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March 2022

## FCA US LLC, Fiat & VM - Complaint & Final Judgment

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*Final sample*



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AARON M. FREY  
ATTORNEY GENERAL

STATE OF MAINE  
OFFICE OF THE ATTORNEY GENERAL  
6 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0006

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October 23, 2019

Michele Lumbert, Clerk  
Capital Judicial Center  
Kennebec County Superior Court  
1 Court Street - Suite 101  
Augusta, Maine 04330

Re: *State of Maine & Maine Department of Environmental Protection v. FCA US LLC,  
Fiat Chrysler Automobiles N.V., VM Motori S.p.A., VM North America, Inc.,  
Docket No. CV-2019-\_\_\_\_\_*

Dear Ms. Lumbert:

Enclosed for filing please find a Complaint and Summary Sheet in the above-captioned matter. Also please find a Final Judgment by Consent Regarding Certain Environmental and Consumer Protection Claims ("Consent Judgment"), which has been executed on behalf of all the parties. Please present the Consent Judgment to the Court for review and approval.

Attorneys for the State of Maine and the defendants are available at the Court's convenience to answer any questions. Thank you for your attention to this matter.

Sincerely,

*Mary M. Sauer*

Mary M. Sauer  
Assistant Attorney General  
207-626-8579  
[mary.sauer@maine.gov](mailto:mary.sauer@maine.gov)

Enclosures

cc: David M.J. Rein, Sullivan & Cromwell LLP (via email)  
Michael E. Saucier, Libby O'Brien Kingsley & Champion (via email)  
Linda Conti, AG's Office

**SUMMARY SHEET**

This summary sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by the Maine Rules of Court or by law. This form is required for the use of the Clerk of Court for the purpose of initiating or updating the civil docket. (SEE INSTRUCTIONS ON REVERSE)

<b>I. County of Filing or District Court Jurisdiction:</b> Kennebec		
<b>II. CAUSE OF ACTION</b> (Cite the primary civil statutes under which you are filing, if any.) <i>Pro se</i> plaintiffs: If unsure, leave blank. 5 M.R.S. § 207, 38 M.R.S. §§ 348, 585-D		
<b>III. NATURE OF FILING</b> <input checked="" type="checkbox"/> Initial Complaint <input type="checkbox"/> Third-Party Complaint <input type="checkbox"/> Cross-Claim or Counterclaim <input type="checkbox"/> <b>If Reinstated or Reopened case, give original Docket Number</b> _____ (If filing a second or subsequent Money Judgment Disclosure, give docket number of first disclosure)		
<b>IV.</b> <input type="checkbox"/> <b>TITLE TO REAL ESTATE IS INVOLVED</b>		
<b>V. MOST DEFINITIVE NATURE OF ACTION.</b> (Place an X in one box only) <i>Pro se</i> plaintiffs: If unsure, leave blank.		
<u>GENERAL CIVIL (CY)</u>		
<b>Personal Injury Tort</b> <input type="checkbox"/> Property Negligence <input type="checkbox"/> Auto Negligence <input type="checkbox"/> Medical Malpractice <input type="checkbox"/> Product Liability <input type="checkbox"/> Assault/Battery <input type="checkbox"/> Domestic Torts <input type="checkbox"/> Other Negligence <input type="checkbox"/> Other Personal Injury Tort <b>Non-Personal Injury Tort</b> <input type="checkbox"/> Libel/Defamation <input type="checkbox"/> Auto Negligence <input type="checkbox"/> Other Negligence <input type="checkbox"/> Other Non-Personal Injury Tort	<b>Contract</b> <input type="checkbox"/> Contract <input type="checkbox"/> Declaratory/Equitable Relief <input type="checkbox"/> General Injunctive Relief <input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Other Equitable Relief <input type="checkbox"/> Constitutional/Civil Rights <input type="checkbox"/> Constitutional/Civil Rights <input type="checkbox"/> Statutory Actions <input checked="" type="checkbox"/> Unfair Trade Practices <input type="checkbox"/> Freedom of Access <input checked="" type="checkbox"/> Other Statutory Actions <input type="checkbox"/> Miscellaneous Civil <input type="checkbox"/> Drug Forfeitures	<input type="checkbox"/> Other Forfeitures/Property Libels <input type="checkbox"/> Land Use Enforcement (80K) <input type="checkbox"/> Administrative Warrant <input type="checkbox"/> HIV Testing <input type="checkbox"/> Arbitration Awards <input type="checkbox"/> Appointment of Receiver <input type="checkbox"/> Shareholders' Derivative Actions <input type="checkbox"/> Foreign Deposition <input type="checkbox"/> Pre-action Discovery <input type="checkbox"/> Common Law Habeas Corpus <input type="checkbox"/> Prisoner Transfers <input type="checkbox"/> Foreign Judgments <input type="checkbox"/> Minor Settlements <input type="checkbox"/> Other Civil
<u>CHILD PROTECTIVE CUSTODY (PC)</u>		
<input type="checkbox"/> Non-DHS Protective Custody		
<u>SPECIAL ACTIONS (SA)</u>		
<input type="checkbox"/> Money Judgment <input type="checkbox"/> Money Judgment Request Disclosure		
<u>REAL ESTATE (RE)</u>		
<b>Title Actions</b> <input type="checkbox"/> Quiet Title <input type="checkbox"/> Eminent Domain <input type="checkbox"/> Easements <input type="checkbox"/> Boundaries	<b>Foreclosure</b> <input type="checkbox"/> Foreclosure for Non-pmt (ADR exempt) <input type="checkbox"/> Foreclosure - Other <b>Trespass</b> <input type="checkbox"/> Trespass	<b>Misc. Real Estate</b> <input type="checkbox"/> Equitable Remedies <input type="checkbox"/> Mechanics Lien <input type="checkbox"/> Partition <input type="checkbox"/> Adverse Possession <input type="checkbox"/> Nuisance <input type="checkbox"/> Abandoned Roads <input type="checkbox"/> Other Real Estate
<u>APPEALS (AP) (To be filed in Superior Court) (ADR exempt)</u>		
<input type="checkbox"/> Governmental Body (80B) <input type="checkbox"/> Administrative Agency (80C) <input type="checkbox"/> Other Appeals		
<b>VI. M.R.Civ.P. 16B Alternative Dispute Resolution (ADR): *</b>		
<input type="checkbox"/> I certify that pursuant to M.R.Civ.P. 16B(b), this case is exempt from a required ADR process because: <ul style="list-style-type: none"> <li><input type="checkbox"/> It falls within an exemption listed above (i.e., an appeal or an action for non-payment of a note in a secured transaction).</li> <li><input type="checkbox"/> The plaintiff or defendant is incarcerated in a local, state or federal facility.</li> <li><input type="checkbox"/> The parties have participated in a statutory prelitigation screening process with _____ (name of neutral) on _____ (date).</li> <li><input type="checkbox"/> The parties have participated in a formal ADR process with _____ (name of neutral) on _____ (date).</li> <li><input type="checkbox"/> This is a Personal Injury action in which the plaintiff's likely damages will not exceed \$30,000, and the plaintiff requests an exemption from ADR.</li> </ul>		

\* This case has settled. Consent Judgment signed by parties is enclosed.

STATE OF MAINE  
KENNEBEC, ss.

SUPERIOR COURT  
CIVIL ACTION  
DOCKET NO. CV-2019-

STATE OF MAINE and )  
MAINE DEPARTMENT OF )  
ENVIRONMENTAL PROTECTION )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
FCA US LLC, )  
FIAT CHRYSLER AUTOMOBILES N.V., )  
VM MOTORI S.P.A., and )  
VM NORTH AMERICA, INC., )  
 )  
Defendants. )

FINAL JUDGMENT BY CONSENT  
REGARDING CERTAIN  
ENVIRONMENTAL AND  
CONSUMER PROTECTION CLAIMS

**WHEREAS**, Plaintiffs the State of Maine and the Maine Department of Environmental Protection (together, the “State”), acting by and through the Attorney General, Aaron M. Frey, filed a Complaint in this action alleging that FCA US LLC, Fiat Chrysler Automobiles N.V., VM Motori S.p.A., and VM North America, Inc. (hereinafter collectively, the “Defendants”) manufactured, marketed, advertised, and/or engaged in the wholesale distribution of more than 100,000 model year 2014-2016 Ram 1500 trucks and Jeep Grand Cherokee sport utility vehicles equipped with 3.0-liter V6 diesel engines, (sometimes called “EcoDiesel” engines) (the “Diesel Vehicles,” as specifically defined below), including 435 within Maine; and that the Diesel

Vehicles contained undisclosed software allegedly intended to circumvent federal or state emission standards and concealed this software from the public and state and federal regulators;

**WHEREAS**, the State alleged that the foregoing conduct violated the Maine Unfair Trade Practices Act 5 M.R.S. § 207 and the Maine Department of Environmental Protection's rule on New Motor Vehicle Emission Standards, 06-096 CMR Chapter 127.

**WHEREAS**, the State, along with the Attorneys General of 51 other States, Commonwealths, and territories, as well as several state environmental enforcement agencies, formed the Multistate Working Group to investigate the Defendants in connection with the emission control systems of the Diesel Vehicles and the offer and sale of those vehicles to consumers;

**WHEREAS**, the State and the Defendants (collectively, the "Parties") have agreed to resolve the Environmental and UDAP Claims raised by the Covered Conduct by entering into this Consent Order and Judgment (hereinafter, the "Judgment");

**WHEREAS**, each member of the Multistate Working Group and the Defendants are entering into agreements memorializing or implementing a settlement, and as part of the relief provided in these settlements, the Defendants will pay Seventy-Two Million, Five Hundred Thousand Dollars (\$72,500,000) to the Multistate Working Group in aggregate;

**WHEREAS**, the Defendants have agreed to fund a restitution program for current owners and lessees and certain former owners and lessees of the Diesel Vehicles in Maine and throughout the United States as more fully set forth in the Amended MDL Consumer and Reseller Dealership Class Action Settlement Agreement and Release (*In re: Chrysler-Dodge-Jeep Ecodiesel Marketing, Sales Practices and Products Liability Litigation*, Case No. 3:17-md-02777-EMD (N.D. Cal.)) (hereinafter "MDL Consumer Settlement Agreement"), pursuant to

which eligible class member owners will receive a weighted average of approximately \$2,908 per vehicle and eligible class member lessees and former owners will receive \$990 per vehicle;

**WHEREAS**, as more fully set forth in the Department of Justice and California Consent Decree, (*In re: Chrysler-Dodge-Jeep Ecodiesel Marketing, Sales Practices and Products Liability Litigation*, Case No. 3:17-md-02777-EMD (N.D. Cal.)) (hereinafter “DOJ-CA Consent Decree,” as specifically defined below), the Defendants have agreed to offer to owners and lessees of Diesel Vehicles an Approved Emissions Modification that is expected to ensure the vehicles comply with Clean Air Act and California Health and Safety Code emissions requirements through the full useful life of the vehicles and to offer, through May 1, 2029, a comprehensive emissions warranty for Diesel Vehicles that receive the Approved Emissions Modification;

**WHEREAS**, for the purpose of avoiding prolonged and costly litigation, and in furtherance of the public interest, the State and the Defendants consent to the entry of this Judgment;

**NOW, THEREFORE, IT IS ADJUDGED, ORDERED AND DECREED:**

**I. JURISDICTION AND VENUE**

1. Defendants consent to this Court’s continuing subject matter and personal jurisdiction solely for the purposes of entry, enforcement, and modification of this Judgment and without waiving their right to contest this Court’s jurisdiction in other matters. This Court retains jurisdiction of this action for the purposes of enforcing or modifying the terms of this Judgment, or granting such further relief as the Court deems just and proper.

2. Defendants consent to venue in this Court solely for the purposes of entry, enforcement, and modification of this Judgment and do not waive their right to contest this Court's venue in other matters.

3. Defendants hereby accept and expressly waive any defect in connection with service of process in this action issued to each Defendant by the Attorney General and further consent to service upon the below-named counsel via e-mail of all process in this action.

## II. DEFINITIONS

4. As used herein, the below terms shall have the following meanings (in alphabetical order):

- a. **"Attorney General"** means the Maine State Attorney General's Office.
- b. **"Auxiliary Emission Control Device"** or **"AECD"** means "any element of design which senses temperature, vehicle speed, engine RPM, transmission gear, manifold vacuum, or any other parameter for the purpose of activating, modulating, delaying, or deactivating the operation of any part of the emission control system." 40 C.F.R. § 86.1803-01.
- c. **"California Consent Decree"** means the Second California Partial Consent Decree, filed on January 10, 2019, in the form approved and entered by the U.S. District Court for the Northern District of California (the "Federal Court") on May 3, 2019, as agreed by (1) the Attorney General of California and the California Air Resources Board on behalf of the People of California; and (2) Defendants, resolving certain aspects of the disputes between those parties on the terms described therein.

- d. **“California UDAP Claims”** means claims or potential claims California asserted or could assert under its consumer protection and unfair trade and deceptive acts and practices laws, as well as common law and equitable claims, arising from or related to the Covered Conduct, including in its sovereign enforcement capacity or as *parens patriae* on behalf of its citizens.
- e. **“California UDAP Payment”** means the amount paid to California and its agencies to resolve the California UDAP Claims and does not include any other amounts paid by Defendants to California, including, without limitation, restitution, payments to resolve environmental claims, attorney fees or costs.
- f. **“CARB”** means the California Air Resources Board.
- g. **“Covered Conduct”** means any and all acts or omissions, including all communications, occurring up to and including the Effective Date of this Judgment, relating to: (i) the design, installation, presence, or failure to disclose any Defeat Device or Undisclosed AECD in any Diesel Vehicle; (ii) the marketing or advertisement of any Diesel Vehicle as green, clean, environmentally friendly (or similar such terms), and/or compliant with state or federal emissions standards, including the marketing or advertisement of any Diesel Vehicle without disclosing the design, installation or presence of a Defeat Device or Undisclosed AECD; (iii) any emissions-related conduct in connection with the distribution to, offering for sale, delivery for sale, sale, or lease of any Diesel Vehicle in



any State; (iv) statements or omissions concerning the Diesel Vehicles' emissions and/or the Diesel Vehicles' compliance with applicable emissions standards, including, but not limited to, certifications of compliance or other similar documents or submissions; (v) conduct alleged, or any related conduct that could have been alleged, in any Complaint, Notice of Violation, Executive Order or Notice of Penalty filed or issued, or that could have been filed or issued, by any state or state agency, that the Diesel Vehicles contain prohibited Undisclosed AECs or Defeat Devices that cause the Diesel Vehicles to emit oxides of nitrogen ("NO<sub>x</sub>") in excess of applicable legal standards, or that as a result of or in connection to any such conduct, Defendants falsely reported the Diesel Vehicles' emissions of NO<sub>x</sub>, Defendants tampered with any emissions control device or element of design related to emissions controls installed in the Diesel Vehicles, Defendants affixed labels related to emissions to the Diesel Vehicles that were false, invalid or misleading and/or Defendants breached their emissions warranties relating to the Diesel Vehicles; and (vi) the effect of the conduct described in subparts (i) and (ii) to give rise to violations of laws or regulations governing air pollution from motor vehicles, including, without limitation, emission standards, emission control system standards, on-board diagnostics standards, and certification and disclosure requirements.

- h. **"Defeat Device"** means an AEC "that reduces the effectiveness of the emission control system under conditions which may reasonably be

expected to be encountered in normal vehicle operation and use, unless:

(1) Such conditions are substantially included in the federal emission test procedure; (2) The need for the AECD is justified in terms of protecting the vehicle against damage or accident; (3) The AECD does not go beyond the requirements of engine starting; or (4) The AECD applies only for emergency vehicles,” 40 C.F.R. § 86.1803-01, or “any part or component intended for use with, or as part of, any motor vehicle or motor vehicle engine, where a principal effect of the part or component is to bypass, defeat, or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with [the Emission Standards for Moving Sources section of the Clean Air Act], and where the person knows or should know that such part or component is being offered for sale or installed for such use or put to such use.”

42 U.S.C. § 7522(a)(3)(B).

- i. “DEP” means the Maine Department of Environmental Protection.
- j. “**Diesel Vehicle**” means each and every light duty diesel vehicle equipped with a 3.0-liter “EcoDiesel” engine that Defendants or their respective affiliates sold or offered for sale in, leased or offered for lease in, or introduced or delivered for introduction into commerce in the United States or its states or territories, or imported into the United States or its states or territories, and that is or was purported to have been covered by the following U.S. Environmental Protection Agency (“EPA”) Test Groups:

<b>Model Year</b>	<b>EPA Test Groups</b>	<b>Vehicle Makes and Models</b>
2014	ECRXT03.05PV	Ram 1500
2014	ECRXT03.05PV	Jeep Grand Cherokee
2015	FCRXT03.05PV	Ram 1500
2015	FCRXT03.05PV	Jeep Grand Cherokee
2016	GCRXT03.05PV	Ram 1500
2016	GCRXT03.05PV	Jeep Grand Cherokee

- k. **“DOJ”** means the United States Department of Justice.
- l. **“DOJ-CA Consent Decree”** means the consent decree, filed on January 10, 2019, in the form approved and entered by the Federal Court on May 3, 2019, as agreed by (1) the United States on behalf of the Environmental Protection Agency, and California; and (2) Defendants, resolving certain aspects of the disputes between those parties on the terms described therein.
- m. **“Effective Date”** means the date on which this Judgment has been signed by the Parties and entered as an order by the Court.
- n. **“Environmental Claims”** means claims or potential claims, including for emissions mitigation or NO<sub>x</sub> mitigation, or for any emissions-related payments, that were brought or could be brought under Environmental Laws by the State, including in its sovereign enforcement capacity or as *parens patriae* on behalf of its citizens, or by the DEP.
- o. **“Environmental Laws”** means any potentially applicable federal, state and/or local laws, rules, regulations and/or common law or equitable principles or doctrines under which the Environmental Claims may arise including, without limitation, 06-096 CMR Chapter 127 and laws, rules and/or regulations regarding air pollution control from motor vehicles,

mobile source emissions, certification, reporting of information, inspection and maintenance of vehicles and/or anti-tampering provisions, together with related common law and equitable claims.

- p. “**EPA**” means the United States Environmental Protection Agency.
- q. “**MDL**” means the multidistrict litigation styled as *In re: Chrysler-Dodge-Jeep “Ecodiesel” Marketing, Sales Practices, and Products Liability Litigation*, No. 3:17-md-02777-EMD (N.D. Cal.).
- r. “**Multistate Working Group**” means the Attorneys General of Alabama, Alaska, Arizona, Arkansas, Colorado, Connecticut, Delaware, the District of Columbia, Florida, Georgia, Guam, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.
- s. “**UDAP Claims**” means claims or potential claims the State asserted or could assert in its sovereign enforcement capacity or as *parens patriae* on behalf of its citizens under UDAP Laws, as well as common law and equitable claims, including claims or potential claims that could be brought for injunctive relief and/or restitution or other monetary payments to consumers under UDAP Laws.

- t. “**UDAP Laws**” means all potentially applicable consumer protection and unfair trade and deceptive acts and practices laws, rules and/or regulations, including, without limitation, 5 M.R.S. § 207, as well as under federal, state and/or local laws, rules, regulations and/or common law or equitable principles or doctrines.
- u. “**Undisclosed AECD**” means an AECD that was not disclosed to federal or state regulators in the course of applying to such regulators for certification of emission compliance or Executive Order.

### **III. EFFECT OF JUDGMENT**

5. This Judgment fully and finally resolves and disposes of the Environmental Claims and UDAP Claims arising from or related to the Covered Conduct that were alleged in the Complaint in this matter or that could be brought by the State in its sovereign enforcement capacity or as *parens patriae* on behalf of the citizens of the State or by the DEP.

6. The Judgment will, upon its Effective Date, constitute a fully binding and enforceable agreement between the Parties, and the Parties consent to its entry as a final judgment by the Court.

### **IV. RELIEF**

7. Without admitting any of the factual or legal allegations in the Complaint, the Defendants have agreed to the following relief.

#### **Monetary Relief**

8. Within ten (10) business days of the State providing written notice to Defendants containing (i) a signed certification on State letterhead that the Judgment is

final under the laws of the State of Maine such that no further judicial or administrative action is required in order for the Judgment to be final; (ii) a copy of the Judgment entered by the Court and any other documents evidencing the finality of the Parties' settlement; and (iii) signed wire instructions on State letterhead in a mutually agreed format (collectively, the "Settlement Documents"), Defendants shall pay \$622,557 ("the Maine Settlement Amount") to the State in accordance with the wire instructions in the Settlement Documents. The payment to the State of Maine will be deposited to the special revenue account described in 5 M.R.S. § 203-A to be used by the Department of the Attorney General pursuant to that statute for environmentally beneficial purposes, such as reduction in NO<sub>x</sub> emissions, and costs of litigating future cases arising under Maine's consumer protection and environmental laws, including costs for experts and personnel.

9. The State represents that, of the Maine Settlement Amount, \$271,875, or \$625 per Diesel Vehicle that the parties stipulate for purposes of this judgment were sold or leased in Maine (435 vehicles), is on account of Maine's release of its UDAP Claims.

10. If Defendants pay a California UDAP Payment that is greater than \$625 per Diesel Vehicle sold or leased in California (as agreed with California in the California Consent Decree), then Defendants shall within thirty (30) business days pay by wire transfer payable to the State of Maine an additional amount so as to make the amount paid to Maine on account of Maine's release of its UDAP Claims equal, on a per Diesel Vehicle basis, to the California UDAP Payment. For the avoidance of doubt, the payment described in this paragraph, if made at all, need not be made until

thirty (30) business days after the later of the following dates: (i) the date that Maine provides the Settlement Documents; or (ii) the date Defendants make the California UDAP Payment.

**Injunctive Relief**

11. Except as otherwise stated herein, Defendants and their officers and employees are hereby enjoined, as follows:

- a. The Defendants and their affiliates shall not engage in future unfair or deceptive acts or practices under Maine law in connection with their dealings with consumers and state regulators, directly or indirectly, by:
  - i. Advertising, marketing, offering for sale, selling, offering for lease, leasing, or distributing in Maine any vehicle that contains a Defeat Device;
  - ii. Misrepresenting to consumers or knowingly assisting others in misrepresenting to consumers that a vehicle complies with United States, State or local emissions standards;
  - iii. Making a materially misleading statement or omission to consumers regarding the compliance of a vehicle with any United States or State emissions standard applicable to that vehicle;
  - iv. Misrepresenting to consumers that a vehicle has low NO<sub>x</sub> emissions; and
  - v. Misrepresenting to consumers that a vehicle has low emissions, lower emissions than other vehicles, or a specific level(s) of emissions.

12. Defendants shall not engage in any act or practice prohibited by the DOJ-CA Consent Decree attached hereto as Exhibit A, to the extent enjoined by Section VI (Injunctive Measures) therein. The making of any determination of whether

Defendants have materially violated the terms of the DOJ-CA Consent Decree shall continue to be governed exclusively by the processes, procedures, and mechanisms described in the DOJ-CA Consent Decree.

### **Additional Undertakings**

13. The Defendants shall comply with the Approved Emissions Modification Program (Sec. 4 and related provisions of Secs. 5 & 6), including the Approved Emissions Modification, the Owner Payment, the Former Owner Payment, the Lessee Payment, and the Warranty Obligations provisions, of the MDL Consumer Settlement Agreement, attached hereto as Exhibit B, which provisions will be deemed part of this Judgment.

14. The Defendants shall implement the Emissions Modification Recall Program (Sec. VI(B)), United States Mitigation Program (Sec. VI(D) §§ 66-68) and California Mitigation Program (Sec. VI(D) § 69) provisions of the DOJ-CA Consent Decree, attached hereto as Exhibit A, which provisions will be deemed part of this Judgment.

## **V. REPORTING AND NOTICES**

15. The Defendants shall produce to the State: (i) any status reports concerning the Recall Program provided to the Department of Justice pursuant to the DOJ-CA Consent Decree; (ii) annual reports generated by the corporate compliance auditor required under the DOJ-CA Consent Decree; and (iii) as to consumers with an address in the State, any consumer name and address information to be provided by the Defendants to the Notice Administrator under the MDL Consumer Settlement Agreement. The Defendants shall provide this information to the State contemporaneous with its provision to the DOJ, EPA, CARB, the California Attorney



General (the “CAAG”), and the MDL Consumer Settlement Agreement Notice Administrator, as applicable. All such reports and information shall be submitted to the State’s representative listed in paragraph 17 (Notice) or such other person as the State may direct. The State shall take all reasonable efforts to protect consumer data provided for any purpose related to this Judgment or the other settlement agreements and orders referenced herein.

16. Defendants shall promptly respond to the State’s reasonable inquiries about the status of its consumers’ claims submitted under the MDL Consumer Settlement Agreement. Defendants shall provide the State with contact information for a representative of Defendants for purposes of such inquiries.

17. Any notices required to be sent to the State or the Defendants under this Judgment shall be sent by United States mail, certified mail return receipt requested, or other nationally recognized courier service that provides for tracking services and identification of the person signing for the document. Communications enclosing or regarding the Settlement Documents, as set forth in paragraph 8, or providing reporting under paragraph 15, may be sent by e-mail to the addresses provided below. The notices or documents shall be sent to the following addresses:

**For the State:**

Linda Conti  
Office of the Maine Attorney General  
6 State House Station  
Augusta, Maine 04333  
linda.conti@maine.gov

Mary M. Sauer  
Office of the Maine Attorney General  
6 State House Station  
Augusta, Maine 04333  
mary.sauer@maine.gov

**For the Defendants:**

Christopher J. Pardi  
FCA US LLC  
1000 Chrysler Drive  
Auburn Hills, Michigan 48326  
christopher.pardi@fcagroup.com

David M.J. Rein  
William B. Monahan  
Sullivan & Cromwell LLP  
125 Broad Street  
New York, New York 10004  
reind@sullcrom.com  
monahanw@sullcrom.com

**VI. RELEASE**

18. Subject to paragraph 19 below, in consideration of the monetary and non-monetary relief described in Section IV, and the undertakings to which the Defendants have agreed in the MDL Consumer Settlement Agreement and the DOJ-CA Consent Decree, and upon the Defendants' payment of the amount contemplated in paragraph 8, and upon the Federal Court's approval of the MDL Consumer Settlement Agreement and DOJ-CA Consent Decree:

- i. Except as provided in paragraph 19 below, the State releases the Defendants, their affiliates and any of the Defendants' or their affiliates' former, present or future owners, shareholders, directors, officers, employees, attorneys, parent companies, subsidiaries, predecessors, successors, dealers, agents, assigns and representatives (collectively, the "Released Parties"), from all UDAP Claims arising from or related to the Covered Conduct, including without limitation (i)

restitution or other monetary payments or injunctive relief to consumers; and (ii) penalties, fines, restitution or other monetary payments or injunctive relief to the State.

ii. Except as provided in paragraph 19 below, the State releases the Released Parties from all Environmental Claims arising from or related to the Covered Conduct, including, without limitation, injunctive relief, penalties, fines, restitution or other monetary payments.

19. The State reserves, and this Judgment is without prejudice to, all claims, rights, and remedies against Defendants, and Defendants reserve, and this Judgment is without prejudice to, all defenses, with respect to all matters not expressly released in paragraph 18, including, without limitation:

- a. any claims arising under state tax laws;
- b. any claims for the violation of securities laws;
- c. any criminal liability;
- d. any civil claims unrelated to the Covered Conduct; and
- e. any action to enforce this Judgment and subsequent, related orders or judgments.

20. The claims set forth in the Complaint are resolved in their entirety. The Complaint is dismissed with prejudice.

## **VII. MISCELLANEOUS**

21. The provisions of this Judgment shall be construed in accordance with the laws of Maine.

22. This Judgment is made without (i) trial or adjudication of any issue of fact or law; (ii) admission of any issue of fact or law; or (iii) finding of wrongdoing or liability of any kind.

23. Nothing in this Judgment shall limit or expand the Attorney General's or the DEP's right to obtain information, documents, or testimony from the Defendants pursuant to any state or federal law, regulation, or rule concerning the claims reserved in paragraph 19, or to evaluate the Defendants' compliance with the obligations set forth in this Judgment.

24. Defendants agree not to deduct the Maine Settlement Amount in calculating their state or local income taxes in Maine. Nothing in this Judgment releases any private rights of action asserted by entities or persons not releasing claims under this Judgment, nor does this Judgment limit any defense available to the Defendants in any such action.

25. This Judgment shall be enforceable by the Attorney General and the DEP, acting together or separately.

26. The Parties agree that this Judgment does not enforce the laws of other countries, including the emissions laws or regulations of any jurisdiction outside the United States. Nothing in this Judgment is intended to apply to, or affect, Defendants' obligations under the laws or regulations of any jurisdiction outside the United States. At the same time, the laws and regulations of other countries shall not affect Defendants' obligations under this Judgment.

27. Nothing in this Judgment constitutes an agreement by the State concerning the characterization of the amounts paid hereunder for purposes of any proceeding

under the Internal Revenue Code or any state tax laws. The Judgment takes no position with regard to the tax consequences of the Judgment with regard to federal, state, local and foreign taxes.

28. Nothing in this Judgment shall be construed to waive any claims of sovereign immunity any party may have in any action or proceeding.

29. Any failure by any party to this Judgment to insist upon the strict performance by any other party of any of the provisions of this Judgment shall not be deemed a waiver of any of the provisions of this Judgment.

30. Nothing in this Judgment shall constitute an admission or finding of fact or an admission or finding that Defendants have engaged in or are engaged in a violation of law.

31. This Judgment, which constitutes a continuing obligation, is binding upon the State and Defendants, and any of Defendants' respective successors, assigns, or other entities or persons otherwise bound by law.

32. Aside from any action stemming from compliance with this Judgment and except in the event of a Court's material modification of this Judgment, the Parties waive all rights of appeal or to re-argue or re-hear any judicial proceedings upon this Judgment, any right they may possess to a jury trial, and any and all challenges in law or equity to the entry of this Judgment. The Parties will not challenge or appeal (i) the entry of the Judgment, unless the Court materially modifies the terms of the Judgment, or (ii) the Court's jurisdiction to enter and enforce the Judgment.

33. The terms of this Judgment may be modified only by a subsequent written agreement signed by all Parties. Where the modification constitutes a material change

to any term of this Judgment, it will be effective only by written approval of all Parties and the approval of the Court.

34. Consent to this Judgment does not constitute an approval by the Attorney General of the Defendants' business acts and practices, and Defendants shall not represent this Judgment as such an approval.

35. In entering into this Judgment, Defendants have made no admission of law or fact. The Defendants shall not take any action or make any statement denying, directly or indirectly, the propriety of this Judgment. Nothing in this paragraph affects the Defendants' right to take legal or factual positions in defense of litigation or other legal, administrative or regulatory proceedings, or any person's testimonial obligations.

36. Nothing in this Judgment shall preclude any party from commencing an action to pursue any remedy or sanction that may be available to that party upon its determination that another party has failed to comply with any of the requirements of this Judgment.

37. Nothing in this Judgment shall create or give rise to a private right of action of any kind or create any right in a non-party to enforce any aspect of this Judgment or claim any legal or equitable injury for a violation of this Judgment. The exclusive right to enforce any violation or breach of this Judgment shall be with the parties to this Judgment and the Court.

38. Nothing in this Judgment shall relieve the Defendants of their obligation to comply with all federal, state or local law and regulations.

39. If any portion of this Judgment is held invalid by operation of law, the remaining terms of this Judgment shall not be affected and shall remain in full force and effect.

40. This Judgment supersedes all prior communications, discussions or understandings, if any, of the Parties, whether oral or in writing.

41. Any filing or related court costs imposed shall be paid by the Defendants.

42. Each of the persons who signs his/her name below affirms that he/she has the authority to execute this Judgment on behalf of the Party whose name appears next to his/her signature and that this Judgment is a binding obligation enforceable against said Party under Maine law. The signatory from the Maine Attorney General's Office represents that he/she has the authority to execute this Judgment on behalf of the State and that this Judgment is a binding obligation enforceable against the State under Maine law.

**IT IS SO ORDERED. JUDGMENT** is hereby entered in accordance with the foregoing.

By the Court:

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JUSTICE, SUPERIOR COURT

Dated: \_\_\_\_\_, 2019

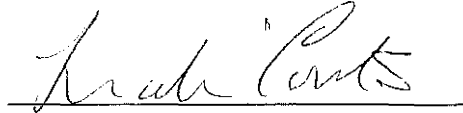
The Undersigned Parties enter into this Consent Judgment in the matter of *State v. FCA US LLC*.

Attorneys for Plaintiffs

AARON M. FREY  
ATTORNEY GENERAL

Dated:

10/17/2019

  
\_\_\_\_\_

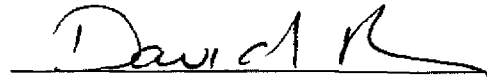
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Dated: 11 October 2019

  
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STATE OF MAINE  
KENNEBEC, ss.

SUPERIOR COURT  
CIVIL ACTION  
DOCKET NO. CV-2019-

STATE OF MAINE and )  
MAINE DEPARTMENT OF )  
ENVIRONMENTAL PROTECTION )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
 )  
FCA US LLC, )  
FIAT CHRYSLER AUTOMOBILES N.V., )  
VM MOTORI S.P.A., and )  
VM NORTH AMERICA, INC., )  
 )  
Defendants. )

**COMPLAINT**

**INTRODUCTION**

1. The State of Maine (“State” or “Maine”), by and through its Attorney General, Aaron M. Frey, seeks relief for the deception of environmental regulators and consumers perpetrated by the defendants: FCA US LLC (“FCA”) and Fiat Chrysler Automobiles N.V. (“Fiat N.V.” and, together with FCA, the “Fiat Defendants” or simply “Fiat”); and VM Motori S.p.A. (“VM Italy”) and VM North America, Inc. (“VM America” and, together with VM Italy, the “VM Defendants” or simply “VM”), relating to the certification and marketing, sale and lease to consumers of more than 100,000 model year (“MY”) 2014-2016 “EcoDiesel” Ram 1500 pickup

trucks and Jeep Grand Cherokee sport utility vehicles (the “Diesel Vehicles”), including approximately 435 within Maine (the “Maine Diesel Vehicles”).<sup>1</sup>

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

3. As a result of Defendants’ conduct, in real-world operation, the Diesel Vehicles emit substantially more than the legal limits of nitrogen oxides (“NO<sub>x</sub>”), a harmful pollutant that causes respiratory illness and premature death and that contributes to the formation of smog and particulate matter pollution, which also cause severe harm to human health.

4. Defendants engaged in this unlawful conduct in order to: (a) obtain through deceptive means the certification they needed from federal and state regulators to market and sell the Diesel Vehicles in the United States, including within Maine; (b) conceal the fact that the Diesel

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<sup>1</sup> The Diesel Vehicles include the following U.S. Environmental Protection Agency test groups:

<b>Model Year</b>	<b>EPA Test Groups</b>	<b>Vehicle Makes and Models</b>
2014	ECRXT03.05PV	Ram 1500
2014	ECRXT03.05PV	Jeep Grand Cherokee
2015	FCRXT03.05PV	Ram 1500
2015	FCRXT03.05PV	Jeep Grand Cherokee
2016	GCRXT03.05PV	Ram 1500
2016	GCRXT03.05PV	Jeep Grand Cherokee

Vehicles did not comply with applicable state and federal emission standards, subjecting residents of Maine and others to the health risks of added air pollution; and (c) mislead the public into believing that the vehicles, which they branded as “EcoDiesels,” were “clean” and “green” and therefore a good option for purchase by environmentally conscious consumers.

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

6. In light of the environmental harm and consumer fraud wrought by Defendants, the State seeks imposition of civil penalties, consumer restitution, and such injunctive and other equitable relief as may be determined to be appropriate and equitable in order to remedy, address, and prevent additional harm from Defendants’ unlawful conduct, together with the State’s reasonable costs of investigation and litigation, including reasonable attorney’s fees, including pursuant to the Maine Unfair Trade Practices Act, 5 M.R.S. §§ 207 and 209, Maine’s Protection and Improvement of Air law, 38 M.R.S. §§ 581-610-D (“Maine Air Law”), and Maine’s New Motor Vehicle Emissions Standards, 06-096 Code of Maine Rules chapter 127 (“Maine LEV Rule”).

## **I. PARTIES**

7. The Plaintiff is the State of Maine, appearing by and through its Attorney General and the Maine Department of Environmental Protection (“Department”).

8. The Attorney General is the chief law enforcement officer of the State of Maine and is authorized to bring this action pursuant to 5 M.R.S. §§ 191, 207 & 209 and 38 M.R.S. § 348.

9. The Department is an agency of the State, with the powers and duties set forth in the Maine Air Law and the Maine LEV Rule. Its principal office is in Augusta, Maine.

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

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

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

13. VM Italy is an Italian corporation that, among other things, designs and manufactures diesel-fueled motor vehicle engines. In 2011, defendant Fiat N.V. (known as Fiat S.p.A. at the time) acquired a 50% ownership interest in VM Italy. In October 2013, VM Italy became an indirect wholly-owned subsidiary of Fiat N.V. VM Italy is an affiliate of FCA. The corporate

headquarters of VM Italy is in Cento, Italy. VM Italy communicated regularly with FCA about the Diesel Vehicles.

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

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

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

17. At all relevant times, each of the Defendants worked in concert with the common objective of developing, marketing, selling, and leasing the Diesel Vehicles in the United States, including within Maine, including with the undisclosed AECs that functioned as illegal defeat devices described in this Complaint. Each of the Defendants was, and still is, the agent of the others for this purpose, and each has acted, and is acting, for the common goals and profit of them all. All acts and knowledge ascribed to any one Defendant are properly imputed to the others.

## **II. JURISDICTION AND VENUE**

18. This Court has jurisdiction over the subject matter of this action, personal jurisdiction over the Defendants, and authority to grant the relief requested pursuant to 4 M.R.S. § 105, 5 M.R.S. § 209, 14 M.R.S. § 704-A and 38 M.R.S. §§ 348 & 349.

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

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

21. Venue lies in Kennebec County Superior Court pursuant to 5 M.R.S. § 209 and 14 M.R.S. § 501.

## **III. VEHICLE MANUFACTURERS MUST LIMIT HARMFUL NO<sub>x</sub> EMISSIONS AND DISCLOSE AECDS TO OBTAIN CERTIFICATION TO MARKET AND SELL THEIR VEHICLES IN THE UNITED STATES.**

22. NO<sub>x</sub>, a pollutant linked with serious health and environmental dangers, is formed at particularly high rates by combustion of diesel fuel.

23. Because of the serious health and environmental impacts of NO<sub>x</sub> emissions, state and federal emission standards impose not-to-exceed limits. Vehicle manufacturers must certify to the U.S. Environmental Protection Agency ("EPA") and the California Air Resources Board



(“CARB”) that their motor vehicles comply with those standards to obtain EPA-issued Certificates of Conformity (“COCs”) and CARB-issued Executive Orders (“EOs”). The same standards also mandate certain durability requirements for the engine and its components.

24. Of relevance here, EPA’s Tier 2 Bin 5 emission standard and California’s LEV II emission standard – the standards applicable to the Diesel Vehicles – impose a NO<sub>x</sub> emission limit of 0.05 grams per mile (“g/mi”) at a Durability Vehicle Basis of 50,000 miles and 0.07 g/mi at 120,000 miles. In other words, the regulations allow for marginally increased emissions as the vehicles and their emission control systems age.

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

26. Multiple states, including Maine, enforce the State of California’s Low Emission Vehicle Program Regulations (“CA LEV Regulations”) by adopting their own corresponding regulations, as expressly permitted by Congress in Section 177 of the Clean Air Act, 42 U.S.C. § 7507 (“Section 177”) and as authorized by 38 M.R.S. § 585-D. The CA LEV Regulations can be found at California Code of Regulations (“C.C.R.”) Title 13, §§ 1900 *et seq.* and are incorporated into Maine law through the Maine LEV Rule.

27. Thus, in addition to meeting EPA requirements, in order to sell their vehicles in all 50 states, manufacturers must: (a) certify to CARB that their motor vehicles comply with CARB’s emission and OBD certification requirements and test procedures; (b) obtain CARB-issued EOs for each model year and for each test group showing they are certified as meeting the emission requirements of the applicable CA LEV Regulations; (c) obtain valid environmental labels

disclosing smog and other ratings in accordance with the CA LEV Regulations; and (d) warranty that the vehicles shall comply over their warranty term with all requirements of the CA LEV regulations.

**A. The Law Requires Manufacturers to Disclose AECs and Prohibits the Use of Defeat Devices.**

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

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

30. CARB’s emission certification requirements and test procedures require, among other things, that vehicle manufacturers disclose in their certification applications for emission compliance all AECs used in their vehicles. Specifically, they:

- a. require manufacturers to list all AECs installed on their vehicles, including for each a justification and a rationale for why it is not a defeat device; and
- b. require manufacturers to list the parameters each AEC senses and controls.

31. CARB’s OBD certification regulations likewise require diesel vehicle manufacturers to disclose in their OBD certification applications all AECs used in their vehicles, along with inputs that invoke each AEC, a justification for and explanation of each AEC, the frequency of each AEC’s operation, and the anticipated emission impact of each AEC.

32. CARB’s emission certification requirements and test procedures further prohibit the use of all “defeat devices.” A defeat device is any AEC that circumvents or reduces the

effectiveness of the emission control system under normal vehicle operation and is not justified by one of four narrow conditions, none of which is applicable to the Diesel Vehicles at issue in this Complaint.

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

**B. Manufacturers Use Multiple Emission Control Strategies to Reduce NO<sub>x</sub> Emissions.**

34. In order to meet relevant emission standards, diesel vehicle manufacturers must balance the goal of implementing effective NO<sub>x</sub> reduction controls and strategies (which can place strain on the engine and its components) against the goal of meeting engine durability requirements.

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

36. EGR is used primarily to reduce NO<sub>x</sub> emissions by redirecting exhaust back into the engine’s intake system and mixing it with fresh air, thereby reducing the amount of oxygen in the engine, lowering the combustion temperature and reducing the creation of NO<sub>x</sub>.

37. SCR injects an aqueous ammonia solution into the exhaust stream after combustion but prior to emission from the tailpipe of the motor vehicle in order to produce a chemical reaction to reduce NO<sub>x</sub> to nitrogen and water. The ammonia solution is known as diesel exhaust fluid, or “DEF.”

38. While both technologies have emission-related advantages (reducing NO<sub>x</sub> emissions), each also has drawbacks (reduced fuel economy and strain on engine components) that impose marketing and engineering challenges.

39. As set forth in greater detail below, Defendants were unwilling to expend the time, effort, or money necessary to address in a lawful manner the engineering trade-offs and challenges posed by the available diesel technology and applicable emission standards. They opted instead to employ illegal defeat device strategies in the Diesel Vehicles to meet design and performance targets.

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

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

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

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

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

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

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

**Defeat Device**

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

45. Further, to obtain COCs and EOs, FCA warranted that the Diesel Vehicles were designed, built, and equipped to meet the emission standards in the Section 177 states including Maine. FCA further offered performance and defects warranties of the emission control system.

46. In doing so, Defendants also made false or misleading submissions – directly and through CARB – to the Department concerning NO<sub>x</sub> emissions from the Maine Diesel Vehicles.

47. In addition, Defendants delivered the Maine Diesel Vehicles for sale in Maine with invalid environmental labels affixed to them.

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

48. In or around November and December 2015, EPA conducted testing on four Ram 1500s in Ann Arbor, Michigan. All four Ram 1500s failed EPA's NO<sub>x</sub> testing. FCA conducted NO<sub>x</sub> testing on two Jeep Grand Cherokees that likewise failed.

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

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

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

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

51. CARB issued a similar NOV the same day.

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

**C. Off-Cycle Testing Confirms the Diesel Vehicles Emit NO<sub>x</sub> Far in Excess of the Legal Limits.**

53. Laboratory and on-road testing conducted by West Virginia University’s Center for Alternative Fuels, Engines, and Emissions on five MY 2014 and 2015<sup>2</sup> Jeep Grand Cherokees and Ram 1500s produced by FCA indicates that these vehicles exhibited, in general, significantly increased harmful emissions of NO<sub>x</sub> during on-road operation as compared to the laboratory testing results.

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<sup>2</sup> Diesel Vehicles from MY 2016 are identical to the MY 2015 models.

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

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

56. Results indicated that the MY 2014 Jeep Grand Cherokee and Ram 1500s, including the two re-flashed vehicles, exhibited, in general, significantly increased NO<sub>x</sub> emissions during on-road operation as compared to the results observed through testing on the roller.

57. MY 2015 Jeep vehicles produced from 4 to 8 times more NO<sub>x</sub> emissions during urban/rural on-road operation than the certification standard, while MY 2015 Ram 1500 vehicles had maximum NO<sub>x</sub> emission deviation factors of approximately 25 times above the relevant regulatory standards for highway driving conditions.

58. Real world testing conducted by other parties is corroborative. On the road, over an urban/suburban route, a MY 2014 Ram 1500 vehicle produced average NO<sub>x</sub> emissions that exceeded federal certification standards by approximately 15-19 times. When tested on a highway route, the average NO<sub>x</sub> emissions measured 35 times the EPA Tier 2 Bin 5 standard.

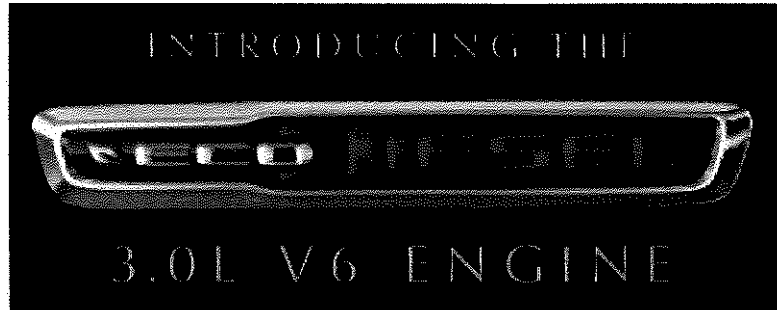
**V. DEFENDANTS DEFRAUDED CONSUMERS BY PROMISING “CLEAN,” “ECO-FRIENDLY” VEHICLES, WHICH IN FACT UNLAWFULLY POLLUTED THE AIR.**

**A. Defendants’ “EcoDiesel” Branding Was Deceptive.**

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

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

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



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



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

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



## GRAND EFFICIENCY.

We've set a new standard for diesel engines. Available on Grand Cherokee, the 3.0L V6 EcoDiesel engine offers Best-in-Class<sup>3</sup> 30 hwy mpg fuel economy and 730-plus-mile driving range. Plus, *Green Car Journal* named it the 2015 Green SUV of the Year.<sup>TM</sup>



**RamTrucks** @RamTrucks · 6 Nov 2014

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



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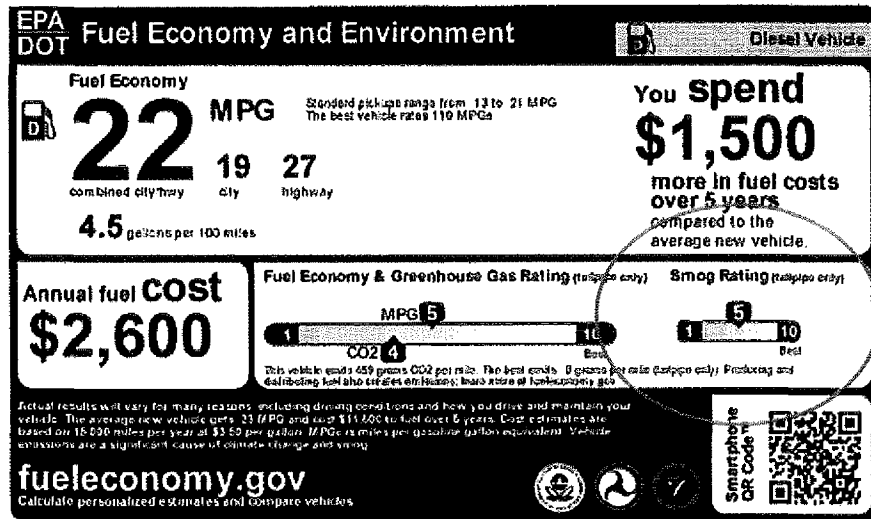
**B. FCA Subjected Buyers and Lessees to False Representations and Warranties at the Point of Sale.**

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

66. Window stickers affixed to each of the Diesel Vehicles for sale or lease reflected average “smog ratings” when, in fact, the Diesel Vehicles’ NO<sub>x</sub> emissions – a major factor in smog ratings – actually exceeded applicable standards.

For more information visit [www.ramtrucks.com](http://www.ramtrucks.com)  
or call 1-866-RAMINFO

Chrysler Group LLC



67. Further, in California emissions warranties (applicable to residents of Maine, pursuant to the Maine LEV Rule, Chapter 127, § 5), FCA expressly warranted to purchasers and lessees that the Diesel Vehicles were designed, built, and equipped to conform with applicable CARB requirements.

68. These express warranties were categorically false in light of the installation and calibration of the Undisclosed AECDS.

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

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

70. FCA created a 2-page “Hot Sheet” for the 2014 Jeep Grand Cherokee that contained FCA’s three key selling messages for the “EcoDiesel” powertrain: (1) best-in-class fuel economy, (2) best-in-class driving range, and (3) “cleanest diesel—lowest CO<sub>2</sub> versus competitive diesel UVs.” The hot sheet further instructed the FCA sales force to reinforce the message that EcoDiesel vehicles complied with “50 State emissions” laws thanks to the inclusion of the “DEF injection system & SCR catalyst.”

71. FCA gave dealer representatives attending the “Chrysler Academy” the 2014 Jeep Grand Cherokee Product Reference Guide that perpetuated FCA’s EcoDiesel advertising strategy, containing statements like:

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

72. FCA dealers employed this marketing strategy on consumers in Maine.

**D. FCA’s “EcoDiesel” Campaign Worked.**

73. Consumers purchased and leased Diesel Vehicles based on FCA’s false and misleading representations that the vehicles would be environmentally friendly and clean, fuel-efficient, and

compliant with all applicable emission standards, and that they would provide superior performance.

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

75. If the State had known of the true effect of the defeat devices on the operation of the “clean diesel” engine systems and the true levels of pollutants the engines emitted, the State would not have allowed the Diesel Vehicles to be placed in Maine for sale, lease, or use on its roadways, and the State and its residents would have avoided significant NO<sub>x</sub> and related air pollution.

## **CAUSES OF ACTION**

### **COUNT I UNFAIR OR DECEPTIVE ACTS OR PRACTICES, IN VIOLATION OF THE MAINE UNFAIR TRADE PRACTICES ACT (All Defendants)**

76. The State re-alleges the facts above and incorporates them herein by reference.

77. Each of the Defendants is or was at times relevant to this action a “person” within the meaning of 5 M.R.S. §§ 206 & 209.

78. Each of the Defendants is or was at times relevant to this action engaged in “trade” or “commerce” in the State within the meaning of 5 M.R.S. §§ 206 & 207.

79. Each of the Defendants engaged in and/or directly facilitated unfair or deceptive acts or practices in the conduct of trade or commerce, in violation of 5 M.R.S. § 207 by, without limitation, unfairly or deceptively:

- a. Manufacturing and/or installing the Undisclosed AECs in the Diesel Vehicles, which, alone or in combination, acted as defeat devices, and rendered those vehicles non-conforming with applicable emission standards;
- b. Misrepresenting and/or falsely certifying and warranting the Diesel Vehicles' compliance with applicable emission standards;
- c. Placing into commerce vehicles that failed to comply with applicable emission standards;
- d. Failing to disclose and/or actively concealing from environmental regulators the existence of the Undisclosed AECs and their harmful environmental impact;
- e. Failing to disclose and/or actively concealing from consumers the existence of the Undisclosed AECs and their harmful environmental impact;
- f. Violating the explicit terms of an express warranty issued to each buyer and lessor of a Diesel Vehicle, namely, the express warranty that the vehicle conformed to applicable emission standards and other applicable environmental standards;
- g. Selling and offering for sale vehicles that were defective because, without limitation, the vehicles failed to conform to applicable emission standards;
- h. Falsely and deceptively advertising, promoting, and warranting the Diesel Vehicles as "clean" and "green" despite the fact that, in regular driving, they emit NO<sub>x</sub> at many multiples of the allowable amounts;
- i. Falsely, misleadingly, and/or deceptively advertising, promoting, and warranting the Diesel Vehicles by failing to disclose that certain performance measures could only be met when the Undisclosed AECs were operating; and
- j. Violating the Maine Lemon Law, 10 M.R.S. §§ 1161-1169, by failing to timely conform the Diesel Vehicles sold or leased in Maine to emissions-related warranties.

80. Defendants' conduct was knowing and willful.

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

**COUNT II**  
**FAILURE TO COMPLY WITH EMISSION STANDARDS AND TEST PROCEDURES,**  
**IN VIOLATION OF THE MAINE LEV RULE**  
**(All Defendants)**

82. The State re-alleges the facts above and incorporates them herein by reference.

83. Pursuant to the Maine LEV Rule, Chapter 127, § 4(A)(1), no person, including a manufacturer or dealer, shall deliver for sale or lease, offer for sale or lease, sell or lease, import, or rent a new vehicle that is a 2001 and subsequent model-year passenger car or light-duty truck in Maine, including the Maine Diesel Vehicles, unless the vehicle or engine complies with the exhaust emissions standards in the CA LEV Regulations adopted and incorporated into the Maine LEV Rule by reference.

84. Pursuant to the Maine LEV Rule, Chapter 127, §§ 3, 4(A), & Appendix A, the CA LEV regulations and CARB testing and certification procedures have been incorporated by reference. *See* 13 C.C.R. §§ 1961(d) & 1961.2(d), which incorporate by reference 2001-2014 Test Procedures and 2015 Test Procedures, respectively.

85. The CA LEV Regulations require manufacturers to disclose to CARB all AECDs installed on their vehicles and to provide a justification for each AECD and a rationale for why the AECD is not a defeat device. 13 C.C.R. §§ 1961 & 1962(d) (incorporating by reference 40 CFR § 86.1844-01).

86. Defendants did not disclose the Undisclosed AECDs they used on the Maine Diesel Vehicles to CARB as required by the CA LEV Regulations.

87. By using the Undisclosed AECDs on the Maine Diesel Vehicles, Defendants violated Chapter 127, §§ 3, 4(A), & Appendix A.

88. Defeat devices are prohibited by the CA LEV Regulations and test procedures. 2001-2014 Test Procedures, pg. 4 and 2015 Test Procedures, pg. 4 (incorporating by reference 40

C.F.R. §§ 86.1809-01, 86-1809-10, and 86.1809-12, which prohibit the use of a defeat device in any new light-duty vehicle and certain other vehicles).

89. The Undisclosed AECDs that Defendants used on the Maine Diesel Vehicles, alone or in combination, acted as defeat devices.

90. By using defeat devices on the Maine Diesel Vehicles, Defendants violated Chapter 127, §§ 3, 4(A), & Appendix A.

91. The CA LEV Regulations at 13 C.C.R. § 1961, as incorporated through Chapter 127, §§ 3, 4(A), & Appendix A impose LEV II NO<sub>x</sub> emission standards for passenger cars and light duty trucks of 0.05 g/mi and 0.07 g/mi at a Durability Vehicle Basis of 50,000 miles and 120,000 miles, respectively.

92. Defendants sought and obtained certification of the Maine Diesel Vehicles under those LEV II NO<sub>x</sub> emission standards.

93. By using the Undisclosed AECDs on the Maine Diesel Vehicles, Defendants caused each of those vehicles to repeatedly emit NO<sub>x</sub> in amounts exceeding the LEV II NO<sub>x</sub> emission standards of 13 C.C.R. § 1961, as incorporated through Chapter 127, §§ 3, 4(A), & Appendix A.

94. By using defeat devices on the Maine Diesel Vehicles, Defendants caused each of those vehicles to repeatedly emit NO<sub>x</sub> in amounts exceeding the NO<sub>x</sub> emission standards of 13 C.C.R. § 1961, as incorporated through Chapter 127, §§ 3, 4(A), & Appendix A.

95. Defendants delivered for sale or lease, offered for sale or lease, sold or leased, imported, or rented the Maine Diesel Vehicles that exceeded the NO<sub>x</sub> emission standards, in violation of Chapter 127, §§ 3, 4(A), & Appendix A.



96. Defendants committed separate violations, for the purpose of 38 M.R.S. § 349(2), of the requirement to disclose all AECDS and the prohibition against defeat devices for each Maine Diesel Vehicle.

97. Defendants committed separate violations, for the purpose of 38 M.R.S. § 349(2), of the Maine LEV Rule, Chapter 127, for each Maine Diesel Vehicle that exceeded NO<sub>x</sub> emission standards on each day that Defendants delivered for sale or lease, offered for sale or lease, sold or leased, imported, or rented such vehicle in Maine.

**COUNT III**  
**UNLAWFUL IMPORTATION, DELIVERY, AND/OR SALE OF MAINE DIESEL VEHICLES WITHOUT VALID EMISSIONS CERTIFICATIONS and WITHOUT VALID ENVIRONMENTAL LABELS, IN VIOLATION OF THE MAINE LEV RULE (All Defendants)**

98. The State re-alleges the facts above and incorporates them herein by reference.

99. Pursuant to the Maine LEV Rule, Chapter 127, § 4(A), no person, including a manufacturer or dealer, shall deliver for sale or lease, offer for sale or lease, sell or lease, import, or rent a new vehicle that is a 2001 and subsequent model-year passenger car or light-duty truck or 2003 and subsequent model-year medium-duty vehicle, in Maine unless the vehicle or engine is California-certified. That is, new vehicles must be covered by a valid Executive Order (EO) from CARB and approved by CARB for sale in California. Chapter 127, §§ 2(D) & 4(A). CARB EOs include certification that vehicles comply with California's exhaust emission standards.

100. Pursuant to the Maine LEV Rule, Chapter 127, § 4(A)(2), no person, including a manufacturer or dealer, shall deliver for sale or lease, offer for sale or lease, sell or lease, import, or rent a new vehicle that is a 2001 and subsequent model-year passenger car or light-duty truck or 2003 and subsequent model-year medium-duty vehicle, in Maine unless the vehicle or engine

complies with the emission control label requirements, and the environmental label requirements for 2010 and subsequent model years, in accordance with 13 C.C.R. § 1965.

101. To obtain CARB EOs for vehicles, a vehicle manufacturer must undergo comprehensive testing of sample vehicles. The CA LEV Regulations and CARB testing and certification procedures have been incorporated by reference into the Maine LEV Rule. *See* Chapter 127, §§ 3, 4(A)(1), & Appendix A (incorporating by reference 13 C.C.R. §§ 1961(d) and 1961.2(d), which incorporate by reference 2001-2014 Test Procedures and 2015 Test Procedures, respectively).

102. The CA LEV Regulations require manufacturers to disclose to CARB all AECDs installed on their vehicles, and to provide a justification for each AECD and a rationale for why the AECD is not a defeat device. 13 C.C.R. §§ 1961 and 1962(d) (incorporating by reference 40 CFR § 86.1844-01).

103. Defendants did not disclose the Undisclosed AECDs to CARB, nor did they provide a justification for those AECDs, as required by the CA LEV Regulations.

104. Defeat devices are prohibited by CA LEV Regulations and test procedures. 2001-2014 Test Procedures, pg. 4 and 2015 Test Procedures, pg. 4 (incorporating by reference 40 C.F.R. §§ 86.1809-01, 86-1809-10, and 86.1809-12, which prohibit the use of a defeat device in any new light-duty vehicle and certain other vehicles).

105. Defendants used defeat devices on the Maine Diesel Vehicles, and Defendants did not disclose the defeat devices on the Maine Diesel Vehicles to CARB.

106. Defendants obtained the EOs for the Maine Diesel Vehicles by making false, inaccurate, incomplete, or misleading statements to CARB because they did not disclose the Undisclosed AECDs and did not disclose their use of defeat devices on those vehicles.

107. Because the CARB relied on Defendants' false, inaccurate, incomplete, or misleading statements in issuing the EOs for the Maine Diesel Vehicles, the EOs and the environmental labels for those vehicles are invalid.

108. Defendants' failure to disclose the Undisclosed AECDs as required by CA LEV Regulations invalidated the EOs for the Maine Diesel Vehicles.

109. Defendants' use of the Undisclosed AECDs in violation of the CA LEV Regulations invalidated the environmental labels for the Maine Diesel Vehicles.

110. Defendants' use of defeat devices on the Diesel Vehicles invalidated the EOs and the environmental labels for the Maine Diesel Vehicles.

111. Each of the Maine Diesel Vehicles sold, offered for sale, imported, or delivered by Defendants lacked a valid CARB EO and a valid environmental label.

112. Defendants committed separate violations, for the purpose of 38 M.R.S. § 349(2), of the Maine LEV Rule, Chapter 127, for each Maine Diesel Vehicle without a valid EO or environmental label on each day that Defendants delivered for sale or lease, offered for sale or lease, sold or leased, imported, or rented such vehicle in Maine.

**COUNT IV**  
**FAILURE TO COMPLY WITH EMISSIONS WARRANTY REQUIREMENT**  
**(All Defendants)**

113. The State re-alleges the facts above and incorporates them herein by reference.

114. The Maine LEV Rule, Chapter 127, § 5, requires manufacturers of 2004 and subsequent model-year California-certified vehicles that are delivered for sale to Maine to provide a warranty for the ultimate purchaser and each subsequent purchaser that complies with the requirements of the CA LEV Regulations, 13 C.C.R. §§ 2035-2040, 2046.

115. By installing and using one or more undisclosed AECDs or defeat devices on each of the Maine Diesel Vehicles, Defendants made it impossible that such vehicle would comply over its warranty term with all requirements of the CA LEV Regulations, 13 C.C.R. §§ 2035-2040, 2046, in violation of the Maine LEV Rule, Chapter 127, § 5.

116. Each Maine Diesel Vehicle delivered for sale to Maine in violation of the warranty requirement in the Maine LEV Rule, Chapter 127, § 5, represents a separate violation for the purpose of 38 M.R.S. § 349(2).

**PRAYER FOR RELIEF**

WHEREFORE, the State of Maine requests that this Court grant the following relief:

- A. Permanently enjoin all Defendants from engaging in the following conduct, either directly or indirectly, pursuant to the Maine Unfair Trade Practices Act, 5 M.R.S. §§ 207 and 209, and the Maine LEV Rule, Chapter 127:
1. advertising, promoting, or marketing any new motor vehicle equipped with a defeat device or Undisclosed AECD and any new motor vehicle not eligible for sale pursuant to emission and environmental standards in the State; and
  2. allowing the Maine Diesel Vehicles to:
    - a. exceed applicable emission standards for NO<sub>x</sub>; or
    - b. use undisclosed AECDs or defeat devices;
  3. using any undisclosed AECD or defeat device in any new FCA manufactured motor vehicle that satisfies one of the following conditions (“New Motor Vehicle”):
    - a. imported to, delivered to, sold or leased, offered for sale or lease, or rented within Maine;

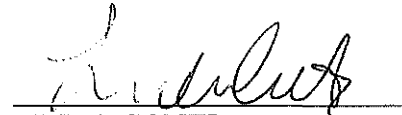
- b. sold, leased or rented to any person who resides in Maine; or
    - c. imported, delivered, sold or leased, offered for sale or lease, or rented for use primarily in Maine;
  4. importing, delivering, selling or leasing, offering for sale or lease, or renting any New Motor Vehicle that lacks a valid emissions certification or valid environmental label;
  5. importing, delivering, selling or leasing, offering for sale or lease, or renting in Maine any New Motor Vehicle that lacks properly operating emissions controls; and
  6. violating the emissions warranty for any Maine Diesel Vehicle or New Motor Vehicle.
- B. Order the Defendants to provide appropriate relief under 5 M.R.S. § 209, to Maine consumers who purchased, leased, or otherwise own a Diesel Vehicle sold or leased by Defendants, including by:
  1. providing a warranty, for the life of the subject vehicle or lease, that it will conform to all applicable emission standards; and
  2. paying full consumer restitution and damages to each affected consumer, including, without limitation, any damages resulting from any degradation of performance and/or fuel efficiency resulting from any “fix”; and any additional sums spent for purchase of extended warranties that will go unused due to repurchase.
- C. Order all Defendants to pay appropriate civil penalties for every violation of 5 M.R.S. § 207 and the Maine LEV Rule, Chapter 127.

- D. Award the State costs and attorney's fees, pursuant to 14 M.R.S. § 1522; and
- E. Order such other relief as the Court deems necessary, proper, and just.

Dated: October 23, 2019

Respectfully submitted,

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