

1 XAVIER BECERRA
 Attorney General of California
 2 NICKLAS A. AKERS
 Senior Assistant Attorney General
 3 JUDITH A. FIORENTINI (CA Bar No. 201747)
 Supervising Deputy Attorney General
 4 JON F. WORM (CA Bar No. 248260)
 LAUREL M. CARNES (CA Bar No. 285690)
 5 Deputy Attorneys General
 600 West Broadway, Suite 1800
 6 San Diego, CA 92101
 Telephone: (619) 738-9325
 7 Email: judith.fiorentini@doj.ca.gov
 Email: jon.worm@doj.ca.gov
 8 Email: laurel.carnes@doj.ca.gov

9 *Attorneys for the People of the State of California*

10
 11 IN THE UNITED STATES DISTRICT COURT
 12 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 13 SAN FRANCISCO DIVISION

15 **THE PEOPLE OF THE STATE OF**
 16 **CALIFORNIA,**
 Plaintiff,
 17
 18 v.
 19 **FIAT CHRYSLER AUTOMOBILES N.V.;**
FCA US LLC; V.M. MOTORI S.p.A.; and
V.M. NORTH AMERICA, INC.,
 20
 Defendants.
 21

Case No.

**CIVIL ENFORCEMENT COMPLAINT
 FOR PERMANENT INJUNCTION,
 CIVIL PENALTIES, RESTITUTION,
 AND OTHER LEGAL AND
 EQUITABLE RELIEF**

22
 23 The People of the State of California, both by and through Xavier Becerra, Attorney
 24 General of the State of California, and by and through the California Air Resources Board
 25 (“CARB”), represented by the Office of the California Attorney General (together, “Plaintiff” or
 26 “California”), bring this civil law enforcement action against Fiat Chrysler Automobiles N.V.
 27 (“FCA NV”), FCA US LLC (“FCA US”), V.M. Motori S.p.A (“VM Italy”), and V.M. North
 28 America, Inc. (“VM North America”) (collectively, “Defendants”). This action is brought under

1 California laws and regulations regarding environmental and consumer protection, and under the
2 Clean Air Act (“CAA”), 42 U.S.C. § 7604(a)(1), and the California State Implementation Plan
3 approved by the United States Environmental Protection Agency (“EPA”) and codified at 40
4 C.F.R. part 52, subpart F–California, and 81 Fed. Reg. 39424-01. Plaintiff alleges the following
5 on information and belief:

6 **INTRODUCTION**

7 1. Beginning in late 2013 and continuing through 2017, Defendants sold or caused to
8 be sold model year 2014, 2015, and 2016 Jeep Grand Cherokees and Ram 1500s with 3.0 liter
9 diesel engines (“Subject Vehicles”) in California that did not comply with California and federal
10 laws and regulations governing vehicle emissions and certification.¹ Defendants sold or caused to
11 be sold approximately 14,000 Subject Vehicles in California.

12 2. To combat dangerous levels of air pollution, California has regulated pollutants for
13 many years and was the first state to regulate automobile tailpipe emissions. California’s air-
14 quality regulations preceded the federal CAA, and the CAA preserves California’s authority to set
15 and enforce its own air quality standards. To legally import, offer for sale, or sell vehicles in
16 California, a manufacturer must submit a vehicle certification application and obtain an Executive
17 Order from CARB certifying the vehicles for sale. This regulatory scheme is designed to ensure
18 that vehicles sold in California comply with the state’s strict emissions standards, including
19 standards limiting emissions of nitrogen oxides (“NOx”). NOx is a key contributor to ambient
20 ozone and fine particulate matter pollution in California, both of which have a detrimental effect
21 on public health and the environment.

22 3. Defendants’ certification applications for the Subject Vehicles failed to disclose at
23 least eight software-based Auxiliary Emission Control Devices (“AECs”) that significantly
24 affect the emissions control systems, and thus the Subject Vehicles do not match the
25 configurations specified in the certification applications submitted to CARB. Based on these
26 inaccurate and incomplete disclosures, Defendants obtained Executive Orders allowing them to
27 sell the non-compliant Subject Vehicles in California.

28 ¹The Subject Vehicles are further identified in paragraph 60.

1 by CARB, are sold and operated in California. CARB is empowered to obtain civil penalties and
2 injunctive relief for violations of these provisions.³ This action is thus brought, in part, by the
3 California Attorney General on behalf of CARB and in the name of the People of the State of
4 California.

5 16. California and its political subdivisions are “persons” under 42 U.S.C. § 7602(e)
6 and § 7604(a) and are thus authorized and have standing to bring suit under the CAA. In addition,
7 the general CAA prohibition against State (or political subdivision) attempts to adopt or enforce
8 standards related to the control of emissions from new motor vehicles does not apply to
9 California. 42 U.S.C. §§ 7507, 7543(b).

10 17. The California Attorney General is further authorized to act in the name of the
11 People of the State of California by California Business and Professions Code § 17204 and by
12 California Business and Professions Code § 17535 to obtain injunctive relief to halt violations of,
13 and enforce compliance with, California Business and Professions Code § 17200 *et seq.*, and
14 California Business and Professions Code § 17500 *et seq.*, respectively, and is authorized by
15 California Business and Professions Code §§ 17206 and 17536 to obtain civil penalties of up to
16 \$2,500 for each violation of §§ 17200, 17500, and 17580.5. The California Attorney General’s
17 claims are separate and independent from the claims asserted on behalf of CARB.

18 **II. DEFENDANTS**

19 18. Defendant FCA US LLC (“FCA US”) is a limited liability company formed under
20 the laws of the State of Delaware. It has been an indirect, wholly-owned subsidiary of Defendant
21 FCA NV since January 2014, and was formerly known as Chrysler Group LLC. FCA US has its
22 headquarters and principal place of business in Auburn Hills, Michigan. FCA US designs,
23 manufactures, imports, distributes, markets, sells, and leases vehicles and vehicle components
24 under various brands, including Chrysler, Dodge, Ram, and Jeep. FCA US maintains a California
25 Business Center in Newport Beach, California, and a Parts Distribution Center in Ontario,

26 ³Section 43154, which authorizes civil penalties for violations of these statutes, was
27 amended, effective January 1, 2017, primarily to modify the penalty amounts and structure. *See*
28 2016 Cal. Legis. Serv. Ch. 604 (A.B. 1685, “AIR POLLUTION—MOTOR VEHICLES—FINES
AND PENALTIES”). The prior version of the statute applies to violations occurring before
January 1, 2017.

1 California. FCA US, either directly or through its predecessors and agents, has transacted and
2 continues to transact business throughout California, including in this judicial district. FCA US,
3 either directly or through its predecessors and agents, arranged for sale or delivery of its diesel
4 vehicles under the brands Jeep and Ram, among others, to the United States for sale throughout
5 California. FCA US, either directly or through its predecessors and agents, designed the
6 EcoDiesel engine systems incorporated into the Subject Vehicles and performed emissions tests
7 on the Subject Vehicles. FCA US employees regularly communicated with employees of
8 defendants FCA NV, VM Italy, and VM North America regarding the engine used in the Subject
9 Vehicles and regarding the Subject Vehicles. FCA US, either directly or through its predecessors
10 and agents, has regularly submitted information to CARB, including applications for Executive
11 Orders. FCA US has also regularly participated in meetings with CARB, including in person, via
12 telephone, or through videoconferencing technology, including in connection with applications
13 for Executive Orders. FCA US has also regularly corresponded or otherwise communicated with
14 CARB, including in connection with applications for Executive Orders.

15 19. Defendant Fiat Chrysler Automobiles N.V. (“FCA NV”) is a company
16 incorporated in the Netherlands with its principal executive offices in London, United Kingdom.
17 FCA NV was formed in October 2014 when Fiat S.p.A. and Fiat Investments N.V. merged. FCA
18 NV is the ultimate parent company of defendants FCA US, V.M. Motori S.p.A, and V.M. Motori
19 North America, Inc. FCA NV is an international automotive group that, along with and through
20 its subsidiaries, designs, engineers, manufactures, imports, distributes, sells, and leases vehicles
21 under various brands, including Ram, Jeep, Chrysler, Dodge, and Fiat. Several members of FCA
22 NV’s executive management team, the Group Executive Council, are based in Auburn Hills,
23 Michigan. FCA NV, either directly or through its subsidiaries, predecessors, and agents, arranged
24 for sale or delivery of its diesel vehicles under the brands Jeep and Ram, among others, to the
25 United States for sale throughout California. FCA NV, either directly or through its subsidiaries,
26 predecessors, and agents: (a) designed the EcoDiesel engine systems incorporated into the Subject
27 Vehicles; (b) has regularly submitted information to CARB, including applications for Executive
28 Orders; (c) has regularly participated in meetings with CARB, including in person, via telephone,

1 or through videoconferencing technology, including in connection with applications for Executive
2 Orders; and (d) has regularly corresponded or otherwise communicated with CARB, including in
3 connection with applications for Executive Orders.

4 20. Defendant V.M. Motori S.p.A (“VM Italy”) is a company organized under the
5 laws of Italy with its principal place of business in Cento, Italy. FCA NV (through a predecessor
6 corporate entity) acquired a 50 percent ownership interest in VM Italy in 2011. On October 28,
7 2013, FCA NV (through a predecessor corporate entity) acquired the remaining 50 percent of VM
8 Italy. Since that time, VM Italy has been an indirect, wholly-owned subsidiary of FCA NV (or its
9 predecessor corporate entity). VM Italy, working together with VM North America, developed,
10 manufactured, and calibrated the 3.0 liter EcoDiesel engine used in the Subject Vehicles. VM
11 Italy transacts business in the United States, including in California. Among other things, certain
12 employees of VM Italy who worked on the EcoDiesel engine and the Subject Vehicles were also
13 employees of VM North America. And, certain employees of VM Italy worked in the United
14 States and were located, at least temporarily, in Auburn Hills, Michigan. VM Italy and VM North
15 America regularly communicated with each other and the other Defendants regarding the
16 EcoDiesel engines and the Subject Vehicles, including with regard to certification of the Subject
17 Vehicles by CARB. Moreover, VM Italy employees communicated directly with CARB with
18 regard to the Subject Vehicles. VM Italy, together with VM North America, manufactured the
19 EcoDiesel engines with the knowledge that they would be incorporated into the Subject Vehicles
20 and marketed, sold, and leased throughout the United States, including in California.

21 21. Defendant V.M. Motori North America, Inc. (“VM North America”) is (or was) a
22 corporation organized in 2004 under the laws of the state of Delaware and headquartered in
23 Auburn Hills, Michigan. According to its public statements, VM North America was formed in
24 2004 to support VM Italy customers in North America and is the point of contact for its
25 customers in the region. VM North America transacts business throughout the United States,
26 including in California. As set forth in the preceding paragraph, VM North America worked with
27 VM Italy to develop, manufacture, and calibrate the 3.0 liter EcoDiesel engine used in the Subject
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1 Vehicles. VM North America employees communicated with the other Defendants and with
2 CARB regarding the Subject Vehicles.

3 22. At all relevant times, each Defendant acted individually and jointly with every
4 other named Defendant in committing the acts alleged in this Complaint.

5 23. At all relevant times, each Defendant acted: (a) as a principal; (b) under express or
6 implied agency; and/or (c) with actual or ostensible authority to perform the acts alleged in this
7 Complaint on behalf of every other named Defendant.

8 24. At all relevant times, some or all Defendants acted as the agent of the others, and
9 all Defendants acted within the scope of their agency if acting as an agent of another.

10 25. At all relevant times, each Defendant knew—or should have known—that the
11 other Defendants were engaging in or planned to engage in the violations of law alleged in this
12 Complaint. Despite knowing that the other Defendants were engaging in such unlawful conduct
13 (or despite the fact that they should have known that the other Defendants were engaging in
14 unlawful conduct), each Defendant nevertheless facilitated the commission of those unlawful
15 acts. Each Defendant intended to and did encourage, facilitate, or assist in the commission of the
16 unlawful acts, and thereby aided and abetted the other Defendants in the unlawful conduct.

17 26. Defendants have engaged in a conspiracy, common enterprise, and common
18 course of conduct, the purpose of which is and was to engage in the violations of law alleged in
19 this Complaint. The conspiracy, common enterprise, and common course of conduct continue to
20 the present.

21 27. The Defendants sold the Subject Vehicles to California Jeep and Ram brand
22 dealers. In turn, these dealers resold the Subject Vehicles to California customers for use,
23 registration, and resale. In some instances, these dealers leased the Subject Vehicles to California
24 customers for use in California.

25 28. The violations of law alleged in this Complaint occurred throughout the State of
26 California, including throughout this District.

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BACKGROUND AND FACTUAL ALLEGATIONS**I. VEHICLE EMISSIONS POSE A SIGNIFICANT AIR POLLUTION CHALLENGE IN CALIFORNIA**

29. California has a long history of severe air pollution. In simplest terms, California has tens of millions of residents, many of whom travel by automobile, and they are often concentrated in large, urban areas surrounded by mountains. This topography traps vehicle emissions containing harmful air pollutants, and the pollutants in the emissions further react with other pollutants and California's abundant sunlight to create ozone (smog), creating a serious air quality problem that is harmful to human health, property, and the environment. NOx emissions in California are a key contributor to ambient ozone and fine particulate matter pollution, which are associated with premature deaths, increased hospitalizations, emergency room visits due to exacerbation of chronic heart and lung diseases, and other serious health effects. A major contributor to NOx emissions is combustion from diesel engines and vehicles, such as the Subject Vehicles at issue in this Complaint.

30. The emission of air pollutants from motor vehicles is a primary cause of air pollution in many parts of California, and the control and elimination of those air pollutants is of prime importance for the protection and preservation of the public health, property, and the environment.

31. California has long been at the forefront of researching, investigating, monitoring, and regulating sources of air pollution, including automobile tailpipe emissions. Beginning in the late 1950s and early 1960s, California enacted the nation's first vehicle emission standards and regulations. In 1971, California enacted the country's first automobile NOx standards.

32. CARB was formed in 1967 and is charged with setting and implementing vehicle emissions standards in California. California regulated vehicle emissions before passage of the CAA in 1970, and that statute provides that California is the only state permitted to obtain a waiver from the federal government to adopt and enforce its own emission standards that meet or exceed federal standards. 42 U.S.C. § 7543(b).

1 33. Despite California’s efforts to combat air pollution over the past half century,
2 many regions of California continue to suffer from some of the worst air quality in the nation. For
3 example, the Central Valley and Los Angeles air basins remain out of compliance with federal
4 health-based ambient air quality standards that target NOx, particulate matter, and ozone, among
5 other pollutants. These pollutants negatively affect public health and welfare across a broad
6 demographic spectrum. California has gone to great lengths to combat air pollution, and it has
7 devoted significant state resources over decades to the effort.

8 **II. CALIFORNIA’S REGULATION OF VEHICLE EMISSIONS**

9 34. Under its unique, retained authority, California has continued to set strict
10 emissions standards and test procedures for vehicles imported or sold in California. California has
11 a special interest in assuring that only those new motor vehicles that meet the state’s stringent
12 emission standards and test procedures are sold, used, or registered in the state.

13 35. California Health and Safety Code § 43102 specifies that no new motor vehicle or
14 engine can be certified by CARB unless it meets the emission standards adopted by CARB under
15 the test procedures adopted by CARB. Section 43106 requires that each new motor vehicle or
16 engine required to meet the emission standards shall be, in all material respects, substantially the
17 same in construction as the test motor vehicle or engine, as the case may be, that has been
18 certified by CARB. Section 43150 declares that “only those new motor vehicles and new motor
19 vehicle engines which meet this state’s stringent emission standards and test procedures, and
20 which have been certified pursuant to this chapter, are used or registered in this state.” The
21 relevant Low Emission Vehicle II (“LEV II”) standards for the Subject Vehicles are set forth in
22 13 C.C.R. § 1961, and test procedures for the Subject Vehicles are set out in title 13 C.C.R. §§
23 1961 and 1961.2.

24 36. For model year 2001 through 2014 vehicles, 13 C.C.R. § 1961(d) incorporates by
25 reference the certification requirements and test procedures in the “California 2001 through 2014
26 Model Criteria Pollutant Exhaust Emission Standards and Test Procedures and 2009 through
27 2016 Model Greenhouse Gas Exhaust Emission Standards and Test Procedures for Passenger
28 Cars, Light-Duty Trucks and Medium-Duty Vehicles” (“2001-2014 Test Procedures”). The 2001-

1 2014 Test Procedures require manufacturers to, among other things, list all AECDs installed on
2 their vehicles, including a justification for each AECD, the parameters the AECDs sense and
3 control, a detailed justification of each AECD that results in a reduction in effectiveness of the
4 emission control system, and a rationale for why the AECD is not a defeat device. The 2001-2014
5 Test Procedures incorporate 40 C.F.R. §§ 86.1809-01, 86.1809-10, and 86.1809-12, which
6 prohibit the use of a defeat device in any new light-duty vehicle and certain other vehicles.

7 37. For model year 2015 and later vehicles, 13 C.C.R. § 1961.2(d) incorporates by
8 reference the certification requirements and test procedures in the “California 2015 and
9 Subsequent Model Criteria Pollutant Exhaust Emission Standards and Test Procedures and 2017
10 and Subsequent Model Greenhouse Gas Exhaust Emission Standards and Test Procedures for
11 Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles” (“2015 Test Procedures”). The
12 2015 Test Procedures require manufacturers to, among other things, list all AECDs installed on
13 their vehicles, including a justification for each AECD, and a rationale for why the AECD is not a
14 defeat device. The 2015 Test Procedures incorporate 40 C.F.R. §§ 86.1809-01, 86.1809-10, and
15 86.1809-12, which prohibit the use of a defeat device in any new light duty vehicle and certain
16 other vehicles.

17 38. California law requires that each make and model year of vehicle comply with
18 California’s emissions standards and be certified by CARB before being imported, delivered,
19 purchased, acquired, received, offered, rented, leased, or sold for use, registration, or resale in
20 California.

21 39. California Health and Safety Code §§ 43151, 43152, and 43153 generally prohibit
22 importing, delivering, selling, or leasing new motor vehicles for use, registration, or resale in
23 California, or attempting or assisting in any of the above such acts, unless such motor vehicles
24 have been certified by CARB and comply with California’s emissions standards and other
25 requirements.

26 40. CARB administers a certification program designed to prevent the introduction of
27 new motor vehicles into California that do not satisfy applicable emission standards. Under this
28

1 program, CARB reviews applications submitted for new motor vehicles and certifies them by
2 issuing Executive Orders.

3 41. To obtain an Executive Order, a manufacturer must submit an application to
4 CARB for each model year and for each test group of vehicles that it intends to import, deliver,
5 purchase, rent, lease, acquire, receive, or sell in California. Manufacturers are prohibited from
6 taking any of these actions unless such motor vehicles have been certified through an Executive
7 Order issued by CARB.

8 42. To be certified, a vehicle manufacturer must demonstrate that each vehicle's
9 exhaust and evaporative emission control systems are durable and comply with the applicable
10 emission and evaporative emission standards for the vehicle's useful life. The manufacturer
11 demonstrates this through durability and certification testing of sample vehicles. This certification
12 process is comprehensive—CARB evaluates compliance with numerous requirements in addition
13 to tail-pipe emissions, including regulations for OBD, anti-tampering, labeling, and warranties.

14 43. California's certification requirements and test procedures require, among other
15 things, that an automobile manufacturer disclose in its certification applications all AECDs
16 present in the vehicle. As defined in 40 C.F.R. § 86.1803-01 and incorporated into California law,
17 an AECD is "any element of design that senses temperature, vehicle speed, engine RPM,
18 transmission gear, manifold vacuum, or any other parameter for the purpose of activating,
19 modulating, delaying, or deactivating the operation of any part of the emission control system."
20 All AECDs must be disclosed so that CARB may properly evaluate them for, among other things,
21 their effect on emissions, their purpose, and their effect on vehicle components and durability.

22 44. California's certification requirements and test procedures also prohibit the use of
23 defeat devices. As set out in 40 C.F.R. § 86.1803-01 and incorporated into California law, a
24 defeat device is an AECD that reduces the effectiveness of the emission control system under
25 conditions that may reasonably be expected to be encountered during normal vehicle operation
26 and use and does not meet one of four exceptions set forth in the regulations. Vehicles equipped
27 with defeat devices may not be certified.

28

1 45. California’s certification requirements and test procedures require an OBD system
2 that meets regulatory requirements, is designed to test that the emissions control system is
3 working properly, and, when a malfunction is detected, alerts owners via a “check engine” light
4 of needed service and informs mechanics of the cause of the malfunction. In California, most
5 newer cars (model year 2000 and newer) no longer require tailpipe testing during smog checks;
6 these cars are now simply connected to an OBD scanner to detect malfunctions. Because of this
7 reliance on OBD scans to detect problems, if the OBD system is not operating properly (or was
8 not designed to operate properly), the vehicles may pass smog checks even though they possess
9 significant deficiencies.

10 46. The OBD regulations permit CARB to certify vehicles even though the vehicles do
11 not fully comply with one or more of the requirements set forth in the OBD regulations, unless
12 the requested deficiency would make the vehicle subject to an ordered recall. *See* 13 C.C.R. §
13 1968.2(k). As set out in the regulations, among other things, CARB considers the extent to which
14 the OBD requirements are satisfied, and the manufacturer must demonstrate a good faith effort to
15 meet the OBD requirements in full and come into compliance as expeditiously as possible. The
16 regulations require manufacturers to pay fines on a per deficiency, per vehicle basis for each
17 deficiency in excess of two granted by CARB at the time of certification.

18 **III. DEFENDANTS INCORPORATED AECDS AND DEFEAT DEVICES INTO THE SUBJECT** 19 **VEHICLES AND FAILED TO DISCLOSE THEM TO CARB**

20 **A. Design and Manufacture of the Subject Vehicles**

21 47. While diesel engines have the potential to offer certain benefits over comparably
22 sized gasoline engines—for example, better fuel economy and increased power—the combustion
23 process leads to greater production of NO_x. Automobile manufacturers use various strategies to
24 reduce NO_x tailpipe emissions in diesel engine vehicles.

25 48. The Subject Vehicles incorporate two primary NO_x reduction strategies:

26 a. **Exhaust Gas Recirculation (“EGR”).** Through this process, a portion of the
27 exhaust gas (which has lower oxygen content) is fed back into the combustion chamber, lowering
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1 the combustion temperature inside the cylinder. This reduces the rate of NO_x formation, but it can
2 also increase the level of particulate matter produced by the combustion.

3 b. **Selective Catalytic Reduction (“SCR”).** SCR uses an aqueous urea solution, also
4 known as diesel exhaust fluid (“DEF”), as a reducing agent. The fluid is stored in a separate tank
5 in the vehicle that requires periodic refilling. The DEF reacts in the exhaust to produce ammonia
6 and carbon dioxide. The NO_x reacts with ammonia to yield nitrogen and water. SCR is an
7 example of an after-treatment system, which treats exhaust gas after combustion but before
8 release from the tailpipe.

9 49. Like most modern vehicles, the Subject Vehicles also contain an electronic engine
10 control unit (“ECU”) and transmission control unit (“TCU”). The ECU processes numerous data
11 inputs and coordinates and controls the engine and emissions systems. ECUs are essentially
12 computers, sometimes described as the “brains” of the vehicle. The software that runs on the ECU
13 includes numerous variables that can be set by the manufacturer through a process known as
14 calibration. These calibrated variables include thresholds and enabling and disabling conditions,
15 many of which alter the way that the engine, emissions control system, and OBD system operate.
16 The collection of all of the settings for each of the software variables is known as a calibration.

17 50. ECU software that senses inputs like ambient temperature, motive speed, engine
18 revolutions per minute, transmission gear, or any other parameter for the purpose of activating,
19 modulating, delaying, or deactivating the operation of any part of the emission control system is
20 an AECD. The ECU software in the Subject Vehicles incorporates various AECDs. As described
21 below, Defendants did not disclose some of these AECDs to CARB at all, and even when
22 Defendants disclosed the existence of the AECDs or certain information about them, Defendants
23 did not disclose them fully and accurately.

24 51. During regulated emission testing cycles, the ECU software and calibrations
25 installed on the Subject Vehicles (including AECDs) operate the engine and emission control
26 systems—including EGR and SCR—in such a way that emissions appear to be compliant with
27 CARB’s standards.

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1 52. In conditions outside of the regulated emission testing cycles, however, the ECU
2 software and calibrations installed on the Subject Vehicles (including AECs) operate in such a
3 way that the effectiveness of the emission control system is reduced—the engine and after-
4 treatment systems operate in a way that produces increased NOx emissions off-cycle. The extent
5 of the increase depends on various factors, including the particular Subject Vehicle and the
6 driving conditions.

7 53. Defendants purchased the ECUs and ECU software for the subject vehicles from
8 Robert Bosch GmbH and/or Robert Bosch LLC (collectively, “Bosch”).

9 54. FCA NV oversaw FCA US, VM Italy, and VM North America in connection with
10 the manufacture, calibration, certification, importation, marketing, sale, and lease of the Subject
11 Vehicles.

12 55. FCA NV and/or FCA US employed VM Italy and VM North America to design,
13 develop, calibrate, and manufacture the 3.0 liter EcoDiesel engines used in all of the Subject
14 Vehicles.

15 56. FCA NV oversaw VM Italy’s and VM North America’s work on the Subject
16 Vehicles.

17 57. FCA US oversaw VM Italy’s and VM North America’s work on the Subject
18 Vehicles.

19 58. VM Italy and VM North America employees worked jointly to manufacture and
20 calibrate the Subject Vehicles.

21 59. VM Italy and VM North America coordinated with Bosch regarding ECU software
22 changes for the Subject Vehicles. VM Italy and VM North America also worked with Bosch on
23 calibrating the Subject Vehicles, including calibrating the OBD system.

24 60. The Subject Vehicles are identified in the table below:
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Model Year	Model	Test Group
2014	Ram 1500	ECRXT03.05PV
2014	Jeep Grand Cherokee	ECRXT03.05PV
2015	Ram 1500	FCRXT03.05PV
2015	Jeep Grand Cherokee	FCRXT03.05PV
2016	Ram 1500	GCRXT03.05PV
2016	Jeep Grand Cherokee	GCRXT03.05PV

B. The Applications for Executive Orders Submitted to CARB Failed to Disclose AECDs

61. To apply for Executive Orders from CARB to sell the Subject Vehicles in California, FCA US submitted applications and supporting materials to CARB and communicated with CARB regarding the Subject Vehicles.

62. FCA NV employees or managers were involved with creating or approving the submissions to CARB by FCA US.

63. VM Italy and VM North America provided information to FCA US that was incorporated into applications for Executive Orders for the Subject Vehicles, and they communicated with CARB regarding the Subject Vehicles.

64. Among other things, the application materials submitted by FCA US identified certain AECDs and provided some information on those AECDs. The following AECDs were either not disclosed to CARB, or, if the AECDs or parts of the AECDs were disclosed, they were not disclosed fully and accurately:

- a. AECD #1 (full EGR shut-off at highway speed);
- b. AECD #2 (reduced EGR with increasing vehicle speed);
- c. AECD #3 (EGR shut-off for exhaust valve cleaning);
- d. AECD #4 (DEF dosing disablement during SCR adaptation);
- e. AECD #5 (EGR reduction due to modeled engine temperature);

- 1 f. AECD #6 (SCR catalyst warm-up disablement);
- 2 g. AECD #7 (alternative SCR dosing modes); and,
- 3 h. AECD #8 (use of load governor to delay ammonia refill of SCR catalyst).

4 65. These eight AECDs—operating alone or in combination with each other—
5 detrimentally affect the emission control system of the Subject Vehicles.

6 66. One or more of the AECDs qualify as “defeat devices” in violation of California
7 law, either operating alone or in combination with each other: they reduce the effectiveness of the
8 Subject Vehicles’ emission control systems and cause the vehicles to emit increased NOx under
9 certain real world driving conditions other than those encountered during regulatory emission
10 tests.

11 67. Defendants did not disclose AECD #1 in their applications for certification
12 submitted to CARB for the following Subject Vehicles: (a) Model Year 2014 Ram 1500; and (b)
13 Model Year 2014 Jeep Grand Cherokee.

14 68. Defendants did not disclose AECD #3 in their applications for certification
15 submitted to CARB for the following Subject Vehicles: (a) Model Year 2014 Ram 1500; and (b)
16 Model Year 2014 Jeep Grand Cherokee. While Defendants disclosed the existence of AECD #3
17 in their applications for certification submitted to CARB for the following Subject Vehicles, they
18 falsely described AECD #3 as emissions neutral: (a) Model Year 2015 Ram 1500; (b) Model
19 Year 2015 Jeep Grand Cherokee; (c) Model Year 2016 Ram 1500; and (d) Model Year 2016 Jeep
20 Grand Cherokee.

21 69. Defendants did not disclose AECDs #2, #4, #5, #6, #7, and #8 in applications for
22 the following Subject Vehicles: (a) Model Year 2014 Ram 1500; (b) Model Year 2014 Jeep
23 Grand Cherokee; (c) Model Year 2015 Ram 1500; (d) Model Year 2015 Jeep Grand Cherokee;
24 (e) Model Year 2016 Ram 1500; and (f) Model Year 2016 Jeep Grand Cherokee.

25 70. Each of the respective applications for certification submitted to CARB for the
26 Subject Vehicles contained material false statements and omissions related to these AECDs.

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1 71. Each of the respective applications for certification submitted to CARB for the
2 Subject Vehicles contained material false statements and omissions related to the vehicles' OBD
3 systems.

4 72. The emissions compliance data and OBD durability demonstration data submitted
5 to CARB by Defendants in connection with each application for certification contained material
6 false statements and omissions, and the emissions testing was not completed according to CARB
7 requirements, because, among other reasons, the data were generated using undisclosed AECDs
8 and defeat devices and were not representative of the Subject Vehicles' performance under
9 normal operating conditions.

10 73. Part of the CARB certification process involves signing a "statement of
11 compliance" with applicable standards for each certification application. Defendants knew, or
12 should have known, that their statements of compliance in each of their applications for
13 certification were false or misleading regarding their compliance with California and federal
14 emissions laws and regulations, because, among other reasons, each statement of compliance
15 related to a certification application that failed to disclose AECDs and defeat devices, OBD
16 system non-conformities, and emissions standard failures.

17 74. Defendants' materially false statements and omissions submitted to CARB
18 allowed the Subject Vehicles to be certified for sale and lease in California despite their non-
19 compliance with California law.

20 75. CARB relied on the accuracy of Defendants' statements and the information
21 presented in connection with their applications for certification of the Subject Vehicles when
22 CARB issued Executive Orders certifying the Subject Vehicles for sale and lease in California.

23 76. The Subject Vehicles as manufactured and sold or leased in California did not
24 conform in all material respects with the vehicle descriptions in Defendants' applications for
25 certification.

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1 **IV. DEFENDANTS' MARKETING OF THE SUBJECT VEHICLES WAS FALSE AND**
2 **MISLEADING**

3 77. In addition to Defendants' false and misleading statements and omissions to
4 CARB, Defendants' communications with consumers regarding the Subject Vehicles contained
5 false and misleading statements and omissions.

6 78. Defendants marketed the Subject Vehicles through a variety of methods, including
7 through the use of the "EcoDiesel" trademark and related names and symbols attached to the
8 Subject Vehicles; press releases; television, print, and internet advertisements; print and internet
9 promotional materials available at Jeep and Ram dealers and on Defendants' websites; and
10 statements to consumers communicated through Defendants' network of Jeep and Ram dealers.

11 79. Defendants' false and misleading statements and omissions primarily fall into
12 three related categories:

13 a. **The Subject Vehicles Are Environmentally Friendly.** Defendants' advertising
14 contained numerous references to the supposed environmentally friendly, green, or ecological
15 benefits of the Subject Vehicles. These references came in various forms. For instance,
16 Defendants used the trademarked name "EcoDiesel" in virtually all of their advertising for the
17 Subject Vehicles, and the name appears on every Subject Vehicle. This name calls to mind the
18 word ecology (as well as economy, as described in the following paragraph), which indicates a
19 focus on the environment. Further, Defendants used badges on some Subject Vehicles and in
20 advertising that combined "EcoDiesel" with green lettering and a leaf symbol. Defendants also
21 portrayed the Subject Vehicles as environmentally friendly in communications to consumers—
22 using terms like "clean," "green," and "ecological"—as well as using prominently placed photos
23 of leaves, trees, and nature scenes. Defendants described the environmental benefits of the
24 "EcoDiesel" engine, including by contrasting it to older, dirty diesel engines. Defendants'
25 statements about the environmentally friendly nature of the Subject Vehicles were false and
26 misleading because they failed to disclose that the Subject Vehicles contained undisclosed
27 AECs and defeat devices that limited the effectiveness of the emissions control system during
28 normal operations and did not comply with emissions control regulations.

1 b. **The Subject Vehicles Are Economical and Fuel Efficient.** Defendants regularly
2 referenced the supposed economical nature of the Subject Vehicles—in particular their fuel
3 efficiency—in their communications with consumers. Use of the “EcoDiesel” trade name and
4 badges described above communicated a second message that the Subject Vehicles were
5 economical. Defendants also regularly communicated in their advertising the fuel economy
6 ratings of the Subject Vehicles and highlighted the reduced fuel consumption and additional range
7 available over gasoline vehicles and other diesel vehicles. For instance, Defendants regularly
8 referred to the Subject Vehicles as possessing “best-in-class” fuel economy and driving range.
9 Defendants’ statements about the economical nature, fuel efficiency, and driving range of the
10 Subject Vehicles were false and misleading because they failed to disclose that the Subject
11 Vehicles, as sold, obtained the stated benefits because of the use of undisclosed AECDs and
12 defeat devices that allowed for increased fuel efficiency under certain operating conditions, but
13 improperly reduced the effectiveness of the emissions control systems during normal operations.

14 c. **The Subject Vehicles Have Low Emissions and Meet or Exceed California
15 and Federal Emissions Rules.** Defendants repeatedly represented that the Subject Vehicles
16 “meet and exceed” strict emissions standards (including those for NOx, particulates, and carbon
17 dioxide), making repeated reference to exceeding 50-state emissions standards. The 50-state
18 compliance statements are a direct reference to meeting or exceeding California’s emissions
19 requirements, as California is the only state permitted to set its own emissions standards under the
20 CAA (which other states are permitted to follow). Defendants also communicated that the Subject
21 Vehicles met stringent OBD requirements, which, as described above, are a crucial component of
22 California’s regulatory regime. Defendants’ statements about the Subject Vehicles’ low emissions
23 and ability to “meet and exceed” California and federal emission rules were false and misleading
24 because they failed to disclose that the Subject Vehicles contained undisclosed AECDs and defeat
25 devices.

26 80. Defendants’ marketing efforts led to the sale or lease of approximately 14,000
27 vehicles in California.
28

1 81. At the time Defendants made these materially false statements and omissions, they
2 knew, or should have known, that their representations were false and misleading because the
3 Subject Vehicles were equipped with undisclosed AECs and defeat devices and thus did not
4 possess the characteristics as they were represented by Defendants.

5 82. Defendants imported and sold thousands of vehicles with undisclosed AECs and
6 defeat devices to Jeep and Ram dealers in California, which vehicles were subsequently sold or
7 leased to California consumers.

8 **V. EXCESS POLLUTION FROM THE SUBJECT VEHICLES HARMS THE ENVIRONMENT**
9 **AND PUBLIC HEALTH**

10 83. The Subject Vehicles have emitted and continue to emit NO_x emissions several
11 times the CARB-compliant levels, depending on vehicle type, vehicle loads, and driving
12 conditions (e.g., city or highway).

13 84. The excess NO_x emissions from the Subject Vehicles equipped with undisclosed
14 AECs and defeat devices have caused and are causing significant damage to the State of
15 California, including to the health of its residents and its natural resources.

16 85. NO_x is a highly reactive gas that is a major contributor to two other air pollutants,
17 particulate matter and ozone. NO_x emissions, and the particulate matter and ozone pollution to
18 which NO_x contributes, are among the most regulated air pollutants in the US and California due
19 to the large effect these pollutants have on public health and the environment.

20 86. Diesel particulate matter has scientifically demonstrated negative effects on public
21 health and welfare and has been identified as a toxic air contaminant. A strong and broad body of
22 evidence links inhalation of particulate matter pollution, of which diesel particulate matter is part,
23 with premature death, respiratory illnesses, and heart disease.

24 87. In the short term, NO_x and particulate matter have been found by scientific studies
25 in California and elsewhere to reduce lung function and exacerbate the symptoms of asthmatics.
26 Long term, chronic conditions such as reduced lung function, asthma, and chronic obstructive
27 pulmonary disease are among the many adverse effects of these air pollutants. Particulate matter
28 can also impair visibility and damage vegetation.

1 88. Ozone is the prime precursor to smog. EPA analyses have found that short term
2 exposure to ozone “induced (or [was] associated with) statistically significant declines in lung
3 function.” Such short term exposure results in increases in asthma medication use in children,
4 emergency room visits, and hospital admissions for respiratory conditions, and is a likely cause of
5 a range of other health and mortality issues.

6 89. An EPA analysis of ozone in 2013 found that “strong evidence” exists that ozone
7 concentrations impair many native plants and trees by injuring foliage, decreasing growth and
8 biomass accumulation in annual, perennial, and woody plants (including agronomic crops,
9 annuals, shrubs, grasses, and trees), and decreasing the yield and/or nutritive quality in a large
10 number of agronomic and forage crops.

11 **CAUSES OF ACTION**

12 **FIRST CAUSE OF ACTION**

13 **(Clean Air Act of 1970, 42 U.S.C. § 7604)**

14 **[By CARB on Behalf of the People of the State of California Against All Defendants]**

15 90. Plaintiff incorporates and realleges paragraphs 1 through 89, inclusive, as if set
16 forth here in full.

17 91. Under the CAA, California is uniquely authorized to seek a waiver of preemption
18 to adopt and enforce its own air pollution standards. 42 U.S.C. § 7543(b).

19 92. Pursuant to the CAA, California requested and obtained waivers of preemption
20 from EPA to enforce 13 C.C.R. § 1961, which establishes exhaust emission standards for certain
21 2004 through 2019 model year vehicles. 68 Fed. Reg. 19811-01 (April 22, 2003); 70 Fed. Reg.
22 22034-02 (April 28, 2005); 75 Fed. Reg. 44948-01 (July 30, 2010).

23 93. Additionally, effective July 18, 2016, EPA approved 13 C.C.R. § 1961 as part of a
24 revision to the California State Implementation Plan. 40 C.F.R. § 52.220a; 81 Fed. Reg. 39424-
25 01.

26 94. The Subject Vehicles identified in paragraph 60 above are subject to the “LEV II”
27 standards for light-duty trucks set forth in 13 C.C.R. § 1961, as reflected in the applications for
28 certification submitted by FCA and the corresponding Executive Orders issued by CARB.

1 101. Prior to January 1, 2017, FCA US imported, delivered, purchased, rented, leased,
2 acquired, and/or received new Subject Vehicles identified in paragraph 60 for intended use,
3 registration, or resale in California, and/or attempted or assisted in such actions. The Subject
4 Vehicles, as manufactured, are not certified in compliance with California law because they do
5 not conform in all material respects to the design specifications described in the applications for
6 certification that purportedly cover them, including that they (a) contain AECDS that were not
7 disclosed in the applications, (b) contain defeat devices, and/or (c) contain undisclosed or
8 unapproved OBD non-compliances, or OBD non-compliances for which CARB granted
9 deficiencies at the time of certification based on false, incomplete, or misleading information
10 submitted by Defendants. Further, Defendants did not test the appropriate durability data vehicle,
11 durability demonstration vehicle, and/or the appropriate emissions data vehicle, and the vehicles
12 that were tested by Defendants were tested in a manner not representative of normal in-use
13 driving.

14 102. FCA US's actions prior to January 1, 2017 constitute multiple violations of
15 California Health and Safety Code § 43151.

16 103. FCA NV, VM Italy, and VM North America assisted FCA US in the actions
17 described in this cause of action and thus are each strictly liable for multiple violations of
18 California Health and Safety Code § 43151 that occurred prior to January 1, 2017.

19 104. As of January 1, 2017, California Health and Safety Code § 43151(a) is a strict
20 liability statute that states: "A person shall not offer for sale, introduce into commerce, import,
21 deliver, purchase, rent, lease, acquire, or receive a new motor vehicle, new motor vehicle engine,
22 or motor vehicle with a new motor vehicle engine for use, registration, or resale in this state
23 unless the motor vehicle engine or motor vehicle has been certified pursuant to this
24 chapter. A person shall not attempt or assist in any such action."

25 105. On or after January 1, 2017, Defendants offered for sale, introduced into
26 commerce, imported, delivered, purchased, rented, leased, acquired, and/or received new Subject
27 Vehicles identified in paragraph 60 for intended use, registration, or resale in California, and/or
28 attempted or assisted in such actions. The Subject Vehicles, as manufactured, are not certified in

1 compliance with California law because they do not conform in all material respects to the design
2 specifications described in the applications for certification that purportedly cover them,
3 including that they (a) contain AECDs that were not disclosed in the applications, (b) contain
4 defeat devices, and/or (c) contain undisclosed or unapproved OBD non-compliances, or OBD
5 non-compliances for which CARB granted deficiencies at the time of certification based on false,
6 incomplete, or misleading information submitted by Defendants. Further, Defendants did not test
7 the appropriate durability data vehicle, durability demonstration vehicle, and/or the appropriate
8 emissions data vehicle, and the vehicles that were tested by Defendants were tested in a manner
9 not representative of normal in-use driving.

10 106. Defendants' actions, either directly or by assisting the other Defendants, constitute
11 multiple violations of California Health and Safety Code § 43151 on or after January 1, 2017.

12 **THIRD CAUSE OF ACTION**
13 **(Cal. Health & Safety Code § 43152)**
14 **[By CARB on Behalf of the People of the State of California Against All Defendants]**

15 107. Plaintiff incorporates and realleges paragraphs 1 through 89, inclusive, as if set
16 forth here in full.

17 108. California Health and Safety Code § 43152 provides that no person engaged in the
18 business of selling to an ultimate purchaser or renting or leasing new motor vehicles, including
19 manufacturers, distributors, and dealers, shall intentionally or negligently import, deliver,
20 purchase, receive, or otherwise acquire new motor vehicles intended for use primarily in
21 California for sale or resale to an ultimate purchaser who is a resident of or doing business in
22 California, or for registration, leasing, or rental in California, which has not been certified
23 pursuant to this chapter; and no person shall attempt or assist in any such action.

24 109. Defendants engaged, as manufacturers or distributors, in the business of selling to
25 an ultimate purchaser or leasing new motor vehicles and intentionally or negligently importing
26 and/or delivering the new Subject Vehicles identified in paragraph 60 above that were intended
27 for use primarily in California for sale or resale to an ultimate purchaser who is a resident of or
28

1 doing business in California, or for registration, leasing, or rental in California, and/or attempted
2 or assisted in such actions.

3 110. The Subject Vehicles, as manufactured, are not certified in compliance with
4 California law because they do not conform in all material respects to the design specifications
5 described in the applications for certification that purportedly cover them, in that they, among
6 other things, (a) contain AECDs that were not disclosed in the applications, (b) contain defeat
7 devices, and/or (c) contain undisclosed or unapproved OBD non-compliances, or OBD non-
8 compliances for which CARB granted deficiencies at the time of certification based on false,
9 incomplete, or misleading information submitted by Defendants. Further, Defendants did not test
10 the appropriate durability data vehicle, durability demonstration vehicle, and/or the appropriate
11 emissions data vehicle, and the vehicles that were tested by Defendants were tested in a manner
12 not representative of normal in-use driving.

13 111. Defendants' actions, either directly or by assisting the other Defendants, constitute
14 multiple violations of California Health and Safety Code § 43152.

15 **FOURTH CAUSE OF ACTION**
16 **(Cal. Health & Safety Code § 43153)**
17 **[By CARB on Behalf of the People of the State of California Against All Defendants]**

18 112. Plaintiff incorporates and realleges paragraphs 1 through 89, inclusive, as if set
19 forth here in full

20 113. California Health and Safety Code § 43153 provides that no person engaged in the
21 business of selling to an ultimate purchaser or renting or leasing new motor vehicles, including
22 manufacturers, distributors, and dealers, shall intentionally or negligently sell, or offer to sell, to
23 an ultimate purchaser who is a resident of or doing business in California, or lease, rent, or offer
24 to rent in California, any new motor vehicle which is intended primarily for use or for registration
25 in California and has not been certified pursuant to this chapter; and no person shall attempt or
26 assist in any such action.

27 114. Defendants engaged, as manufacturers or distributors, in the business of selling to
28 an ultimate purchaser or leasing the new motor vehicles and intentionally or negligently selling,

1 or offering to sell, to an ultimate purchaser who is a resident of or doing business in California, or
 2 leasing, offering to lease, in California the new Subject Vehicles identified in paragraph 60 above,
 3 which are not certified in compliance with California requirements, and that were intended
 4 primarily for use or for registration in California, and/or attempted or assisted in such actions.

5 115. The new subject motor vehicles are not certified in compliance with California
 6 requirements, because, as manufactured, they do not conform in all material respects to the design
 7 specifications described in the applications for certification that purportedly cover them, in that
 8 they, among other things, (a) contain AECDS that were not disclosed in the application, (b)
 9 contain defeat devices, and/or (c) contain undisclosed or unapproved OBD non-compliances, or
 10 OBD non-compliances for which CARB granted deficiencies at the time of certification based on
 11 false, incomplete, or misleading information submitted by Defendants. Further, Defendants did
 12 not test the appropriate durability data vehicle, durability demonstration vehicle, and/or the
 13 appropriate emissions data vehicle, and the vehicles that were tested by Defendants were tested in
 14 a manner not representative of normal in-use driving.

15 116. Defendants' actions, either directly or by assisting the other Defendants, constitute
 16 multiple violations of California Health and Safety Code § 43153.

17 **FIFTH CAUSE OF ACTION**
 18 **(Cal. Health & Safety Code § 43211; 13 C.C.R. § 1961**
 19 **[Sale of Motor Vehicles that Fail To Meet Applicable Emission Standards])**
 20 **[By CARB on Behalf of the People of the State of California Against All Defendants]**

21 117. Plaintiff incorporates and realleges paragraphs 1 through 89, inclusive, as if set
 22 forth here in full.

23 118. California Health and Safety Code § 43211 is a strict liability statute which states
 24 that any manufacturer who sells, attempts to sell, or causes to be offered for sale in California a
 25 new motor vehicle that fails to meet the applicable emission standards shall be subject to a civil
 26 penalty for each such action.⁵

27 ⁵Section 43211 was amended, effective January 1, 2017, to increase the penalty from
 28 \$5,000 for each such action to up to \$37,500 for each such action. *See* 2016 Cal. Legis. Serv. Ch.
 604 (A.B. 1685, "AIR POLLUTION—MOTOR VEHICLES—FINES AND PENALTIES").

1 119. 13 C.C.R. § 1961 sets forth exhaust emission standards for 2004 through 2019
2 model year passenger cars. The Subject Vehicles identified in paragraph 60 above are subject to
3 these standards.

4 120. Defendants have sold, attempted to sell, or caused to be offered for sale in
5 California approximately 14,000 Subject Vehicles that fail to meet the applicable emission
6 standards.

7 121. Defendants' actions constitute multiple violations of California Health and Safety
8 Code § 43211.

9 **SIXTH CAUSE OF ACTION**
10 **(Cal. Health & Safety Code § 43212; 13 C.C.R. §§ 1961, 1961.2**
11 **[Failure To Comply with Applicable Test Procedures]**
12 **[By CARB on Behalf of the People of the State of California Against All Defendants]**

13 122. Plaintiff incorporates and realleges paragraphs 1 through 89, inclusive, as if set
14 forth here in full.

15 123. California Health and Safety Code § 43212 is a strict liability statute which states,
16 in relevant part, that a manufacturer or distributor who does not comply with the test procedures
17 adopted by CARB shall be subject to a civil penalty for each vehicle that does not comply with
18 the test procedures and which is first sold in California.⁶

19 124. 13 C.C.R. § 1961 sets forth the test procedures for determining compliance with
20 emission standards for the Model Year 2014 Subject Vehicles.

21 125. 13 C.C.R. § 1961.2 sets forth the test procedures for determining compliance with
22 emission standards for Model Year 2015 and 2016 Subject Vehicles.

23 126. Among other things, the test procedures require manufacturers to conduct one
24 durability demonstration for each durability group (40 C.F.R. § 86.1823-08). The configuration of
25 the durability data vehicle is determined according to the provisions of 40 C.F.R. § 86.1822-01
26 (40 C.F.R. § 86.1829-01(a)). Section 86.1822-01 requires the manufacturer to select the durability
27 data vehicle configuration that is expected to generate the highest level of exhaust emission

28 ⁶Section 43212 was amended, effective January 1, 2017, to increase the penalty from \$50
per vehicle to up to \$37,500 per vehicle. *See* 2016 Cal. Legis. Serv. Ch. 604 (A.B. 1685, "AIR
POLLUTION—MOTOR VEHICLES—FINES AND PENALTIES").

1 deterioration as the durability data vehicle for each durability group. Because of the presence of
2 undisclosed AECs and/or defeat devices, the durability data vehicles selected by Defendants
3 were not the vehicle configurations expected to generate the highest level of exhaust emission
4 deterioration.

5 127. The test procedures also require manufacturers to conduct exhaust emissions
6 testing on emissions data vehicles for each test group (40 C.F.R. § 86.1829-15(b)). Within each
7 test group, the manufacturer must select the emissions data vehicle configuration that is expected
8 to be worst-case for exhaust emission compliance on candidate in-use vehicles (40 C.F.R. §
9 86.1828-01(a)). Because of the presence of undisclosed AECs and/or defeat devices, the
10 emissions data vehicles selected by Defendants were not the vehicle configurations expected to be
11 worst-case for exhaust emissions compliance on candidate in-use vehicles.

12 128. Defendants' actions failed to comply with CARB's test procedure regulations and
13 constitute multiple violations of California Health & Safety Code § 43212.

14 **SEVENTH CAUSE OF ACTION**
15 **(Cal. Health & Safety Code § 43016, 13 C.C.R. § 1968.2**
16 **[Violation of Malfunction and Diagnostic System Requirements])**
17 **[By CARB on Behalf of the People of the State of California Against All Defendants]**

18 129. Plaintiff incorporates and realleges paragraphs 1 through 89, inclusive, as if set
19 forth here in full.

20 130. California law specifies OBD system requirements for vehicles certified for sale in
21 California. Specifically, 13 C.C.R. § 1968.2 (Malfunction and Diagnostic System Requirements)
22 requires that model year 2004 and subsequent model year passenger cars certified for sale in
23 California be equipped with OBD systems, and states that the OBD systems shall monitor
24 emissions systems in-use for the actual life of the vehicle, and shall be capable of detecting
25 malfunctions of those emissions systems and illuminating a malfunction indicator light to notify
26 the vehicle operator if and when emissions exceed certain designated levels.

27 131. Defendants violated 13 C.C.R. § 1968.2 with regard to the vehicles identified in
28 paragraph 60 above because the OBD systems installed in those vehicles did not effectively
monitor the emissions systems. Due to the operation of the undisclosed AECs and/or defeat

1 devices, the OBD systems in those vehicles were not capable of detecting and notifying the
 2 operators if and when emissions exceeded the designated levels as demonstrated on the emission
 3 test cycles Defendants submitted in their OBD certification applications. Additionally, the Subject
 4 Vehicles contain undisclosed or unapproved OBD non-compliances, or OBD non-compliances
 5 for which CARB granted deficiencies at the time of certification based on false, incomplete, or
 6 misleading information submitted by Defendants.

7 132. California Health and Safety Code § 43016 is a strict liability statute which
 8 provides that any person who violates any provision of Division 26, Part 5 (Cal. Health & Safety
 9 Code §§ 43000-44299.91, Vehicular Air Pollution Control), or any order, rule, or regulation of
 10 CARB adopted pursuant to Part 5, and for which violation there is not provided in Part 5 any
 11 other specific civil penalty or fine, shall be subject to a civil penalty.⁷ Part 5 does not specify a
 12 civil penalty or fine for violations of the requirements set forth in 13 C.C.R. § 1968.2.

13 133. Defendants' actions violated 13 C.C.R. § 1968.2 and constitute multiple violations
 14 of California Health and Safety Code § 43016.

15 **EIGHTH CAUSE OF ACTION**
 16 **(Cal. Health & Safety Code § 43016, 13 C.C.R. § 1965**
 17 **[Violation of Emission Control and Smog Label Requirements])**
 18 **[By CARB on Behalf of the People of the State of California Against All Defendants]**

19 134. Plaintiff incorporates and realleges paragraphs 1 through 89, inclusive, as if set
 20 forth here in full.

21 135. California law requires certain emission control labels as part of the California
 22 certification procedures. For model year 2001 through model year 2014 vehicles, 13 C.C.R.
 23 § 1965 requires emission control labels as specified in the 2001-2014 Test Procedures. The 2001-
 24 2014 Test Procedures require a statement indicating that the vehicle conforms to applicable
 25 California regulations. For model year 2015 and 2016 vehicles, 13 C.C.R. § 1965 requires
 26 emission control labels as specified in the 2015 Test Procedures and Subsequent Model Years.

27 ⁷California Health and Safety Code § 43016 was amended, effective January 1, 2017, to
 28 increase the penalty from a maximum of \$500 per vehicle to a maximum of \$37,500 for each
 such action. *See* 2016 Cal. Legis. Serv. Ch. 604 (A.B. 1685, "AIR POLLUTION—MOTOR
 VEHICLES—FINES AND PENALTIES").

1 The 2015 Test Procedures require a statement indicating that the vehicle conforms to applicable
2 California regulations. However, placement of such a statement on vehicles which, in fact, do not
3 comply with all applicable California regulations is prohibited.

4 136. Defendants placed a statement on each of the Subject Vehicles representing that
5 the vehicle conforms to applicable California regulations, but the Subject Vehicles did not in fact
6 conform to the regulations as described in this Complaint.

7 137. California's emissions labeling requirements set out in 13 C.C.R. § 1965 also
8 require that all certified new passenger cars must bear a label reflecting the "smog index." For
9 model year 2009 through 2015 vehicles, 13 C.C.R. § 1965 requires smog index labeling to
10 conform with the requirements in the "California Environmental Performance Label
11 Specifications for 2009 and Subsequent Model Year Passenger Cars, Light-Duty Trucks, and
12 Medium-Duty Passenger Vehicles" ("2009 Smog Label Specifications"). The 2009 Smog Label
13 Specifications prohibit the sale of any model year 2009 and subsequent model year vehicles with
14 an incorrect smog index label.

15 138. Defendants reported smog indices or smog scores for the Subject Vehicles that did
16 not accurately reflect the level of emissions of smog-forming pollutants from those vehicles.
17 Instead, the operation of the undisclosed AECDs and/or defeat devices resulted in emissions in
18 excess of the levels associated with the reported smog indices or smog scores.

19 139. California Health and Safety Code § 43016 is a strict liability statute which
20 provides that any person who violates any provision of Division 26, Part 5 (Cal. Health & Safety
21 Code §§ 43000-44299.91, Vehicular Air Pollution Control), or any order, rule, or regulation of
22 CARB adopted pursuant to Part 5, and for which violation there is not provided in Part 5 any
23 other specific civil penalty or fine, shall be subject to a civil penalty. Part 5 does not specify a
24 civil penalty or fine for violations of the labeling requirements set forth in California Health and
25 Safety Code § 43205 and 13 C.C.R. § 1965.

26 140. Defendants' actions violated 13 C.C.R. § 1965 and constitute multiple violations
27 of California Health and Safety Code § 43016.
28

1 **NINTH CAUSE OF ACTION**
2 **(Cal. Health & Safety Code §§ 43016, 43205; 13 C.C.R. § 2037 [Warranty Requirements])**
3 **[By CARB on Behalf of the People of the State of California Against All Defendants]**

4 141. Plaintiff incorporates and realleges paragraphs 1 through 89, inclusive, as if set
5 forth here in full.

6 142. California Health and Safety Code § 43205 provides that the manufacturer of each
7 light-duty and medium-duty motor vehicle and motor vehicle engine shall warrant to the ultimate
8 purchaser and each subsequent purchaser that the motor vehicle or motor vehicle engine meets
9 specified requirements, including that it is (a) designed, built, and equipped so as to conform with
10 the applicable emissions standards; (b) that they are free from defects that cause the vehicle or
11 engine to fail to conform to applicable requirements; and (c) that they are free from defects in
12 certain emission-related parts. Under 13 C.C.R. § 2037, manufacturers must make certain
13 warranty statements, including that the engines it manufactures are designed, built, and equipped
14 so as to conform with all applicable regulations adopted by CARB; and that the engines are free
15 from defects in materials and workmanship which cause the failure of a warranted part to be
16 identical in all material respects to the part as described in the vehicle or engine manufacturer's
17 application for certification.

18 143. Contrary to the required warranties, the Subject Vehicles manufactured by
19 Defendants and identified in paragraph 60 (a) contain AECs that were not disclosed in the
20 application, (b) contain defeat devices, and/or (c) contain undisclosed or unapproved OBD non-
21 compliances, or OBD non-compliances for which CARB granted deficiencies at the time of
22 certification based on false, incomplete, or misleading information submitted by Defendants.
23 Further, Defendants did not test the appropriate durability data vehicle, durability demonstration
24 vehicle, and/or the appropriate emissions data vehicle, and the vehicles that were tested by
25 Defendants were tested in a manner not representative of normal in-use driving.

26 144. For each Subject Vehicle that was ultimately sold to a dealer or ultimately to a
27 purchaser in California, Defendants' actions constitute a violation of California Health and Safety
28 Code § 43205 and 13 C.C.R. § 2037.

1 145. California Health and Safety Code § 43016 provides that any person who violates
2 any provision of Division 26, Part 5 (Cal. Health & Safety Code §§ 43000-44299.91, Vehicular
3 Air Pollution Control), or any order, rule, or regulation of CARB adopted pursuant to Part 5, and
4 for which violation there is not provided in Part 5 any other specific civil penalty or fine, shall be
5 subject to a civil penalty. Part 5 does not specify a civil penalty or fine for violations of the
6 requirements set forth in California Health and Safety Code § 43205 and 13 C.C.R. § 2037.

7 **TENTH CAUSE OF ACTION**
8 **(Violations of False Advertising Law, Cal. Bus. & Prof. Code § 17500)**
9 **[By California Attorney General on Behalf of the People of the State of California Against**
10 **All Defendants]**

11 146. Plaintiff incorporates and realleges paragraphs 1 through 89, inclusive, as if set
12 forth here in full.

13 147. Defendants, and each of them, have engaged in acts or practices that constitute
14 false advertising as defined in California Business and Professions Code § 17500.

15 148. Beginning at a date unknown to Plaintiff and continuing to the present,
16 Defendants, with the intent to induce California consumers to purchase or lease the Subject
17 Vehicles, have made or caused to be made, in violation of California Business and Professions
18 Code § 17500, numerous untrue or misleading statements before the public in this District and
19 elsewhere in the State of California. Such statements include, but are not limited to, the following
20 categories as further described in paragraph 79 above: portraying the Subject Vehicles as “clean”
21 and environmentally friendly; representing that the Subject Vehicles possess best-in-class fuel
22 economy and driving range and are otherwise more economical than other vehicles; representing
23 that the Subject Vehicles meet or exceed strict California emissions standards; and other similar
24 deceptive representations. These statements and omissions constitute unfair, deceptive, untrue,
25 and misleading advertising under § 17500.

26 149. Defendants conveyed the false or misleading statements and omissions through a
27 variety of methods, including through the use of the “EcoDiesel” trademark and related names
28 and symbols attached to the Subject Vehicles; press releases; television, print, and internet
advertisements; print and internet promotional materials available at Jeep and Ram dealers and on

1 Defendants' websites; and statements to consumers communicated through Defendants' network
2 of Jeep and Ram dealers.

3 150. Defendants knew, or by the exercise of reasonable care should have known, that
4 the statements or omissions were untrue or misleading at the time such statements were made.

5 151. Defendants took actions to conceal their wrongful conduct, including by failing to
6 disclose the presence of the undisclosed AECDs and defeat devices in the Subject Vehicles.

7 **ELEVENTH CAUSE OF ACTION**
8 **(Untrue, Deceptive, or Misleading Environmental Mktg., Cal. Bus. & Prof. Code § 17580.5)**
9 **[By California Attorney General on Behalf of the People of the State of California Against**
10 **All Defendants]**

11 152. Plaintiff incorporates and realleges paragraphs 1 through 89, inclusive, as if set
12 forth here in full.

13 153. California Business and Professions Code § 17580.5 makes it “unlawful for any
14 person to make any untruthful, deceptive, or misleading environmental marketing claim, whether
15 explicit or implied.”

16 154. Beginning at a date unknown to Plaintiff and continuing to the present,
17 Defendants, and each of them, have engaged in making untruthful, deceptive, or misleading
18 environmental marketing claims in this District and throughout California, both express and
19 implied, as prohibited by California Business and Professions Code § 17580.5. Such untruthful,
20 deceptive, and misleading representations and omissions include, but are not limited to, the
21 following types of marketing claims, as further described in paragraph 79 above: portraying its
22 diesel vehicles as “green,” “clean,” “ecological,” environmentally friendly, possessing low
23 emissions, meeting or exceeding California and federal emissions standards, and similar
24 deceptive representations. Defendants' false statements and omissions constitute untruthful,
25 deceptive, or misleading environmental marketing claims.

26 155. Defendants conveyed the untruthful, deceptive, or misleading environmental
27 marketing claims through a variety of methods, including through the use of the “EcoDiesel”
28 trademark and related names and symbols attached to the Subject Vehicles; press releases;
television, print, and internet advertisements; print and internet promotional materials available at

1 Jeep and Ram dealers and on Defendants’ websites; and statements to consumers communicated
2 through Defendants’ network of Jeep and Ram dealers.

3 156. Defendants took actions to conceal their wrongful conduct, including by failing to
4 disclose the presence of the undisclosed AECDs and defeat devices in the Subject Vehicles.

5 **TWELFTH CAUSE OF ACTION**
6 **(Violations of Unfair Competition Law, Cal. Bus. & Prof. Code § 17200)**
7 **[By California Attorney General on Behalf of the People of the State of California Against**
8 **All Defendants]**

9 157. Plaintiff incorporates and realleges paragraphs 1 through 156, inclusive, as if set
10 forth here in full.

11 158. As set forth in California’s Unfair Competition Law, California Business and
12 Professions Code § 17200 provides that “unfair competition shall mean and include any unlawful,
13 unfair or fraudulent business act or practice and unfair, deceptive, untrue or misleading
14 advertising and any act prohibited by [California Business and Professions Code §§ 17500-

15 159. Defendants have engaged, and continue to engage, in unlawful, unfair, or
16 fraudulent acts or practices that constitute unfair competition within the meaning of California
17 Business and Professions Code § 17200. Defendants’ acts and practices in violation of California
18 Business and Professions Code § 17200 include, but are not limited to, the following:

19 a. Defendants’ actions constitute multiple violations of 42 U.S.C. § 7604(a)(1), as
20 alleged in the First Cause of Action in paragraphs 90 through 97, which allegations are
21 incorporated herein as if set forth in full.

22 b. Defendants’ actions constitute multiple violations of California Health and Safety
23 Code § 43151 as alleged in the Second Cause of Action in paragraphs 98 through 106, which
24 allegations are incorporated herein as if set forth in full.

25 c. Defendants’ actions constitute multiple violations of California Health and Safety
26 Code § 43152 as alleged in the Third Cause of Action in paragraphs 107 through 111, which
27 allegations are incorporated herein as if set forth in full.

28

1 d. Defendants' actions constitute multiple violations of California Health and Safety
2 Code § 43153 as alleged in the Fourth Cause of Action in paragraphs 112 through 116, which
3 allegations are incorporated herein as if set forth in full.

4 e. Defendants' actions constitute multiple violations of California Health and Safety
5 Code § 43211 and the requirements in 13 C.C.R. § 1961 as alleged in the Fifth Cause of Action in
6 paragraphs 117 through 121, which allegations are incorporated herein as if set forth in full.

7 f. Defendants' actions constitute multiple violations of California Health and Safety
8 Code § 43212 and the requirements in 13 C.C.R. §§ 1961 and 1961.2 as alleged in the Sixth
9 Cause of Action in paragraphs 122 through 128, which allegations are incorporated herein as if
10 set forth in full.

11 g. Defendants' actions constitute multiple violations of California Health and Safety
12 Code § 43016 and the requirements in 13 C.C.R. § 1968.2 as alleged in the Seventh Cause of
13 Action in paragraphs 129 through 133, which allegations are incorporated herein as if set forth in
14 full.

15 h. Defendants' actions constitute multiple violations of California Health and Safety
16 Code § 43016 and the requirements in 13 C.C.R. § 1965 as alleged in the Eighth Cause of Action
17 in paragraphs 134 through 140, which allegations are incorporated herein as if set forth in full.

18 i. Defendants' actions constitute multiple violations of California Health and Safety
19 Code §§ 43016 and 43205 and the requirements in 13 C.C.R. § 2037 as alleged in the Ninth
20 Cause of Action in paragraphs 141 through 145, which allegations are incorporated herein as if
21 set forth in full.

22 j. Defendants' actions constitute multiple violations of California Business and
23 Professions Code § 17500 as alleged in the Tenth Cause of Action in paragraphs 146 through 151,
24 which allegations are incorporated herein as if set forth in full.

25 k. Defendants' actions constitute multiple violations of California Business and
26 Professions Code § 17580.5 as alleged in the Eleventh Cause of Action in paragraphs 152 through
27 156, which allegations are incorporated herein as if set forth in full.
28

1 161. Pursuant to the CAA, that Defendants take appropriate steps to remedy and
2 prevent violations of the California State Implementation Plan as alleged in this Complaint,
3 including, but not limited to, mitigation of excess NOx emissions from the Subject Vehicles.

4 162. Pursuant to California Health and Safety Code § 43017, that Defendants be
5 enjoined from further violations of the California Health and Safety Code and CARB regulations
6 relating to vehicular air pollution control as alleged in this Complaint, in particular from further
7 importing or delivering new motor vehicles for sale, lease, or rental in California which were not
8 validly certified by CARB, and further selling or offering to sell, leasing or offering to lease, or
9 renting or offering to rent in California, new motor vehicles which have not been validly
10 certified by CARB.

11 163. Pursuant to California Health and Safety Code § 43017, that Defendants take
12 appropriate steps to remedy and prevent violations of the California Health and Safety Code and
13 CARB regulations relating to vehicular air pollution control as alleged in this Complaint,
14 including, but not limited to, mitigation of excess NOx emissions from the Subject Vehicles.

15 164. Pursuant to California Health and Safety Code § 43154, for violations occurring
16 prior to January 1, 2017, that the Court assess civil penalties of up to \$5,000 per affected vehicle
17 against Defendants for each violation of California Health and Safety Code §§ 43151, 43152,
18 and 43153.⁸

19 165. Pursuant to California Health and Safety Code § 43154, for violations occurring on
20 or after January 1, 2017, that the Court assess civil penalties of up to \$37,500 per action for each
21 violation of California Health and Safety Code §§ 43151, 43152, and 43153.

22 166. Pursuant to California Health and Safety Code § 43211, for violations occurring
23 prior to January 1, 2017, that the Court assess the mandatory civil penalty of \$5,000 against
24 Defendants for each sale of, offer to sell, action which caused an offer to sell, or attempt to sell
25

26
27 ⁸Section 43154, which authorizes civil penalties for violations of these statutes, was
28 amended, effective January 1, 2017, to increase the penalty from up to \$5,000 per vehicle to up to
\$37,500 per action. *See* 2016 Cal. Legis. Serv. Ch. 604 (A.B. 1685, “AIR POLLUTION—
MOTOR VEHICLES—FINES AND PENALTIES”).

1 an affected vehicle that does not comply with the applicable emissions standards in 13 C.C.R.
2 § 1961.

3 167. Pursuant to California Health and Safety Code § 43211, for violations occurring on
4 or after January 1, 2017, that the Court assess a civil penalty of up to \$37,500 against Defendants
5 for each sale of, offer to sell, action which caused an offer to sell, or attempt to sell an affected
6 vehicle that does not comply with the applicable emissions standards in 13 C.C.R. § 1961.

7 168. Pursuant to California Health and Safety Code § 43212, for violations occurring
8 prior to January 1, 2017, that the Court assess civil penalties of \$50 against Defendants for each
9 affected vehicle for each failure to comply with the applicable test procedures in 13 C.C.R.
10 §§ 1961 and 1961.2.

11 169. Pursuant to California Health and Safety Code § 43212, for violations occurring on
12 or after January 1, 2017, that the Court assess civil penalties of up to \$37,500 against Defendants
13 for each affected vehicle for each failure to comply with the applicable test procedures in 13
14 C.C.R. §§ 1961 and 1961.2.

15 170. Pursuant to California Health and Safety Code § 43016, for violations prior to
16 January 1, 2017, that the Court assess a civil penalty of up to \$500 per affected vehicle against
17 Defendants for each violation of 13 C.C.R. § 1968.2.

18 171. Pursuant to California Health and Safety Code § 43016, for violations on or after
19 January 1, 2017, that the Court assess a civil penalty of up to \$37,500 per action against
20 Defendants for each violation of 13 C.C.R. § 1968.2.

21 172. Pursuant to California Health and Safety Code § 43016, for violations prior to
22 January 1, 2017, that the Court assess a civil penalty of up to \$500 per affected vehicle against
23 Defendants for each violation of 13 C.C.R. § 1965.

24 173. Pursuant to California Health and Safety Code § 43016, for violations on or after
25 January 1, 2017, that the Court assess a civil penalty of up to \$37,500 per action against
26 Defendants for each violation of 13 C.C.R. § 1965.

27 174. Pursuant to California Health and Safety Code § 43016, for violations occurring
28 prior to January 1, 2017, that the Court assess a civil penalty of up to \$500 per affected vehicle

1 against Defendants for each violation of California Health and Safety Code § 43205 and 13
2 C.C.R. § 2037.

3 175. Pursuant to California Health and Safety Code § 43016, for violations occurring on
4 or after January 1, 2017, that the Court assess a civil penalty of up to \$37,500 per action against
5 Defendants for each violation of California Health and Safety Code § 43205 and 13 C.C.R.
6 § 2037.

7 176. Pursuant to California Business and Professions Code § 17535, that Defendants,
8 along with Defendants' successors, agents, representatives, employees, and all persons who act
9 in concert with Defendants, be permanently enjoined from making any false or misleading
10 statements in violation of California Business and Professions Code § 17500 as alleged in this
11 Complaint.

12 177. Pursuant to California Business and Professions Code § 17535, that Defendants,
13 along with Defendants' successors, agents, representatives, employees, and all persons who act
14 in concert with Defendants, be permanently enjoined from making any untruthful, deceptive, or
15 misleading environmental marketing claim, whether explicit or implied, in violation of
16 California Business and Professions Code § 17580.5 as alleged in this Complaint.

17 178. Pursuant to California Business and Professions Code § 17203, that Defendants,
18 along with Defendants' successors, agents, representatives, employees, and all persons who act
19 in concert with Defendants, be permanently enjoined from any act or practice that constitutes
20 unfair competition in violation of California Business and Professions Code § 17200.

21 179. Pursuant to California Business and Professions Code § 17203, that the Court
22 enter all orders or judgment as may be necessary to restore to any person in interest any money
23 or other property that Defendants may have acquired by violations of California Business and
24 Professions Code § 17200, as proved at trial.

25 180. Pursuant to California Business and Professions Code § 17536, that the Court
26 assess a civil penalty of \$2,500 against Defendants for each violation of California Business and
27 Professions Code § 17500, as proved at trial.

28

1 181. Pursuant to California Business and Professions Code § 17536, that the Court
2 assess a civil penalty of \$2,500 against Defendants for each violation of California Business and
3 Professions Code § 17580.5, as proved at trial.

4 182. Pursuant to California Business and Professions Code § 17206, that the Court
5 assess a civil penalty of \$2,500 against Defendants for each violation of California Business and
6 Professions Code § 17200, as proved at trial.

7 183. Pursuant to California Business and Professions Code § 17206.1(a), that the Court
8 assess, in addition to any penalties assessed under California Business and Professions Code
9 §§ 17206 and 17536, a civil penalty of \$2,500 against Defendants for each violation of
10 California Business and Professions Code § 17200 perpetrated against a senior citizen or
11 disabled person, as proved at trial.

12 184. Pursuant to California Code of Civil Procedure § 1021.8(a), that the Court award
13 the California Attorney General “all costs of investigating and prosecuting the action, including
14 expert fees, reasonable attorney’s fees, and costs” for enforcement of California Health and
15 Safety Code §§ 43016, 43017, and 43154.

16 185. Pursuant to 42 U.S.C. § 7604(d), that the Court award Plaintiff its costs of
17 litigation, including reasonable attorney and expert witness fees.

18 186. That Plaintiff recover its costs of suit, including costs of investigation.

19 187. For such other and further relief as the Court deems just and proper.

20 Dated: January 9, 2019

Respectfully Submitted,

21 XAVIER BECERRA
22 Attorney General of California
23 NICKLAS A. AKERS
24 Senior Assistant Attorneys General
25 JUDITH A. FIORENTINI
26 Supervising Deputy Attorney General

27 /s/ Jon F. Worm
28 JON F. WORM
LAUREL M. CARNES
Deputy Attorneys General
*Attorneys for the People of the State of
California*