to property, damages for loss of use, loss of time, loss of profit or income, or any other incidental damages.

X

Service & Parts Hours  
7:30 AM - 9:00 PM Mon. - Sat.

Free shuttle service available  
for our service customers  
(some restrictions apply)

Ask about our Tire and Accessory Specials...

Collision vehicles repaired  
24-hours, Mon. - Wed.  
northtown collision centre  
3840 Sheridan Drive  
614-1900

northtown recommends  
Frank Brown's Towing  
832-6600

Follow us:



NYS REPAIR SHOP REG.# 7120513

DESCRIPTION	TOTALS
LABOR AMOUNT	211.00
PARTS AMOUNT	0.00
GAS,OIL, LUBE	0.00
SUBLET AMOUNT	0.00
MISC. CHARGES	0.00
TOTAL CHARGES	211.00
ADDITIONAL PAYEE	0.00
SALES TAX	18.46
PLEASE PAY THIS AMOUNT	229.46

**Thank you for doing  
business with northtown!!!  
We're taking service to the  
nth degree. Please ask to  
speak to the service  
manager if you are not  
completely satisfied.**

"Vehicles still on the property and/or with unpaid balances after more than 5 days post repair or unapproved estimate will be subject to storage charges. Storage charges will accrue at a rate of \$30/day, retroactive to the first day, following the expiration of this 5 day period. These storage charges will be subject to the same rules and statutes governing the application of Mechanic's Lien."

CHRYSLER

Jeep

DODGE

RAM

TOYOTA

VOLKSWAGEN

LEXUS

CHRYSLER

JEEP

DODGE

RAM

TOYOTA

VOLKSWAGEN

LEXUS

RANGE ROVER

LAND ROVER

VOLVO

PORSCHE

HYUNDAI

SUBARU

MAZDA

KIA

FIAT

CUSTOMER COPY

RANGE ROVER

LAND ROVER

VOLVO

PORSCHE

HYUNDAI

SUBARU

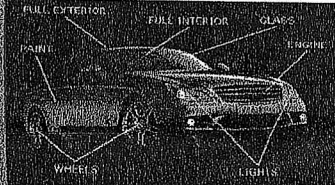
MAZDA

KIA

FIAT

**10% OFF**  
ANY DETAIL SERVICE  
DURING YOUR NEXT VISIT

See Service Advisor For Details



northtown  
toyota scion vw  
Expires: Nov 11 2025

nTire  
centre

nTire...your best source for tires

\* Price match guarantee

\* Nationwide Road Hazard

\* Complimentary tire rotation

At the best price in town.  
See advisor for details.

northtown  
toyota scion vw  
Expires: Nov 11 2025

northtown  
quality protection

**ENGINE COVERAGE**

ON SELECT NEW VEHICLES THE 4-SELECT WARRANTY ON SELECTED VEHICLES

RENTAL CAR REIMBURSEMENT

EMERGENCY ROADSIDE SERVICES

TRIP INTERRUPTION REIMBURSEMENT

northtown  
toyota scion vw

\*Ask your Northtown Service Advisor for details



northtown

CUST# 479074

260596

## RETAIL PURCHASE AGREEMENT

Purchaser's Name(s): SHADY N ALI

Deal Number: 01/28/2019

Address: 6918 JOANNE CIRCLE NIAGARA FALLS, NY 14304

Date: NIAGARA

Telephone (1): (716)205-8031

Telephone (2): 7162570593

County: 05-06-82

E-mail:

D.L./State I.D.#: 550405217

Issuing State: NY

Exp. Date:

The above information has been requested so that we may verify your identity. By signing below, you represent that you are at least 18 years of age and have authority to enter into this Agreement. The Odometer Reading for the Vehicle you are purchasing is accurate unless indicated otherwise. Please refer to the Federal Mileage Statement for full disclosure.

YEAR 2016	MAKE Volkswagen	MODEL TIGUAN	COLOR WH	STOCK NO. VP8643
VIN/SERIAL NO. WVG8V7AX2GW559857		ODOMETER READING <input type="checkbox"/> Not Accurate 28257	SALESPERSON STEWART, LUKE	
THE VEHICLE IS A: <input type="checkbox"/> NEW VEHICLE <input checked="" type="checkbox"/> USED VEHICLE		Prior Use Certification (required by Vehicle and Traffic Law, Section 417-a if the principal prior use of the Vehicle were as a police vehicle, taxicab, rental vehicle or driver education vehicle). The principal prior use of the Vehicle was as: a police vehicle, a taxicab, a rental vehicle, or a driver education vehicle.		
<input type="checkbox"/> DEMONSTRATOR <input type="checkbox"/> WHOLESALE VEHICLE <input type="checkbox"/> JUNK VEHICLE				

## WARRANTY STATEMENT

Any warranties by a manufacturer or supplier other than our Dealership are theirs, not ours, and only such manufacturer or supplier shall be liable for performance under such warranties. We neither assume nor authorize any other person to assume for us any liability in connection with the sale of the Vehicle and related goods and services. If we enter into a service contract with you at the time of, or within 90 days of, the date of this transaction, we may not limit or modify the implied warranties.

**NEW VEHICLES SOLD AS-IS:** We expressly disclaim all express and implied warranties, including the implied warranties of merchantability and fitness for a particular purpose. The manufacturer's warranty is not affected by this disclaimer of warranties by the Dealership.

**USED VEHICLES:** If this motor vehicle is classified as a used motor vehicle, the Dealer named above certifies that the entire vehicle is in condition and repair to render, under normal use, satisfactory and adequate service upon the public highway at the time of delivery.

No express warranty or implied warranty of fitness for any particular purpose or implied warranty of merchantability beyond that set forth above is given by the Dealer, unless a box is marked below indicating that the Vehicle is sold with a Used Vehicle Limited Warranty from the Dealer or the Dealer enters into a Service Contract with you at the time of, or within 90 days of, the date of this transaction.

**CONTRACTUAL DISCLOSURE STATEMENT (USED VEHICLES ONLY)** The information you see on the window form for this vehicle is part of this Contract. Information on the window form overrides any contrary provisions in the contract of sale. **Traducción española: Vea el dorso.**

☐ The Vehicle is sold with a Used Vehicle Limited Warranty from the Dealer which is issued with and made part of this form. No other express warranties are made by the Dealer. Any implied warranties shall apply for the duration required by State Law or the duration of the Used Vehicle Limited Warranty, whichever is longer. The duration of this Limited Warranty is based on the Vehicle's mileage as follows:

36,000 miles or less, the warranty is for 90 days or 4,000 miles, whichever comes first.

36,001 to 79,999 miles, the warranty is for 60 days or 3,000 miles, whichever comes first.

80,000 to 100,000 miles, the warranty is for 30 days or 1,000 miles, whichever comes first.

☐ OTHER:

X

X

**NEW VEHICLES:** The remainder of the Manufacturer's Limited Warranty Applies for months or miles, whichever comes first.

X

X

Dealer's optional fee for processing application for registration and/or certificate of title and for securing special or distinctive plates (if applicable). **THIS IS NOT A DMV FEE** \*\$

\*THE OPTIONAL DEALER REGISTRATION OR TITLE APPLICATION PROCESSING FEE (\$75.00 MAXIMUM) AND SPECIAL PLATE PROCESSING FEE (\$5.00 MAXIMUM) ARE NOT NEW YORK STATE OR DEPARTMENT OF MOTOR VEHICLES FEES. UNLESS A LIEN IS BEING RECORDED OR THE DEALER ISSUED NUMBER PLATES, YOU MAY SUBMIT YOUR OWN APPLICATION FOR REGISTRATION AND/OR CERTIFICATE OF TITLE OR FOR A SPECIAL OR DISTINCTIVE PLATE TO ANY MOTOR VEHICLE ISSUING OFFICE.

The annual fee to be assessed by the Department of Motor Vehicles for the cost of the plate will be \$

**THE AMOUNT INDICATED ON THIS SALES CONTRACT OR LEASE AGREEMENT FOR REGISTRATION AND TITLE FEES IS AN ESTIMATE. IN SOME INSTANCES, IT MAY EXCEED THE ACTUAL FEES DUE TO THE COMMISSIONER OF MOTOR VEHICLES. THE DEALER WILL AUTOMATICALLY, AND WITHIN SIXTY DAYS OF SECURING SUCH REGISTRATION AND TITLE, REFUND ANY AMOUNT OVERPAID FOR SUCH FEES.**

X

X

The price contained in this contract is the final contract price to which the parties have agreed. No additional fee or charge may be imposed or collected. Please see paragraph titled "Price Changes" on the reverse side.

## TRADE-IN VEHICLE INFORMATION

Year: N/A Make: N/A Model: N/A Color: N/A

VIN/Serial No.: N/A Odometer Reading: N/A

Trade-In Allowance: N/A Balance Owed & Lienholder: N/A

IF YOU SHOULD BE ENTITLED TO A REFUND UNDER NEW YORK GENERAL BUSINESS LAW, SECTION 198-b, IN CONJUNCTION WITH THIS TRANSACTION, THE VALUE OF ANY VEHICLE YOU MAY HAVE TRADED-IN (IF THE DEALERSHIP CHOOSES NOT TO RETURN IT TO YOU) SHALL NOT BE THE VALUE LISTED IN THIS AGREEMENT. INSTEAD, THE VALUE WILL BE DETERMINED BASED ON THE NATIONAL AUTO DEALERS ASSOCIATION USED CAR GUIDE WHOLESALE VALUE OR OTHER GUIDE APPROVED BY THE COMMISSIONER OF MOTOR VEHICLES, AND ADJUSTED FOR MILEAGE, IMPROVEMENTS AND ANY MAJOR PHYSICAL OR MECHANICAL DEFECTS.

## OTHER MATERIAL UNDERSTANDINGS AND INTEGRATED DOCUMENTS

☐ IF MARKED, PLEASE SEE THE DELIVERY CONFIRMATION

☐ IF MARKED, PLEASE SEE THE CONDITIONAL DELIVERY AGREEMENT-LIMITED RIGHT TO CANCEL

Estimated Delivery Date

Delivery Location

CASH PRICE OF VEHICLE 19000.00

OPTIONAL EQUIPMENT  
(Dealer Installed)

TOTAL SELLING PRICE 19000.00

TAXABLE SUBTOTAL 19000.00

SALES TAX 8.0000% 1520.00

DEALER'S OPTIONAL FEE FOR  
PROCESSING APPLICATION\* 75.00

~~NYSI FEE~~ 21.00

WASTE TIRE MANAGEMENT &  
RECYCLING FEE

FULL TANK OF GAS 40.00

REG / TITLE 60.00

VSI 90.00

TOTAL AMOUNT DUE 20806.00

LESS DEPOSIT 5000.00

LESS CASH DUE AT DELIVERY

AMOUNT TO BE FINANCED 15806.00

(See Paragraphs 12 and 18 on Reverse Side)

IF YOU AGREE TO ASSIST ME IN OBTAINING FINANCING FOR ANY PART OF THE PURCHASE PRICE, THIS ORDER SHALL NOT BE BINDING UPON YOU OR ME UNTIL ALL OF THE CREDIT TERMS ARE PRESENTED TO ME IN ACCORDANCE WITH REGULATION "Z" (TRUTH-IN-LENDING) AND ARE ACCEPTED BY ME. IF I DO NOT ACCEPT THE CREDIT TERMS WHEN PRESENTED, I MAY CANCEL THIS ORDER AND MY DEPOSIT WILL BE REFUNDED.

**NOTICE TO CONSUMER:** IF THE VEHICLE IS NOT DELIVERED IN ACCORDANCE WITH THIS AGREEMENT WITHIN THIRTY (30) DAYS AFTER THE ESTIMATED DELIVERY DATE AND THE DELAY IS NOT ATTRIBUTABLE TO YOU, YOU HAVE THE RIGHT TO CANCEL THIS AGREEMENT AND TO RECEIVE A FULL REFUND OF YOUR DEPOSIT. Please see the Reverse Side for more information.

The front and back of this Agreement and any documents which are part of this transaction or incorporated herein comprise the entire agreement affecting this Retail Purchase Agreement and no other agreement or understanding of any nature concerning the same has been made or entered into, or will be recognized. I have read the terms and conditions of this Agreement, including the terms and conditions that appear on the reverse side, and agree to them as if they were printed above my signature. I further acknowledge receipt of a copy of this Agreement. This Agreement shall not become binding until signed and accepted by Purchaser(s) and an Authorized Representative of the Dealership.

Purchaser N/A Date N/A

Accepted by Authorized Dealership Representative

Date

Purchaser Date

To Reorder: Login into easysource.cdkglobal.com or Call 1-800-237-2372 Item # 8963224-14858

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# EXHIBIT 4



To all involved parties of Kimball v. Volkswagen Group of America,

I wish to submit for your consideration a formal objection to the proposed settlement. The proposed settlement only reimburses people who had the work done. However, there are many people in the class who could not afford to have the work done or were advised alternative solutions to delay the work (myself included). The proposed settlement leaves us completely uncompensated for the issues in the settlement.

To avoid disproportionately impacting the poorest class members, a revised settlement should allow for impacted class members to get the work done by an authorized dealership within a certain window of time covered by Volkswagen Group of America.

Please update the proposed settlement to allow for this.

Sincerely,

A handwritten signature in black ink, appearing to read "Straker Carryer", followed by a long horizontal flourish.

Straker Carryer (a covered class member who would receive nothing despite the impact in the settlement as proposed)

# EXHIBIT 5

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. CV 14-2363-GW(PJWx) Date November 28, 2016

Title *Trish Herremans v. BMW of North America, LLC*

Present: The Honorable GEORGE H. WU, UNITED STATES DISTRICT JUDGE

Javier Gonzalez

Katie Thibodeaux

Deputy Clerk

Court Reporter / Recorder

Tape No.

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

Stephen M. Harris

Eric Y. Kizirian

**PROCEEDINGS: PLAINTIFF'S MOTION FOR FINAL APPROVAL OF CLASS  
ACTION SETTLEMENT [69];**

**PLAINTIFF'S MOTION FOR AWARD OF ATTORNEYS FEES,  
COSTS, AND CLASS REPRESENTATIVE ENHANCEMENT [70]**

The Tentative circulated and attached hereto, is adopted as the Court's Final Ruling. The above-entitled motions are GRANTED. Order to issue.

Initials of Preparer JG : 06

**Herremans v. BMW of N. Am., LLC**, Case No. CV-14-2363-GW (PJWx)

Tentative Rulings on: (1) Motion for Final Approval of Class Action Settlement, and (2) Motion for Attorneys' Fees, Costs, and Class Representative Enhancement

Trish Herremans ("Plaintiff") moves for final approval of a class action settlement she has reached – following a mediation session with the honorable Edward A. Infante – with defendant BMW of North America, LLC ("Defendant") in this action filed on March 27, 2014.<sup>1</sup> The case involves allegations that there are (or were) defects in the design, manufacture, and assembly of mechanical water pumps installed in BMW's R55, R56, R57, R58, R59 and R60 "MINI" vehicles with a production date from October 2006 through November 2012 – defects that can result in engine overheating and catastrophic engine failure, presenting a serious safety hazard – and that Defendant knew about the defects before Plaintiff purchased her vehicle. *See* Decl. of Stephen Harris ("Harris Decl.") ¶¶ 5-10, Docket No. 69-5.

Now pending before the Court is Plaintiff's unopposed Motion for Final Approval of the Settlement. *See* Mot. for Final Approval ("Mot."), Docket No. 69. Also pending before the court is Plaintiff's unopposed Motion for Attorneys' Fees, Costs, and Incentive Award. *See* Mot. for Att'y Fees, Docket No. 70.

**I. Background**

The initial Complaint in this action alleged three causes of action: (1) violations of the California Consumer Legal Remedies Act; (2) violations of the California Unfair Business Practices Act; and (3) fraud. *See* Docket No. 1. After Plaintiff filed a First Amended Complaint, Defendant moved to dismiss, and the Court granted the motion with leave to amend. *See* Docket No. 30. Plaintiff thereafter filed a Second Amended Complaint, which Defendant again moved to dismiss; the Court granted Defendant's motion with leave to amend. *See* Docket No. 42. Plaintiff then filed a Third Amended Complaint, which Defendant did not challenge.

On May 29, 2015, the parties participated in a full day mediation session before Judge Infante. The parties agreed on all aspects of a settlement other than attorneys' fees, costs, and Plaintiff's incentive award, which were agreed upon during a second mediation in July 2015. *See* Harris Decl. ¶¶ 23-34. The parties reached a final Settlement Agreement in November 2015.

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<sup>1</sup> The case was transferred to this Court from the docket of District Judge Margaret M. Morrow on January 4, 2016. *See* Docket No. 60.



As part of the Agreement, Plaintiff filed a Fourth Amended Complaint.<sup>2</sup> *See* Docket No. 58-5.

On March 18, 2016, the Court preliminarily approved the Settlement Agreement. *See* Docket No. 64. The Court also certified a Class for settlement purposes, appointed Plaintiff as Class Representative, appointed Plaintiff's counsel as Class Counsel, and found that the settlement terms were, at least preliminarily, sufficiently fair, reasonable, and adequate so as to justify dissemination of notice to Class Members. *Id.*

Under the Settlement Agreement, Defendant agrees to permit Class Members to obtain reimbursement for out of pocket payments for past or future water pump repairs up until seven years after the vehicle is placed in service, or until 84,000 miles are reached on the odometer, whichever comes first. *See* Harris Decl. Ex. 1 § III, ¶¶ A-B, Docket No. 69-7 (the Settlement Agreement). A water pump repair includes the cost of repair or replacement of the water pump, coolant, bolts, and gasket following a water pump failure, and reasonable labor costs for repair, with a maximum reimbursement limit at \$500.<sup>3</sup> *Id.* § 1, ¶¶ 25, 40. There is no monetary limit on repair work performed for Class Members after the effective date of the Settlement. *Id.* § III, ¶¶ A-B.

## **II. Motion for Final Approval**

### ***A. Jurisdiction***

This Court has subject matter jurisdiction over this action based on CAFA diversity jurisdiction, pursuant to 28 U.S.C. § 1332(d). *See* 4AC ¶¶ 24-27. It also has personal jurisdiction over Defendant. *Id.* ¶ 28.

### ***B. Certification of the Class***

As noted above, the Court provisionally certified a Class, for settlement purposes only, on March 18, 2016. *See* Order, Docket No. 66. The Class was defined as follows:

All persons throughout the United States who currently own or lease or who previously owned or leased a Class Vehicle, which include MINI R55, R56, R57, R58, R59, and R60 vehicles, made for sale and/or lease in the U.S. market, with a production date

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<sup>2</sup> The Fourth Amended Complaint expanded the scope of the proposed class from a California class to a nationwide class, and asserted three causes of action: (1) breach of express warranties; (2) violations of 67 state consumer protection statutes; and (3) breach of the implied warranty of merchantability. *Id.* At the preliminary approval hearing, the Court requested that the parties provide examples of cases that allowed such last-minute alterations, which the parties thereafter provided to the Court's satisfaction. *See* Docket Nos. 62, 64.

<sup>3</sup> Defendant's data indicates that the average cost of the warranty and goodwill claims paid for water pump repairs is \$403.39. *See* Harris Decl. ¶ 10.

between October 2006 through November 2012 and that were sold or leased to a Class Member who registered and operated the vehicle in the United States or Puerto Rico.

*Id.* ¶ 2. The Class also contains certain exclusions. *See id.* ¶ 3.

The Court now makes final the certification of the Class, for the reasons addressed in connection with the preliminary approval proceedings. *See* Docket Nos. 62, 64.

### **C. Notice**

Notice is adequate if it is “reasonably calculated, under all of the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.” *Mendoza v. Tucson Sch. Dist. No. 1*, 623 F.2d 1338, 1351 (9th Cir. 1980). The Notice process the Court ordered and the parties followed involved direct mail to Class Members within 120 days after the Court’s entry of the Preliminary Approval Order. *See* Harris Decl. Ex. 1 § IV.A. The mailed notice was sent by Defendant via the Claims Administrator in a single mailing, by First Class Mail, to all potential Class Members, including current and prior owners and lessees of Class Vehicles, once all contact information was received from state DMV records and other state authorities. *Id.* In addition, the Claims Administrator maintained a toll-free telephone number and website dedicated to advising Class Members about the Settlement. *See* Decl. of Anna Haan (“Haan Decl.”) ¶¶ 1-8, 15-17, Docket No. 69-11.

Class Members had 90 days to submit a claim from the date of transmission of the Notice, and could submit a claim via mail, email, or facsimile. *See* Harris Decl. Ex. 1 § I, ¶¶ 2, 26. In addition, Class Members who experience a water pump failure after the effective date of the Settlement can have a repair performed by Defendant, which covers 100% of the repair costs during the seven-year warranty period provided in the Settlement Agreement. *Id.* ¶¶ 19, 38. Class Members have the right to appeal a denial of their claim. *Id.* § V, ¶ F.

The Settlement Agreement established a procedure for those Class Members who wished to be excluded from the Settlement or who wished to object; there were 112 exclusions and no objections.<sup>4</sup> *See* Haan Decl. ¶¶ 10-11.

On July 22, 2016, the Claims Administrator mailed the Class Notice and Class Form Package to 594,091 potential Class Members. *See* Haan Decl. ¶ 3. The Class Notice and Claim Form Package provided the toll-free telephone number and referred Class Members to the website for purposes of filing a claim online and obtaining detailed information relating to the

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<sup>4</sup> There were initially two objections, which were later withdrawn. *See* Haan Decl. ¶ 11.

terms of the Settlement, and also provided relevant deadlines and the date of the final approval hearing. *Id.* ¶ 4. The claims filing deadline for those Class Members whose water pump failed before receiving the Class Notice and Claim Form Package was October 21, 2016, postmarked. *Id.* ¶ 12. The claims filing deadline for those Class Members whose water pump failed after receiving the Class Notice and Claim Form Package is 30 days from the effective date of the Settlement, postmarked. *Id.*

As of November 2, 2016, the Claims Administrator has received 4,883 claim forms, and has deemed 2,141 claims to be “in good order to pay, with an approximate award value of \$1,006,931.19, or an average of \$470.31 per claim.” *Id.* ¶ 13. There are 2,741 claims that remain pending review, which, assuming an average claim value of \$470.31, amounts to \$1,289,116.49. *Id.* Of these, 1,572 claims forms were deemed deficient, and the Claims Administrator has sent cure letters to those Class Members. *Id.* ¶ 14.

The Court would find that the Notice issued here was reasonably calculated to apprise interested parties of the pendency of this action and to afford them the opportunity to object. *See* Fed. R. Civ. P. 23(e). Such notice satisfies the due process requirements of the Fifth Amendment. *See Rodriguez v. West Publ’g Corp.*, 563 F.3d 948, 962 (9th Cir. 2009); *Brown v. Ticor Title Inc.*, 982 F.2d 386, 392 (9th Cir. 1992); *Mandujano v. Basic Vegetable Prods., Inc.*, 541 F.2d 832, 835 (9th Cir. 1976).

#### ***D. The Merits of the Settlement***

##### ***1. Legal Standards Governing Settlement***

Settlement of a class action lawsuit requires court approval. *See* Fed. R. Civ. P. 23(e). The court must find that a proposed settlement is fundamentally fair, adequate, and reasonable. *See Staton v. Boeing Co.*, 327 F.3d 938, 959 (9th Cir. 2003) (citing *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1026 (9th Cir. 1998)). In making this determination, the court may consider any or all of the following factors, if applicable:

the strength of the plaintiffs’ case; the risk, expense, complexity, and likely duration of further litigation; the risk of maintaining class action status throughout the trial; the amount offered in settlement; the extent of discovery completed and the stage of the proceedings; the experience and views of counsel; the presence of a governmental participant; and the reaction of the class members to the proposed settlement.

*Hanlon*, 150 F.3d 1011, 1026 (9th Cir. 1998); *Officers for Justice v. Civil Serv. Comm’n*, 688



F.2d 615, 625 (9th Cir. 1982). This list is not intended to be exhaustive; the court must consider the applicable factors in the context of the case at hand. *See Officers for Justice*, 688 F.2d at 625. At least where settlement is reached prior to formal class certification, courts also look for signs of collusion or other conflicts of interest. *Jones v. GN Netcom, Inc. (In re Bluetooth Headset Prods. Liab. Litig.)*, 654 F.3d 935, 946-47 (9th Cir. 2011).

Despite the importance of fairness, the court must also be mindful of the Ninth Circuit's policy favoring settlement, particularly in class action lawsuits. *See, e.g., Officers for Justice*, 688 F.2d at 625 ("Finally, it must not be overlooked that voluntary conciliation and settlement are the preferred means of dispute resolution. This is especially true in complex class action litigation . . ."). While balancing all of these interests, the court's inquiry is ultimately limited "to the extent necessary to reach a reasoned judgment that the agreement is not the product of fraud or overreaching by, or collusion between, the negotiating parties." *Id.* The court, in evaluating the agreement(s) of the parties, is not to reach the merits of the case or to form conclusions about the underlying questions of law or fact. *See id.*

"It is the settlement taken as a whole, rather than the individual component parts, that must be examined for overall fairness." *Hanlon*, 150 F.3d at 1026. "The settlement must stand or fall in its entirety." *Id.* The Court may not delete, modify, or rewrite particular provisions of a settlement. *See id.* "Settlement is the offspring of compromise; the question . . . is not whether the final product could be prettier, smarter or snazzier, but whether it is fair, adequate and free from collusion." *Id.* at 1027.

## 2. The Settlement is Fair

### a. *The Settlement Enjoys a Presumption of Fairness*

Generally speaking, courts afford a presumption of fairness to a settlement, if: (1) the negotiations occurred at arm's length; (2) there was sufficient discovery; (3) the proponents of the settlement are experienced in similar litigation; and (4) only a small fraction of the class objected. *See In re Pac. Enters. Sec. Litig.*, 47 F.3d 373, 378 (9th Cir. 1995); *Nat'l Rural Telecomms. Coop. v. DIRECTV, Inc.*, 221 F.R.D. 523, 528 (C.D. Cal. 2004). Here, Plaintiff is represented by experienced counsel, *see* Harris Decl. ¶¶ 33-36, and reached the Settlement after lengthy negotiations and a mediation before Judge Infante, a very experienced "neutral." *Id.* ¶¶ 33-34. The parties engaged in in-depth discovery and investigation. *Id.* There is no indication that the Settlement was the product of collusion. *Id.* Finally, no objections were filed. *See Haan*

Decl. ¶¶ 10-11.

As a result of the foregoing, the Court believes a presumption of fairness operates with respect to the Settlement. In any event, even if no presumption was in effect, this would not preclude the Court's determination that the Settlement, in fact, meets the requisite fairness standard.

*b. The Settlement is Fair, Adequate and Reasonable*

*i. The Strength of the Case*

"An important consideration in judging the reasonableness of a settlement is the strength of the plaintiffs' case on the merits balanced against the amount offered in the settlement." *Nat'l Rural*, 221 F.R.D. at 526 (citation omitted). Here, Defendant vigorously disputed Plaintiff's claims and succeeding in dismissing the complaint twice. Moreover, Defendant raised several substantive defenses to the claims, including that Defendant had no duty to disclose the water pump defect to consumers, and that Plaintiff could not prove the alleged defect was safety related. *See* Answer, Docket No. 47; Harris Decl. ¶ 35. There was thus a significant risk of non-recovery or a recovery substantially less than the benefits received under the Settlement. Given these potential weaknesses, the Settlement achieves certainty for the Class and ensures that Class Members will receive relief immediately. Moreover, the Settlement provides Class Members with up to \$500 reimbursement for a water pump repair, for which the average repair is estimated at \$403.39. *See* Harris Decl. ¶ 10. This factor therefore weighs in favor of approving the Settlement.

*ii. The Risk, Expense, Complexity, and Likely Duration of Further Litigation*

The expense and possible duration of the litigation should be considered in evaluating the reasonableness of a settlement. *See Dunleavy v. Nadler (In re Mego Fin. Corp. Sec. Litig.)*, 213 F.3d 454, 458 (9th Cir. 2000); *see also Nat'l Rural*, 221 F.R.D. at 526 ("[U]nless the settlement is clearly inadequate, its acceptance and approval are preferable to lengthy and expensive litigation with uncertain results."). Here, the Settlement eliminates any further risk and expense for the parties, given the uncertainty of recovery through continued litigation and the probability of appeals and delay by both sides. *See* Mot. at 18:4-19:1. As Plaintiff points out, "if the parties had been unable to resolve the case through settlement, continued litigation would have been expensive and lengthy, requiring significant and costly involvement from expert witnesses." *Id.*

Moreover, a number of class actions in recent automobile defect cases have proved to be unsuccessful. *See, e.g., Daughtery v. Am. Honda Motor Co.*, 144 Cal.App.4th 824 (Cal. Ct. App. 2006) (dismissing class action complaint asserting breach of express warranties and violations of federal and state consumer protection laws based on allegations that automobile company had failed to disclose an engine defect). Given these obstacles and the contested issues already raised by the parties, success in certifying and maintaining a class and achieving a favorable judgment was by no means guaranteed. As such, this factor weighs in favor of approving the Settlement.

iii. The Risk of Maintaining Class Action Status Throughout Trial

Having not yet even achieved a non-settlement-based certification of the Class, there is always the risk that certification would be denied or that any certification achieved would not be maintained throughout the litigation. As discussed *supra*, certification of automobile class actions is not guaranteed. Moreover, Defendant indicated that it would have strongly opposed class certification if the case were to proceed. *See* Mot. at 20:5-11. Finally, there was also a risk that the Court would not find the case suitable for certification of a nationwide class. *See, e.g., Mazza v. Am. Hondo Motor Co.*, 666 F.3d 581, 590 (9th Cir. 2012) (holding that “the district court abused its discretion in certifying a class under California law that contained class members who purchased or leased their car in different jurisdictions with materially different consumer protection laws”). This risk factor, therefore, favors approval.

iv. The Amount Offered in the Settlement

“Basic to [the process of deciding whether a proposed compromise is fair and equitable] in every instance . . . is the need to compare the terms of the compromise with the likely rewards of litigation.” *Protective Comm. for Indep. Stockholders of TMT Trailer Ferry, Inc. v. Anderson*, 390 U.S. 414, 424-25 (1968). Thus, in determining whether the relief offered by way of settlement is fair, the Ninth Circuit has suggested that a court compare the settlement to the parties’ “estimates of the maximum [recovery] in a successful litigation.” *See Dunleavy*, 213 F.3d at 459; *see also Rodriguez*, 563 F.3d at 965.

Here, under the terms of the Settlement, Class Members can be reimbursed for up to \$500.00 for each water pump repair, and can have their vehicle repaired for free after the effective date of the Settlement for future water pump repairs. *See* Mot. at 26:28-17:4. Moreover, the Settlement provides benefits for up to seven years after the vehicle is placed in service, or up to 84,000 miles, and significantly exceeds the original warranty, which provided



coverage for four years or 50,000 miles. *Id.* at 17:5-20. As Plaintiff points out, the claims process allows Class Members to receive the benefits of the Settlement by completing a basic form and providing documentation, without requiring Class Members to meet the full evidentiary burdens they would normally face. *Id.* at 17:17-22. Given that the average water pump repair is estimated at \$403.39, *see* Harris Decl. ¶ 10, the Court would find that this factor favors approval.

v. The Extent of Discovery Completed and the Stage of the Proceedings

A class plaintiff must be armed with sufficient information about the case to have been able to reasonably assess strengths and value and to broker a fair class settlement. *See Nat'l Rural*, 221 F.R.D. at 527-28. Here, Plaintiff conducted substantial discovery in this case, including investigation into the number of Class Vehicles sold; use of an expert to assess Defendant's contentions regarding the reason for the water pump failures; detailed analysis of the design of the water pump in existence prior to Defendant's change in design; review of technical service bulletins; review of publicly available information regarding the nature and extent of the water pump issue; and obtaining and reviewing approximately 3,000 pages of documents produced by Defendant in response to Plaintiff's discovery requests. *See* Harris Decl. ¶¶ 5-8, 11-12. Moreover, as mentioned *supra*, the parties litigated two motions to dismiss and engaged in two mediation sessions. In light of these facts, the parties obtained sufficient information about the case to reasonably assess its strengths and weaknesses, and reach a fair settlement. *See Browning v. Yahoo! Inc.*, No. Co4-01463 HRL, 2007 WL 4105971, \*11-12 (N.D. Cal. Nov. 16, 2007) (finding parties well-positioned to assess strengths of case and benefits of settlement where parties had engaged in discovery and motion practice, including a motion to dismiss, and had engaged in multiple rounds of mediation).

vi. Experience and Views of Counsel

In assessing the adequacy of the terms of a settlement, the trial court is entitled to, and should, rely upon the judgment of experienced counsel for the parties. *See Nat'l Rural*, 221 F.R.D. at 528 ("Great weight is accorded to the recommendation of counsel, who are most closely acquainted with the facts of the underlying litigation") (internal quotations and citations omitted). The basis for such reliance is that "[p]arties represented by competent counsel are better positioned than courts to produce a settlement that fairly reflects each party's expected outcome in litigation." *In re Pac. Enters. Sec. Litig.*, 47 F.3d 373, 378 (9th Cir. 1995).

Here, Class Counsel is experienced in class action litigation. *See* Harris Decl. ¶ 36. Class Counsel considers the Settlement to be fair, adequate and reasonable. *Id.* ¶¶ 33-34. This factor therefore weighs in favor of approving the Settlement.

vii. The Presence of a Governmental Participant

There is no indication that any governmental entity participated in the settlement of this case. This factor is therefore neutral.

viii. The Reaction of the Members of the Class to the Proposed Settlement

“It is established that the absence of a large number of objections to a proposed class action settlement raises a strong presumption that the terms of a proposed class action settlement are favorable to the class members.” *Nat’l Rural*, 221 F.R.D. at 529. Here, over 594,000 Class Members were notified of the Settlement, and only 112 have opted out. *See* Haan Decl. ¶¶ 11-12; Harris Decl. ¶ 31. There were only two initial objections to the Settlement, which were withdrawn. *Id.* This factor therefore weighs in favor of approval. *See Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1027 (9th Cir. 1998) (“[T]he fact that the overwhelming majority of the class willingly approved the offer and stayed in the class presents at least some objective positive commentary as to its fairness.”).<sup>5</sup>

ix. Signs of Collusion

The parties appear to have negotiated the Settlement at arms-length, following some measure of investigation and discovery, and used the services of an experienced private mediator – Judge Infante – in the course of reaching their resolution. *See* Harris Decl. ¶¶ 33-34. This factor therefore weighs in favor of approval.

c. Conclusion

Upon consideration of the above-stated factors, the Court would conclude that the Settlement is reasonable.

**III. Motion for Attorneys’ Fees, Costs, and Class Representative Enhancement**

Class Counsel moves for approval of their agreement with Defendant for \$692,500 in attorneys’ fees and costs, and for a Class Representative incentive award for Plaintiff in the amount of \$2,500. *See* Mot. for Att’y Fees at 3:22-27. These amounts were negotiated and

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<sup>5</sup> The Court would ask the parties to explain why there have only been 4883 completed forms returned when there were 594,091 packages sent out. As noted above, the Court did find the notice provided to the class was adequate.

agreed upon by the parties after the Settlement was agreed to, during a separate mediation before Judge Infante. *Id.* at 9:8-17. The requested amounts are in addition to the benefits Defendant will provide to Class Members under the Settlement, and thus does not reduce the Class benefits provided under the Settlement. *Id.*

At the conclusion of a successful class action, class counsel may move for an award of “reasonable attorney’s fees and nontaxable costs that are authorized by law or by the parties’ agreement.” *See* Fed. R. Civ. Proc. 23(h). Here, Plaintiff points out that the fees are provided by the parties’ agreement, and, because this is a diversity action, are governed by state law. *See Gezalyan v. BMW of N. Am., LLC*, 697 F.Supp.2d 1169, 1170 (C.D. Cal. 2010) (“In diversity actions, federal courts look to state law in determining whether a party has a right to attorneys’ fees and how to calculate those fees.”).

Class Counsel seeks attorneys’ fees pursuant to the California Consumers Legal Remedies Act (“CLRA”), Cal. Civ. Code § 1780, and the “private attorney general doctrine,” which is codified at California Code of Civil Procedure § 1021.5. *See* Mot. for Att’y Fees at 14:19-27. The CLRA provides that the “court shall award costs and attorney’s fees to a prevailing plaintiff in litigation filed pursuant to this section.” *See* Cal. Civ. Code § 1780(e). In addition, California Code of Civil Procedure § 1021.5 provides that:

[A] court may award attorneys’ fees to a successful party against one or more opposing parties in any action which has resulted in the enforcement of an important right affecting the public interest if: (a) a significant benefit, whether pecuniary or nonpecuniary, has been conferred on the general public or a large class of persons, (b) the necessity and financial burden of private enforcement, or of enforcement by one public entity against another public entity, are such as to make the award appropriate, and (c) such fees should not in the interest of justice be paid out of the recovery, if any.

*See* Cal. Civ. Proc. Code § 1021.5. “A party is a prevailing party if the court, guided by equitable principles, decides that the party has achieved its ‘main litigation objective.’” *Gezalyan*, 697 F.Supp.2d at 1170 (quoting *Graciano v. Robinson Ford Sales, Inc.*, 144 Cal.App.4th 140, 150-51 (Cal. Ct. App. 2006)).

California courts follow the lodestar-multiplier method for calculating an attorneys’ fee award. *See Lealao v. Beneficial Cal., Inc.*, 82 Cal.App.4th 19, 26 (2000). “The lodestar (or touchstone) is produced by multiplying the number of hours reasonably expended by counsel by a reasonable hourly rate. Once the court has fixed the lodestar, it may increase or decrease that

amount by applying a positive or negative ‘multiplier’ to take into account a variety of other factors, including the quality of the representation, the novelty and complexity of the issues, the results obtained, and the contingent risk presented.” *Id.*; see also *Vo v. Las Virgenes Mun. Water Dist.*, 79 Cal.App.4th 440, 445-46 (Cal. Ct. App. 2000). “Under the lodestar method, a party who qualifies for a fee should recover for all hours reasonably spent unless special circumstances would render an award unjust.” *Vo*, 79 Cal.App.4th at 446. “[D]etailed timesheets are not required of class counsel to support fee awards in class action cases.” *Chavez v. Netflix, Inc.*, 162 Cal.App.4th 43, 64 (Cal. Ct. App. 2008); see also *Wershba v. Apple Computer, Inc.*, 91 Cal.App.4th 225, 2254-55 (Cal. Ct. App. 2001) (holding that plaintiffs’ attorney’s submission of declarations evidencing the hourly rate for their services and the number of hours spent working on the case was sufficient to establish fee award, emphasizing that “California case law permits fee awards in the absence of detailed time sheets”); *Lobatz v. U.S. W. Cellular of Cal., Inc.*, 222 F.3d 1142, 1148-49 (9th Cir. 2000) (same).

Here, Class Counsel indicates that it has billed approximately \$686,664.50 for its hours expended to date, as well as an estimated \$250,000 for time that will be spent in the future, which equals a total lodestar of \$936,664.50. See Mot. for Att’y Fees at 16:5-10; Harris Decl. ¶¶ 36-51. In addition, Plaintiff’s counsel has expended \$28,955.86 in costs, which are deducted from the fee award. *Id.* Plaintiff thus points out that, after deduction of costs, the award agreed upon by the parties – \$692,500 – represents a negative multiplier. *Id.*

The above amounts are based on Class Counsel’s hourly rates, which range from \$350 to \$725 and are comparable to those of other law firms and to hourly rates approved in other lawsuits. See Harris Decl. ¶¶ 41-45 (summarizing hourly rates for local law firms and cases approving those rates). Class Counsel has also provided a table summarizing the hours billed for each attorney and paralegal at its firm, as well as the respective billing rates for those individuals. *Id.* ¶ 49. Class Counsel has also provided a basic summary of the tasks it completed in litigating this action. See Mot. for Att’y Fees at 16:11-17:14.

However, Class Counsel has not provided any support for its estimated \$250,000 for time spent in the future. Given that this amount is more than one third of the amount billed during the entire case to date, the Court would request that Plaintiff provide some rationale for why it believes it will incur such a large sum in the future, particularly since a Settlement has already been reached.



In any event, however, the Court would find that, given the circumstances of this action, the agreed upon amount of \$692,500 is reasonable. As Plaintiff points out, the agreed upon amount represents a negative multiplier (assuming that the \$250,000 in future fees is accurate). Moreover, even excluding the \$250,000 in future fees, the agreed upon amount, after subtracting costs, is approximately equivalent to the \$686,664.50 Class Counsel has already billed. Indeed, many courts apply a multiplier to a base lodestar amount in class action lawsuits. *See In re Consumer Privacy Cases*, 175 Cal.App.4th 545, 551-58 (Cal. Ct. App. 2009) (affirming 1.75 multiplier); *Chavez*, 162 Cal.App.4th at 66 (affirming 2.5 multiplier); *Wershba*, 91 Cal.App.4th at 255 (explaining that multipliers can range from 2 to 4, or even higher).

Moreover, Plaintiff's counsel negotiated a favorable Settlement that confers significant benefits on a large number of people, and addresses an important issue – defective automobiles. *See* Mot. at 19:20-20:15. Indeed, Defendant has notified Class Members of the potential water pump defect and agreed to pay for the entire cost of repair, or reimbursement up to \$500 for repairs already provided. *Id.* Plaintiff's expert estimates that the value of the Settlement is between \$4,584,765.34 to \$6,728,768.83. *See* Decl. of Jennie McNulty ¶ 13, Docket No. 69-12. In addition, Class Counsel took this case on a contingency fee basis and therefore bore the significant risk of investigating and prosecuting the case. Class Counsel also indicates that it passed on other employment opportunities in order to litigate this action. *See* Mot. at 21:3-17.

Finally, a cross-check under the percentage of the fund analysis, which is applied in common fund cases, further indicates that the instant fee is reasonable. “Under the percentage method, the court simply awards the attorneys a percentage of the funds sufficient to provide plaintiffs’ attorneys with a reasonable fee.” *See Wash. Pub. Power Supply Sys. Litig.*, 19 F.3d 1291, 1295 n.2 (9th Cir. 1994). The “benchmark” percentage for attorneys’ fees in the Ninth Circuit is 25% of the common fund, with costs and expenses awarded in addition to the amount. *See, e.g., Powers v. Eichen*, 229 F.3d 1249, 1256 (9th Cir. 2000); *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1047 (9th Cir. 2002). Assuming the low end of the estimated Settlement amount – \$4,584,765.34 – the fee award represents 14% of the benefit to the Class, well below the 25% benchmark.

For all of these reasons, the Court would find that the requested amount is reasonable.

In addition, the Fee Motion requests an incentive award to the Class Representative in the amount of \$2,500. *See* Mot. for Att’y Fees at 24:5-25:2. The decision whether to award an

incentive payment to class representatives, and the size of that award, is within a court's discretion. *See, e.g., Dunleavy*, 213 F.3d at 458, 462. The criteria courts may consider in determining whether to make an incentive award include:

- (1) the risk to the class representative in commencing suit, both financial and otherwise; (2) the notoriety and personal difficulties encountered by the class representative; (3) the amount of time and effort spent by the class representative; (4) the duration of the litigation and; (5) the personal benefit (or lack thereof) enjoyed by the class representative as a result of the litigation.

*Van Vranken v. Atl. Richfield Co.*, 901 F.Supp. 294, 299 (S.D. Cal. 1995).

Here, Class Counsel points out that Plaintiff has actively engaged in this action, assisting in investigation and consulting with Plaintiff's counsel. *See Harris Decl.* ¶ 52. Moreover, Plaintiff indicates that she has communicated with Class Counsel on numerous occasions, provided significant information to Class Counsel regarding her claim, furnished written materials regarding her vehicle, and discussed the status of the pleadings and settlement terms with Class Counsel. *See Decl. of Trish Herremans* ¶ 5, Docket No. 69-4. Plaintiff estimates that she has spent a total of 47 hours in connection with this action. *Id.* ¶ 6. Plaintiff further indicates that she did not receive any personal benefit, aside from the Settlement amount she is entitled to, for pursuing this action. *Id.* ¶ 7.

Given the amount of time and effort expended by Plaintiff, as well as the fact that this action has been pending since 2014 and that Plaintiff received no prior personal benefit for her efforts, the Court would find that an incentive award of \$2,500 is reasonable. *See In re Cellphone Fee Termination Cases*, 186 Cal.App.4th 1380, 1394-95 (Cal. Ct. App. 2010) (finding incentive award of \$10,000 reasonable where the plaintiff had assisted in lengthy litigation by responding to discovery requests, reviewing documents and pleadings, and testifying in a deposition); *Odrick v. UnionBancCal Corp.*, No. C 10-5565 SBA, 2012 WL 6019495, at \*7 (N.D. Cal. Dec. 3, 2012) (approving \$5,000 incentive award to plaintiff where settlement was reached at early stage of litigation).

#### **IV. Conclusion**

In sum, the Settlement the parties have reached, as well as the requested attorneys' fees and incentive award, are reasonable. The Court would therefore GRANT the Motion for Final Approval and Motion for Attorneys' Fees.