



1 The Plaintiffs' Steering Committee/Settlement Class Counsel ("PSC"), the  
2 Department of Justice ("DOJ") on behalf of the U.S. Environmental Protection Agency ("EPA"),  
3 California by and through the California Air Resources Board ("CARB") and the State of  
4 California ("CA AG"), the Federal Trade Commission ("FTC"), the Volkswagen Defendants  
5 ("Volkswagen"),<sup>1</sup> the Porsche Defendants ("Porsche"),<sup>2</sup> and the Bosch Defendants ("Bosch"),<sup>3</sup>  
6 by and through their respective counsel, jointly submit this status report on the implementation  
7 of the 2.0-Liter,<sup>4</sup> 3.0-Liter,<sup>5</sup> and Bosch Settlements.<sup>6</sup>  
8

9 The parties are pleased to report that in the less than 8 months since the Court  
10 granted final approval of the 2.0-Liter Settlements, there has been substantial progress in  
11 virtually every aspect of implementation of the 2.0-Liter Settlements.<sup>7</sup> As discussed in more  
12

13 <sup>1</sup> The Volkswagen Defendants are Volkswagen AG, Volkswagen Group of America, Inc.,  
Audi AG, and Volkswagen Group of America Chattanooga Operations, LLC.

14 <sup>2</sup> The Porsche Defendants are Dr. Ing. h.c. F. Porsche Aktiengesellschaft and Porsche Cars  
15 North America, Inc.

16 <sup>3</sup> The Bosch Defendants are Robert Bosch GmbH and Robert Bosch LLC.

17 <sup>4</sup> The 2.0-Liter Settlements include three agreements: (1) a Consumer Class Action  
18 Settlement Agreement among Volkswagen AG, Volkswagen Group of America, Inc., Audi AG,  
and a nationwide class of affected consumers (Dkt. 1685, 2102); (2) the First Partial Consent  
19 Decree agreed to by Volkswagen, the United States on behalf of the EPA, and California by and  
through CARB and the State of California (Dkt. 2103-1) (the "First Partial Consent Decree");  
20 and (3) a Partial Stipulated Order for Permanent Injunction and Monetary Judgment stipulated to  
by Volkswagen Group of America, Inc. and the FTC (Dkt. 2104) (the "2.0-Liter FTC Order").

21 <sup>5</sup> The 3.0-Liter Settlements include three agreements: (1) a Consumer Class Action  
Settlement Agreement between Volkswagen AG, Volkswagen Group of America, Inc., Audi  
22 AG, Porsche, and a nationwide class of affected consumers (Dkt. 3088-2, 3229); (2) the Second  
Partial Consent Decree agreed to by Volkswagen, Porsche, the United States on behalf of the  
23 EPA, and California by and through CARB and the State of California (Dkt. 3228-1) (the  
"Second Partial Consent Decree"); and (3) a Second Partial Stipulated Order for Permanent  
24 Injunction and Monetary Judgment stipulated to by Volkswagen Group of America, Inc.,  
Porsche Cars North America, Inc., and the FTC (Dkt. 3227) (the "3.0-Liter FTC Order").

25 <sup>6</sup> The Bosch Settlement references the Amended Bosch Settlement and Release (Dkt. 2918,  
26 3230).

27 <sup>7</sup> The Volkswagen claims, vehicle, and AEM statistics set forth in this report have been  
provided by Volkswagen based on data collected and maintained by Volkswagen.  
28

1 detail below, Volkswagen already has reacquired or performed complete modifications on a total  
2 of 298,182 2.0-Liter TDI vehicles. The 3.0-Liter Settlements have been met with similar  
3 consumer enthusiasm, as 42,000 consumers have already submitted claims to participate in the  
4 3.0-Liter Claims Program.<sup>8</sup>

5 The parties have likewise made substantial progress in carrying out the other  
6 aspects of the 2.0-Liter and 3.0-Liter Settlements (collectively, the “Settlements”). Volkswagen  
7 has to date timely submitted all 2.0-Liter and Generation 2 3.0-Liter Emissions Modification  
8 proposals, and the EPA and CARB have approved the proposals for the 2.0-Liter Generation 2  
9 automatic transmission vehicle modifications and 2.0-Liter Generation 3 modifications  
10 (“Approved Emissions Modifications” or “AEMs”). Almost immediately after EPA and CARB  
11 approval, these AEMs were made available, and through June 14, 2017, 25,793 2.0-Liter  
12 vehicles have received complete or partial AEMs. Volkswagen also timely submitted its  
13 California and National Zero Emission Vehicle (“ZEV”) Investment Plans, and following  
14 approval of the National ZEV Investment Plan, immediately began implementing the National  
15 ZEV Investment Plan in 49 states. In addition, Volkswagen made timely payments to the  
16 Mitigation Trust, as required by the First and Second Partial Consent Decrees, and paid the \$1.45  
17 billion Clean Air Act civil penalty required under the Third Partial Consent Decree between the  
18 United States, on behalf of the EPA, and Volkswagen and Porsche (Dkt. 3155) (“Third Partial  
19 Consent Decree”). Likewise, the \$327.5 million Bosch Settlement has made significant  
20 progress, with approximately \$84 million in settlement compensation already paid to class  
21 members to date.  
22  
23  
24

25  
26 <sup>8</sup> “2.0-Liter Claims Program” and “3.0-Liter Claims Program” refer to the programs under  
27 which consumers can submit claims and receive benefits if they meet the eligibility requirements  
28 of the 2.0-Liter Settlements and 3.0-Liter Settlements, respectively.

1 As the Court is aware, Volkswagen's implementation of the 2.0-Liter Settlements  
2 was an unparalleled undertaking completed in a condensed timeline, and the speed demonstrates  
3 the parties' dedication to making things right for consumers. The success of these Settlements to  
4 date is due to the efforts of all of the parties, and the parties look forward to the continued  
5 success of the Settlements.

#### 6 **I. Volkswagen 2.0-Liter and 3.0-Liter Claims Programs**

7 The 2.0-Liter Claims Program began on November 1, 2016, and consumers were  
8 able to submit claims by mail or through the online claims portal as early as September 17, 2016.  
9 As of June 15, 2017, Volkswagen has reacquired or modified 287,799 consumer-owned vehicles  
10 through the 2.0-Liter Claims Program. Of these 287,799 vehicles, 275,601 were bought back  
11 from current owners, 10,027 were early lease terminations and 2,171 were modifications on  
12 Generation 2 vehicles. (*See* Ex. 1.) Volkswagen also has completed the Phase 1 modification on  
13 8,372 Generation 3 vehicles, which is the phase of the modification that involves the removal of  
14 the software that reduced the effectiveness of the vehicle's emission control system and  
15 replacing it with software that directs the vehicle's emissions controls to function in the manner  
16 approved by EPA and CARB. In addition, Volkswagen has compensated 3,246 former lessees  
17 and 9,690 former owners of 2.0-Liter vehicles. In total, Volkswagen has paid approximately  
18 \$6.3 billion to consumers who have elected to participate in the 2.0-Liter Claims Program. In  
19 addition to these completed closings and payments, there are an additional 8,675 2.0-Liter  
20 closing appointments scheduled through October 2017 and Volkswagen has extended offer  
21 letters to an additional 74,640 claimants totaling approximately \$785 million.  
22  
23  
24

25 Initial consumer response to the 3.0-Liter Claims Program likewise has been very  
26 positive. The 3.0-Liter Claims Program began on June 7, 2017, and consumers were able to  
27 submit claims by mail or through the online claims portal as early as May 18, 2017. As of  
28

1 June 15, 2017, over 42,000 consumers had submitted claims. Of those claims, approximately  
2 13,000 current owners and lessees have received and accepted settlement offers, and 7,757 of  
3 those consumers have scheduled appointments to complete a buyback or trade-in, or to receive a  
4 portion of their restitution payment while they await an approved emissions modification. The  
5 first closing appointments are scheduled to begin in July 2017. Volkswagen also has  
6 compensated 307 former lessees and 501 former owners of 3.0-Liter vehicles.

7  
8 **A. The Speed and Scope of the Settlement Implementation**

9 Volkswagen expended significant time, resources and funds to get the 2.0-Liter  
10 Claims Program up and running in the 126 days between the filing of the 2.0-Liter Settlements  
11 and final court approval. (*See Ex. 2.*) In less than four months, Volkswagen developed a process  
12 and implemented an infrastructure to support the reacquisition or modification of nearly 500,000  
13 vehicles plus payment of compensation to current owners and lessees and certain former owners  
14 and lessees. This required Volkswagen to build an entirely new website and claims  
15 administration system, hire and train hundreds of new employees to implement the 2.0-Liter  
16 Settlements, and engage numerous third party partners to assist with post-buyback logistics, such  
17 as vehicle transport, storage, scrapping and remarketing. In this short time, Volkswagen built an  
18 organizational structure and developed a claims administration system that was capable of  
19 receiving claims, efficiently reviewing submitted documents, rendering eligibility  
20 determinations, generating offers, scheduling and conducting appointments nationwide, and  
21 issuing payments to consumers and, in many instances, their lenders. (*See Ex. 3.*)  
22

23  
24 Volkswagen worked closely with the Court-appointed Claims Supervisor, the  
25 PSC, and the FTC to develop the settlement website and claims administration system (the  
26 “Online Claims Portal”). To ensure that the settlement website and Online Claims Portal were  
27 consumer-friendly, both the PSC and FTC reviewed and commented on the website and Online  
28

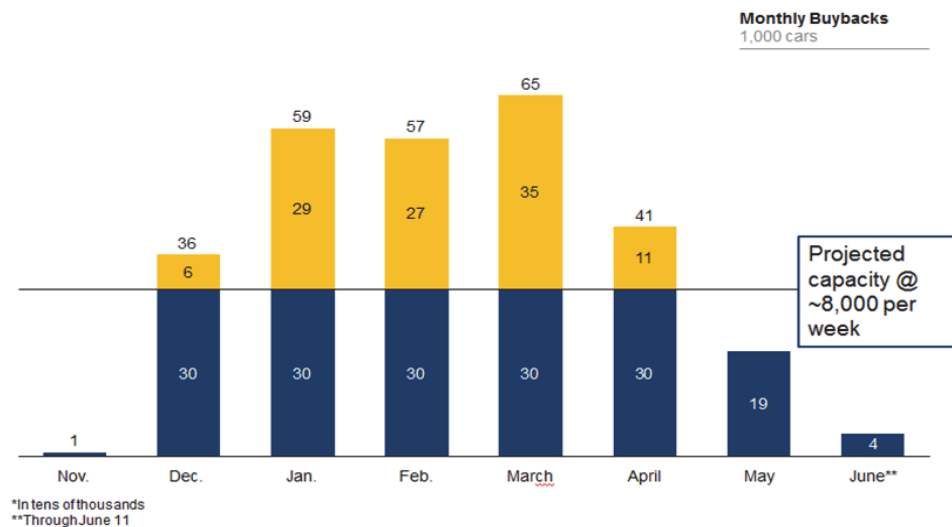
1 Claims Portal content, as well as the various communications that would be sent to consumers as  
2 they participate in the claims process. As the 2.0-Liter Settlements are being implemented, the  
3 FTC, PSC, and Claims Supervisor have continued to provide consumer feedback to Volkswagen  
4 and offer suggestions for process improvements.

5 To develop the claims administration process, Volkswagen worked closely with  
6 the Claims Supervisor to determine document requirements, verify offer amount calculations,  
7 and develop the process for the flow of claims, including the role of Volkswagen and the Claims  
8 Supervisor in the review and approval or rejection of claims. This coordination involved  
9 numerous in-person meetings and phone calls regarding system programming, review protocols,  
10 and training of employees. Prior to the implementation of the 2.0-Liter Claims Program,  
11 Volkswagen and the Claims Supervisor implemented daily phone calls to discuss both  
12 overarching claims processing topics as well as individual claims, and these calls continue to this  
13 day. Volkswagen has also defined a classification process to protect data integrity and any  
14 personally identifiable information in the Online Claims Portal. Volkswagen's system  
15 establishes a status for the data uploaded into the system, which in turn defines the necessary  
16 levels of protections that must be applied. For example, consumer-entry data, such as name,  
17 address and phone number is categorized as Confidential, which carries certain encryption  
18 requirements. Volkswagen also employs data usage agreements with third parties to further  
19 ensure safeguards on data and documents being collected and maintained when it is necessary to  
20 share data with those third parties. The Claims Supervisor has reviewed Volkswagen's data  
21 integrity processes.  
22  
23  
24

25 Prior to Court approval of the 2.0-Liter Settlements, Volkswagen used prior  
26 National Highway Traffic Administration recalls, as well as internal company data, to come up  
27 with aggressive projections of anticipated consumer response to the 2.0-Liter Settlements, which  
28

1 Volkswagen then used to project staffing requirements and an appointment schedule that would  
 2 accommodate consumers within the time frames set forth in the 2.0-Liter Settlements. Consumer  
 3 response to the 2.0-Liter Claims Program outpaced even these aggressive projections. Upon the  
 4 Court’s final approval of the 2.0-Liter Settlements on October 25, 2016, approximately 340,000  
 5 consumers had already registered on Volkswagen’s Online Claims Portal. Volkswagen began  
 6 extending offers to eligible consumers on November 1, 2016, five days after the 2.0-Liter  
 7 Settlements were approved. Volkswagen conducted the first Buybacks and Early Lease  
 8 Terminations less than a month later, on November 23, 2016. Based on Volkswagen’s  
 9 projections, Volkswagen estimated that it would need approximately 8,000 appointments per  
 10 week to meet anticipated consumer demand. As reflected in the below table, the number of  
 11 completed closing appointments each month far outpaced the projections. Due to the  
 12 overwhelming consumer response to the 2.0-Liter Claims Program, Volkswagen increased the  
 13 number of available appointments from the initial plan of approximately 8,000 appointments to  
 14 approximately 18,500 appointments per week by the end of December.  
 15  
 16

**2.0L Number of Buybacks & Early Lease Terminations Per Month\***



**B. Volkswagen Has Implemented Various Improvements to the Consumer Experience**

1  
2 While implementation of the claims process has been largely successful, it has not  
3 been flawless, in part due to the speed with which Volkswagen built the claims process and  
4 supporting systems and the unprecedented level of consumer response to the 2.0-Liter Claims  
5 Program. Since implementation of the 2.0-Liter Claims Program, Volkswagen has identified  
6 areas of consumer confusion and frustration and implemented claims process improvements in  
7 response.<sup>9</sup> The PSC, FTC, and Claims Supervisor have also helped to understand points of  
8 consumer issues and suggest process improvements. Improvements to the consumer experience  
9 have required both increased staffing and updates to the claims process.  
10

11 *Claims Process Improvements.* In response to the extraordinary consumer  
12 response to the 2.0-Liter Claims Program, Volkswagen worked quickly to engage third parties to  
13 assist with answering consumer calls to the settlement hotline, reviewing document submissions,  
14 and generating offer letters. Volkswagen updates the settlement website as needed with new  
15 information, including additional Frequently Asked Questions and infographics on topics that  
16 appear to be sources of consumer confusion. Volkswagen has also implemented changes to the  
17 claims process to accommodate consumers. For example, Volkswagen initially required a phone  
18 call with a consumer's lienholder to determine the outstanding loan payoff amount; now,  
19 Volkswagen is able to accept loan payoff amounts that are faxed directly from a consumer's  
20 lienholder.  
21

22  
23 Due to the knowledge and experience gained during the initial launch of the 2.0-  
24 Liter Claims Program, processing of the initial 3.0-Liter claims has already been smoother.  
25

26 <sup>9</sup> Improvements to the 2.0-Liter Claims Program will be applied to the 3.0-Liter Claims  
27 Program.



1 Consumer inquiries from 2.0-Liter consumers have decreased and initial inquiries from 3.0-Liter  
2 consumers are significantly lower than initial 2.0-Liter inquiries. From February 14, 2017  
3 through June 21, 2017, the hotline has received 49,298 calls relating to the 3.0-Liter Claims  
4 Program, and in the days following Court approval of the 3.0-Liter Settlements, the hotline  
5 received an average of fewer than 600 consumer calls per day. By contrast, for weeks following  
6 final Court approval of the 2.0-Liter Settlements, the hotline received an average of  
7 approximately 6,500 consumer calls per day. The hotline average speed of answer has improved  
8 from nearly seven minutes in November 2016 to around 10 to 20 seconds in May and June 2017.  
9 Volkswagen has worked through the initial backlog of claims to review and claims processing  
10 times have improved. Volkswagen anticipates that claims processing efficiency will continue to  
11 improve throughout the remainder of the 2.0-Liter and 3.0-Liter Claims Programs.

13 *Exception Claimants.* The Settlements recognize that there are certain classes of  
14 individuals with unusual circumstances, such as military serving overseas, and provides  
15 Volkswagen and the Claims Supervisor the authority to develop responsive claims procedures  
16 for these consumers. Volkswagen has worked to develop closing processes for certain specially-  
17 situated claimants, such as military serving overseas and consumers that live on a Hawaiian  
18 island without a Volkswagen dealership. Since the implementation of the 2.0-Liter Claims  
19 Program, these consumers have been able to ship their vehicle back to the mainland U.S. or a  
20 Hawaiian island with a Volkswagen dealership to complete the closing process, and Volkswagen  
21 will reimburse the shipping fees if the consumer submits appropriate receipts. Volkswagen has  
22 also recently developed alternative processes for consumers that do not wish to incur the costs of  
23 shipping their vehicles and then await reimbursement. In early June, Volkswagen successfully  
24 completed a pilot program for military members or government employees who are located  
25 overseas to deliver their vehicle to a third-party in Germany to complete the closing process.

1 Consumers deliver their vehicle to one of the third-party's locations in Germany, which then  
2 facilitates shipping the vehicle back to the United States at Volkswagen's expense. Volkswagen  
3 then works with the consumer to complete the closing process, including obtaining the required  
4 signatures and triggering payment to the consumer.

5 Volkswagen has also implemented this process in Italy and plans to continue to  
6 work with this third party to facilitate Buybacks for military overseas claimants in other  
7 locations. In early July 2017, Volkswagen expects to begin conducting Buyback and Early  
8 Lease Termination appointments on Hawaiian islands that do not have a Volkswagen dealership.  
9 Volkswagen has contracted with a third party to host the Buyback and Early Lease Termination  
10 appointments, where trained Volkswagen Settlement Specialists will complete the closing  
11 appointments.  
12

13 In consultation with the PSC, Volkswagen has also voluntarily agreed to provide  
14 compensation to current owners of eligible 2.0-Liter and 3.0-Liter TDI vehicles that were  
15 purchased in the U.S. and have U.S. vehicle identification numbers but are ineligible to  
16 participate in the 2.0-Liter and 3.0-Liter Settlements because the vehicles were registered in  
17 Canada during the relevant time frame. Because these owners are not eligible for compensation  
18 under the 2.0-Liter and 3.0-Liter Settlements, the infrastructure needed to compensate this subset  
19 of consumers and process the return of their vehicles was not included in the initial build out of  
20 the 2.0-Liter Claims Program. However, consumers are able to register on the Online Claims  
21 Portal and submit the required documentation while Volkswagen finalizes a process for these  
22 consumers to turn in their vehicles and receive compensation.  
23  
24  
25  
26  
27  
28

### C. The Claims Review Committee Is Reviewing Consumer Appeals

1  
2 The Court-appointed 2.0-Liter Claims Review Committee (“CRC”)<sup>10</sup> is in the  
3 process of reviewing and issuing decisions on consumers’ claim appeals. The Claims Supervisor  
4 has been compiling, categorizing and de-duplicating the appeals submitted to the CRC. To date  
5 there have been 796 unique appeals submitted to the CRC, many of which have already been  
6 resolved through the claims process in the normal course or through the parties’ prior  
7 communications. Volkswagen’s and the PSC’s representatives on the CRC have each made  
8 preliminary assessments on hundreds of appeals and are meeting and conferring on the pending  
9 claims. Each class member who submitted an appeal will receive a written response with the  
10 CRC’s decision. The parties anticipate that class members will begin to receive the CRC’s  
11 written decisions in July 2017.  
12

## II. The Parties Continue To Work Together To Resolve Consumer Issues

13  
14 In addition to the cooperative efforts of all of the parties in developing the claims  
15 process and assisting consumers throughout the process, the parties have also engaged in unique  
16 efforts to facilitate consumer participation in the 2.0-Liter and 3.0-Liter Claims Programs.  
17

### A. The Plaintiffs’ Steering Committee’s Efforts To Assist Class Members

18  
19 The 2.0-Liter Claims Program honors consumer choice for timing and selection of  
20 a buyback or an AEM between now and September 2018. Preserving this choice required  
21 intensive attention to the myriad details of the 2.0-Liter Claims Program in the negotiation,  
22 planning, and implementation phases. It adds substantially to the complexity and sophistication  
23 of the 2.0-Liter Claims Program, since effectuation for this choice involves real world logistics  
24 of nearly half a million transactions. Such transactions involve not only Volkswagen and class  
25

26 <sup>10</sup> The CRC is comprised of one PSC representative, one Volkswagen representative, and  
27 the Court-appointed neutral, Hon. Fern M. Smith (Ret.).  
28

1 members, but also dealers, vehicle transporters and storage specialists, banks and credit unions,  
2 as well as the Claims Supervisor and the vast new infrastructure Volkswagen constructed to  
3 handle consumer claims on an expedited basis.

4           The PSC has been actively assisting class members throughout each step of the  
5 2.0-Liter Claims Program. Each PSC firm has devoted time and resources from attorneys and  
6 staff to respond to class member inquiries seven days a week. To accommodate the high volume  
7 of class member interest in the settlement, the PSC has set up a designated telephone number  
8 (1-800-948-2181) and email address (info@vwclasscounsel.com) for class members to reach  
9 Settlement Class Counsel. These channels of communication will remain available through the  
10 end of the claims period and, in conjunction with Volkswagen's claims hotline, will assure that  
11 class members have access to the necessary information and assistance to complete their  
12 settlement claims.  
13

14           Class members have been deeply engaged in the settlement, as the data on the  
15 completed 2.0-Liter buybacks and emissions modifications reflect. From June 28, 2016 (the 2.0-  
16 Liter settlement filing date) to present, the PSC has fielded approximately 45,000 class member  
17 inquiries regarding the 2.0-Liter Settlements. The number of inquiries rapidly increased  
18 following the Court's final approval of the 2.0-Liter Settlements, and, during the peak months  
19 following final approval, the PSC received over approximately 1,000 class member inquiries per  
20 week. Given the complexities of the 2.0-Liter Settlements, many class members have required  
21 several follow-up communications through telephone, e-mail, and/or letter, with some class  
22 members even requiring daily contact. To date, the PSC has handled well over 100,000 2.0-Liter  
23 settlement communications with class members. Although the volume of 2.0-Liter settlement  
24 inquiries has decreased as class members complete their buybacks and emissions modifications,  
25 the PSC continues to be available to class members every day of the week.  
26  
27  
28

1           The most common 2.0-Liter settlement issues that class members have raised to  
2 the PSC include the following:

3           1. Claims processing (e.g., claims document uploading and review, claims  
4 information corrections, password/claims portal resets, buyback scheduling, offer letter  
5 revisions, remedy changes, etc.);

6           2. Eligibility (e.g., eligible seller identification, eligibility classifications, title  
7 transfers, vehicle registration periods, etc.);

8           3. Compensation (e.g., buyback calculations, mileage adjustments, lender  
9 payments, loan forgiveness, EFT/check payment delays/discrepancies, etc.);

10           4. General settlement information (e.g., settlement benefits, eligibility criteria,  
11 claims deadlines, etc.); and

12           5. Miscellaneous/individual circumstances (e.g., totaled vehicles, probate/estate  
13 claims, bankruptcies, military class members, etc.).

14  
15 To address these issues, the PSC has provided individual guidance and assistance to class  
16 members, ranging from help with creating claims and uploading documents to accompanying  
17 class members at their buyback appointments. Furthermore, the PSC has been in daily contact  
18 with Volkswagen's counsel to resolve thousands of individual claim issues and to develop  
19 programmatic improvements. Together, the parties have been able to fine-tune the claims  
20 process and streamline payments and benefits to class members. These collective efforts provide  
21 class members with robust resources to submit their claims and obtain their settlement remedies.  
22

23  
24           As the claims process has progressed, the PSC has received numerous  
25 communications from class members expressing appreciation for the 2.0-Liter Settlements, the  
26 assistance of Settlement Class Counsel, the buyback process, the professionalism of the  
27 dealers in conducting buybacks and performing AEMs, and the substantial compensation they  
28

1 have received. The 2.0-Liter Settlements have provided concrete benefits to class members and,  
2 in many instances, have allowed them to upgrade their vehicles. For example, one class member  
3 who turned in her 2015 Jetta TDI wrote to the PSC: “By afternoon, I was able to drive back  
4 home in a 2017 metallic blue Jetta with the complete safety package that was my reason for  
5 buying the car in the first place. The buyback of my original car plus the [restitution] that  
6 Volkswagen paid covered the new car as well as six years of prepaid annual service.” Such  
7 comments are a testament to the success of the 2.0-Liter Settlements.  
8

9           The efficiencies, improvements, and processes that the parties developed in the  
10 2.0-Liter Claims Program will advance the 3.0-Liter Claims Program implementation as well.  
11 As with the 2.0-Liter Claims Program, the PSC remains available to assist class members from  
12 the inception to the completion of their 3.0-Liter claims. The PSC has already fielded thousands  
13 of class member inquiries regarding the 3.0-Liter Claims Program, and will continue to provide  
14 individual attention to any class member in need of assistance. Given the similarities between  
15 the 2.0-Liter and 3.0-Liter Claims Programs, the PSC is well-equipped to handle the anticipated  
16 increase of 3.0-Liter settlement inquiries as class members submit their claims in the coming  
17 months.  
18

#### 19           **B. The FTC’s Efforts Related to the 2.0-Liter and 3.0-Liter Claims Programs**

20           The FTC continues to monitor Volkswagen’s compliance with the 2.0-Liter and  
21 3.0-Liter FTC Orders and both Settlements’ progress generally. Among other things, the FTC  
22 communicates regularly with Volkswagen, the Claims Supervisor, and other parties regarding  
23 issues important to consumers, including many issues addressed herein. The FTC continues to  
24 provide input regarding settlement-related consumer communications, and to monitor  
25 Volkswagen’s efforts to address consumers with nonstandard claims (including especially  
26 service members). The FTC has also provided business and consumer education related to the  
27

1 2.0-Liter Claims Program, including presentations for dealers. Finally, the FTC continues  
2 various nonpublic law enforcement activities related to possible deceptive practices by  
3 nonparties that could interfere with the 2.0-Liter and 3.0-Liter Claims Programs. The FTC will  
4 remain engaged as the settlement process continues.

### 5 **III. 2.0-Liter Progress Toward Recall Rate Targets**

6 Under the First Partial Consent Decree, Volkswagen is required to remove from  
7 commerce and/or perform an AEM on at least 85% of all Subject Vehicles<sup>11</sup> no later than  
8 June 30, 2019 in order to avoid additional payments to the Environmental Mitigation Trust.

9 While many of the vehicles that Volkswagen has reacquired or modified have been through the  
10 2.0-Liter Claims Program, there are other channels through which vehicles can be reacquired,  
11 modified or otherwise removed from commerce to count toward the 85% Recall Rate Target.  
12 For example, consumers may receive an AEM without participating in the 2.0-Liter Claims  
13 Program. Volkswagen can also reacquire vehicles through other channels, such as company-use  
14 vehicles, vehicles bought back directly from Volkswagen and Audi dealerships, and leases that  
15 matured in the normal course.  
16  
17

18 Through June 14, 2017, 300,510, or 61.6%, of the 487,532 2.0-Liter Subject  
19 Vehicles have been reacquired, modified or otherwise removed from commerce. Volkswagen  
20 has reacquired or performed an AEM on 298,182 vehicles,<sup>12</sup> including (i) 285,628 vehicles  
21 reacquired by Volkswagen through the 2.0-Liter Claims Program, (ii) 2,171 vehicles that  
22 received an AEM and are still in consumer hands, and (iii) 10,383 vehicles that were reacquired  
23

24 <sup>11</sup> “Subject Vehicles” refers to the approximately 500,000 model year 2009 to 2015 2.0-  
25 Liter TDI vehicles that existed as of September 17, 2015. For the purposes of the National  
26 Recall Rate under the First Partial Consent Decree, the total number of 2.0-Liter Subject  
27 Vehicles is 487,532.

28 <sup>12</sup> This figure does not include the Phase 1 AEMs that have been performed on 2.0-Liter  
Generation 3 vehicles, as discussed in Section IV.C, *below*.

1 through channels other than the 2.0-Liter Claims Program. An additional 2,328 Subject Vehicles  
 2 have been removed from commerce and are currently counted as scrap due to their non-  
 3 registration as Polk Units in Operation (“UIO”).

4 With respect to Volkswagen’s progress toward achieving the California Recall  
 5 Rate, through June 14, 2017, 43,765, or 61.8%, of the 70,814 California Subject Vehicles have  
 6 been reacquired, modified or otherwise removed from commerce. Volkswagen has reacquired or  
 7 performed an AEM on 43,223 vehicles,<sup>13</sup> including (i) 41,075 vehicles reacquired by  
 8 Volkswagen through the 2.0-Liter Claims Program, (ii) 282 vehicles that received an AEM and  
 9 are still in consumer hands, and (iii) 1,866 vehicles that were reacquired through channels other  
 10 than the 2.0-Liter Claims Program. An additional 542 Subject Vehicles have been removed from  
 11 commerce and are currently counted as scrap due to their non-registration as UIO.  
 12

	2.0-Liter Subject Vehicles	Reacquired Vehicles		AEM Applied to Consumer Eligible Vehicle	UIO Scrap	Total Recall	Progress Toward Recall Rate
		Consumer Claims Program	Other				
National	487,532	285,628	10,383	2,171	2,328	300,510	61.6%
California	70,814	41,075	1,866	282	542	43,765	61.8%

#### 18 IV. Emissions Modification Program

19 The following tables set forth the status of the submissions made pursuant to  
 20 Appendix B of both the First Partial Consent Decree and the Second Partial Consent Decree,  
 21 respectively:  
 22  
 23  
 24  
 25

26 <sup>13</sup> This figure does not include the Phase 1 AEMs that have been performed on 2.0-Liter  
 27 Generation 3 vehicles, as discussed in Section IV.C, *below*.



**A. 2.0-Liter Emissions Modifications**

<b>Vehicle Generation</b>	<b>Submission</b>	<b>Date Submitted</b>	<b>EPA/CARB Action</b>
Generation 1	Proposed Emissions Modification	January 25, 2017	Pending/ testing ongoing
Generation 2	Proposed Emissions Modification	Initial materials: December 19, 2016  Supplemental materials: February 6, 2017  Additional materials concerning automatic vehicles submitted: May 11, 2017	Approved Automatic Transmission Vehicles: May 19, 2017 <sup>14</sup>  Manual Transmission Vehicles: Not approved
Generation 2	Resale Plan Proposal	June 22, 2017	Pending
Generation 3	Proposed Emissions Modification	Initial Materials: November 8, 2016  Supplemental materials: December 29, 2016	Approved: January 6, 2017
Generation 3	Resale Plan Proposal	Initial Materials: February 9, 2017  Revised proposal: March 22, 2017	Approved: March 23, 2017

<sup>14</sup> To date, testing of the manual transmission vehicles has failed to demonstrate compliance with the emissions requirements set for in Appendix B to the First Partial Consent Decree without negatively affecting important consumer attributes such as vehicle durability and reliability. Volkswagen is reassessing its proposed emissions modification for manual transmission Generation 2 2.0-Liter vehicles.

**B. 3.0-Liter Emissions Modifications**

<b>Vehicle Generation</b>	<b>Submission</b>	<b>Date Submitted</b>	<b>EPA/CARB Response</b>
Generation 1.1	Proposed Emissions Modification	Expected Submittal Date: August 25, 2017	N/A
Generation 1.2	Proposed Emissions Modification	Expected Submittal Date: August 25, 2017	N/A
Generation 2.1 SUV	Proposed Emissions Modification	Initial materials: April 25, 2017  Supplemental materials: June 7, 2017	Pending/ testing ongoing
Generation 2.2 SUV	Proposed Emissions Modification	April 25, 2017  Supplemental materials: June 2, 2017	Pending, testing ongoing
Generation 2 Passenger Cars	Proposed Emissions Modification	June 2, 2017	Pending, testing ongoing

**C. 2.0-Liter AEMs Performed**

To date, Volkswagen has performed at least initial modifications on a total of 25,793 2.0-Liter vehicles. Through June 14, 2017, 23,619 2.0-Liter Generation 3 vehicles have received Phase 1 of the Generation 3 modification. Of these 23,619 vehicles, 8,372 are consumer-owned and 15,247 have been modified for the purposes of initial sale or resale. Through June 14, 2017, 2,171 2.0-Liter Generation 2 consumer-owned vehicles have been modified. An additional 3 2.0-Liter Generation 2 vehicles have been modified by Volkswagen for the purpose of eventual resale, pending regulatory approval.

**V. ZEV**

Appendix C to the First Partial Consent Decree requires Volkswagen to, among other things, invest \$2 billion in ZEV infrastructure over four 30-month cycles. To accomplish

1 this, Volkswagen created a wholly-owned subsidiary named Electrify America, LLC whose  
2 mission it is to implement Volkswagen's obligations under Appendix C.

3 Prior to each investment cycle, Electrify America must submit to EPA and CARB  
4 proposed investment plans containing specified information related to Electrify America's  
5 anticipated ZEV investments. (First Partial Consent Decree, App'x C, ¶¶ 2.4, 3.3.1, Dkt. 2103-1  
6 ("App'x C").) Following months of discussions, and multiple in-person meet and confers,  
7 Electrify America timely submitted its California and National ZEV Investment Plans on  
8 March 8, 2017 and April 10, 2017, respectively.<sup>15</sup> EPA approved Electrify America's National  
9 ZEV Investment Plan two days after submission. CARB's decision on Electrify America's  
10 California ZEV Investment Plan remains pending.

#### 12 **A. Progress on National ZEV Investments**

13 Volkswagen timely submitted the National Creditable Cost Guidance (App'x C,  
14 ¶ 2.2), the National ZEV Outreach Plan (App'x C, ¶ 2.3), and the Draft National ZEV  
15 Investment Plan (App'x C, ¶ 2.4) as required under relevant provision of Appendix C. Settling  
16 Defendants submitted the National ZEV Investment Plan (App'x C, ¶ 2.5) on April 10, 2017,  
17 which was approved by EPA on April 12, 2017.

19 Since receiving EPA approval of the National ZEV Investment Plan on April 12,  
20 2017, Electrify America has installed eight charging hubs in Maryland and Virginia, with  
21 additional hubs coming online. The hubs are operational and have begun serving customers in  
22 the Washington D.C. metropolitan area. Investments in other metropolitan areas are also moving  
23

24 <sup>15</sup> Prior to developing its Investment Plans, Electrify America also conducted a National  
25 Outreach Plan to solicit input from interested states, municipal governments, federally-  
26 recognized Indian tribes, and federal agencies. (App'x C, ¶ 2.3.) During the comment period,  
27 Electrify America received almost 500 proposals spanning all but five states from governments,  
28 industry participants, trade associations, and interested individuals. These proposals were  
reviewed by Electrify America staff and, where appropriate, incorporated into Electrify  
America's draft investment plans. The results were also shared with EPA and CARB.

1 forward. In the coming weeks, Electrify America will be meeting with representatives from its  
2 top eleven metropolitan areas outside California to begin mapping out siting for charging hubs in  
3 those markets. Electrify America anticipates that it will install approximately fifty charging hubs  
4 by the fall of this year.

5 **B. Progress on California ZEV Investments**

6 California and Volkswagen are continuing to work collaboratively toward the  
7 approval of a California ZEV Investment Plan pursuant to Paragraph 3.3 of Appendix C to the  
8 First Partial Consent Decree. The plan will guide Volkswagen's first \$200 million in ZEV-  
9 related investments in California.  
10

11 Volkswagen submitted a proposed California ZEV Investment Plan to CARB  
12 dated March 8, 2017. CARB then solicited public comment regarding the proposed plan, and the  
13 CARB Board held a public hearing regarding the proposed plan at its meeting on March 23  
14 and 24, 2017 in Riverside, California. The meeting included presentations by CARB staff,  
15 Electrify America, and other interested individuals and organizations. CARB, Electrify  
16 America, and Volkswagen continued to discuss the proposed plan, and on May 24, 2017, CARB  
17 issued a letter identifying specific items of information and analysis that it would like  
18 Volkswagen to submit in the form of a supplement to their proposed plan. Volkswagen agreed  
19 to submit a supplement, discussions are ongoing, and the supplement is expected to be submitted  
20 to CARB in June and then posted for public comment. The supplemented investment plan will  
21 then be considered for approval at a special meeting of the CARB Board in July.  
22

23 Because CARB has not yet rendered a decision on Electrify America's California  
24 ZEV Investment Plan, Electrify America has been unable to begin its anticipated investments in  
25 California ZEV infrastructure.  
26

## VI. Mitigation Trust

1  
2 Volkswagen timely paid the initial \$900,000,000 Mitigation Trust deposit  
3 required under Paragraph 14(a) of the First Partial Consent Decree into the Court Registry  
4 account on November 22, 2016. After completing the Trustee selection process set forth in  
5 Paragraph 15 of the First Partial Consent Decree, the United States requested on February 23,  
6 2017 that the Court appoint Wilmington Trust as the trustee. (Dkt. 2964.) On March 15, 2017,  
7 the Court granted the motion and appointed Wilmington Trust. (Dkt. 3030.) Volkswagen timely  
8 paid the \$225,000,000 Mitigation Trust deposit required under Paragraph 17(a) of the Second  
9 Partial Consent Decree into the Court Registry account on June 15, 2017. The United States  
10 filed a motion on June 13, 2017, requesting the Court to waive Court Registry Investment  
11 System fees, and to restore any fees already withheld in the management of the Registry account  
12 established to hold the Mitigation Trust funds pending finalization of the Mitigation Trust  
13 Agreement. (See Dkt. 3345.) The motion is pending before the Court. The United States and  
14 States are now negotiating with the trustee to finalize the Trust Agreement, which the United  
15 States will file with the Court upon completion.

## VII. Third Partial Consent Decree

18  
19 On April 24, 2017, Volkswagen paid a \$1.45 billion Clean Air Act civil penalty  
20 (plus interest accruing from the date of lodging with the Court) to the United States pursuant to  
21 Paragraph 9 of the Third Partial Consent Decree. Volkswagen filed a notice on May 10, 2017,  
22 advising the Court that Larry Thompson, the former U.S. Deputy Attorney General and former  
23 U.S. Attorney for the Northern District of Georgia, had been selected as the Independent  
24 Compliance Auditor pursuant to the terms of the Third Partial Consent Decree.<sup>16</sup> The  
25

26  
27 <sup>16</sup> Because Mr. Thompson was selected as the Independent Compliance Monitor under the  
28 Rule 11 Plea Agreement filed March 10, 2017 in *United States v. Volkswagen AG*, No. 16-cr-

1 Independent Compliance Auditor’s first annual report is due one year from April 13, 2017, the  
2 Decree’s Effective Date. (Third Partial Consent Decree, ¶ 28(c).)

3 **VIII. Bosch Claims Program**

4 Following the Court’s entry of final approval of the Bosch Settlement on May 17,  
5 2017 (Dkt. 3230), the Bosch Defendants have successfully coordinated with the Bosch  
6 Settlement Claims Administrator (Epiq Systems, Inc. (“Epiq”)), the Claims Supervisor for the  
7 2.0-Liter and 3.0-Liter Volkswagen Settlements (Ankura Consulting Group, LLC (“Ankura”)),  
8 and the PSC to commence payments under the Bosch Settlement and ensure that the Settlement  
9 is administered in a fair and efficient manner.  
10

11 Promptly after the Court granted final approval to the Bosch Settlement, Epiq  
12 disseminated initial email notices to over 750,000<sup>17</sup> Bosch Settlement class members with  
13 information on how to receive payment. The notices explained which class members could  
14 anticipate automatic payments and reminded other class members of the steps they would need to  
15 take to obtain their payments. As of June 22, 2017, there have been over 400,000 unique visitors  
16 to the Bosch Settlement website (<https://www.boschvwsettlement.com/>) and over 30,000 calls to  
17 the toll-free phone number established for the Settlement (1-844-305-1928).  
18

19 Bosch and the PSC anticipate that the vast majority of class members eligible for  
20 the Bosch Settlement will receive automatic payments from the Bosch Settlement Fund because  
21 they have already been deemed eligible under the Volkswagen 2.0-Liter or 3.0-Liter Settlements.  
22 Within the first month of the Court granting final approval of the Bosch Settlement, such  
23

24  
25 20394 (E.D. Mich.) (Dkt. 68), he automatically functions as the Independent Compliance  
Auditor under the Third Partial Consent Decree. (*See* Third Partial Consent Decree, ¶ 27(d).)

26 <sup>17</sup> The Bosch Settlement statistics are reported by the Bosch Defendants and derived from  
27 Epiq data.



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Respectfully submitted,

Dated: June 23, 2017

By: /s/ Elizabeth J. Cabraser  
Elizabeth J. Cabraser  
ecabraser@lchb.com  
LIEFF CABRASER HEIMANN & BERNSTEIN,  
LLP  
275 Battery Street, 29th Floor  
San Francisco, CA 94111  
Telephone: (415) 956-1000  
Facsimile: (415) 956-1008

*Lead Counsel for Plaintiffs*

Dated: June 23, 2017

By: /s/ Sharon L. Nelles  
Robert J. Giuffra, Jr.  
giuffrar@sullcrom.com  
Sharon L. Nelles  
nelless@sullcrom.com  
William B. Monahan  
monahanw@sullcrom.com  
SULLIVAN & CROMWELL LLP  
125 Broad Street  
New York, New York 10004  
Telephone: (212) 558-4000  
Facsimile: (212) 558-3588  
  
Diane L. McGimsey  
mcgimseyd@sullcrom.com  
SULLIVAN & CROMWELL LLP  
1888 Century Park East  
Los Angeles, California 90067  
Telephone: (310) 712-6600  
Facsimile: (310) 712-8800

*Counsel for Defendants Volkswagen AG, Audi AG,  
Volkswagen Group of America, Inc. and Volkswagen  
Group of America Chattanooga Operations, LLC*



1 Dated: June 23, 2017

By: /s/ Cari Dawson

Cari Dawson  
cari.dawson@alston.com  
Alston & Bird LLP  
One Atlantic Center  
1201 West Peachtree Street  
Atlanta, Georgia 30309

*Counsel for Defendants Dr. Ing. h.c. F. Porsche  
Aktiengesellschaft and Porsche Cars North America,  
Inc.*

7 Dated: June 23, 2017

By: /s/ Bethany Engel

8 Joshua H. Van Eaton  
Bethany Engel  
9 josh.van.eaton@usdoj.gov  
bethany.engel@usdoj.gov  
10 Environmental Enforcement Section  
Environment and Natural Resources Division  
11 United States Department of Justice  
P.O. Box 7611  
12 Washington, D.C. 20044  
Telephone: (202) 514-5474  
13 Facsimile: (202) 514-0097

*Counsel for United States*

15 Dated: June 23, 2017

By: /s/ Nicklas A. Akers

16 Nicklas A. Akers  
Nicklas.akers@doj.ca.gov  
17 California Department of Justice  
455 Golden Gate Avenue, Suite 11000  
18 San Francisco, CA 94102  
Telephone: (415) 703-5500  
19 Facsimile: (415) 703-5480

*Counsel for the People of the State of California*

21 Dated: June 23, 2017

By: /s/ Jonathan Cohen

22 Jonathan Cohen  
Sangjoon "Simon" Han  
23 jcohen2@ftc.gov  
shan@ftc.gov  
24 600 Pennsylvania Avenue, N.W.  
Washington, DC 20580  
25 Telephone: (202) 326-2551  
26 Facsimile: (202) 326-3197

*Counsel for Federal Trade Commission*

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Dated: June 23, 2017

By: /s/ Matthew D. Slater

Matthew D. Slater (pro hac vice)

m Slater@cgsh.com

CLEARY GOTTLIEB STEEN & HAMILTON LLP

2000 Pennsylvania Ave., NW

Washington, DC 20006

Telephone: (202) 974-150

Facsimile: (202) 974-1999

*Counsel for Bosch Defendants*

**ATTESTATION**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Pursuant to Civil Local Rule 5-1(i)(3), the filer of this document attests that concurrence in the filing of this document has been obtained from the other signatories above.

Dated: June 23, 2017

/s/ Sharon L. Nelles  
Sharon L. Nelles

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**CERTIFICATE OF SERVICE**

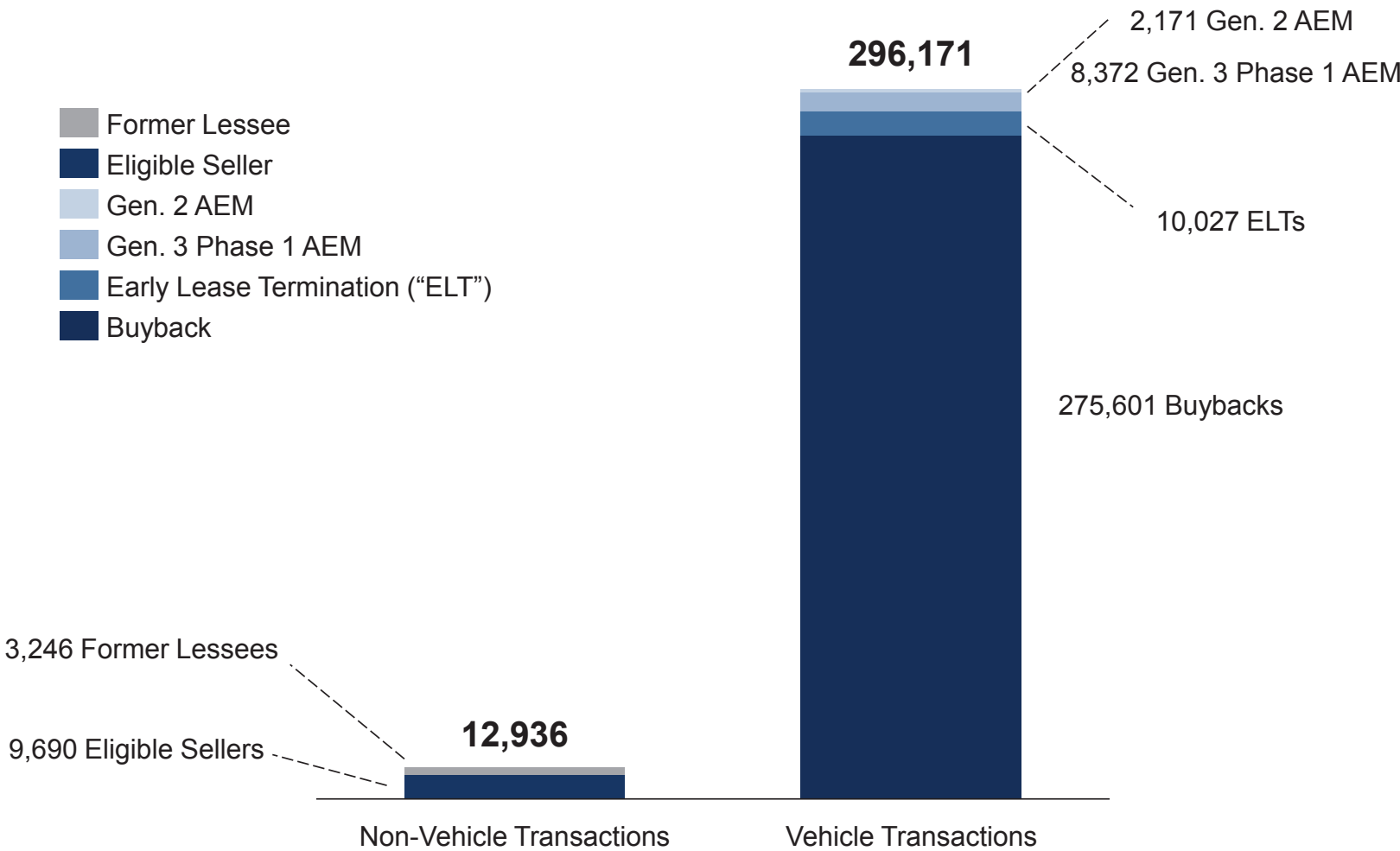
I hereby certify that, on June 23, 2017, service of this document was accomplished pursuant to the Court’s electronic filing procedures by filing this document through the ECF system.

/s/ Sharon L. Nelles  
Sharon L. Nelles

# **Exhibit 1**

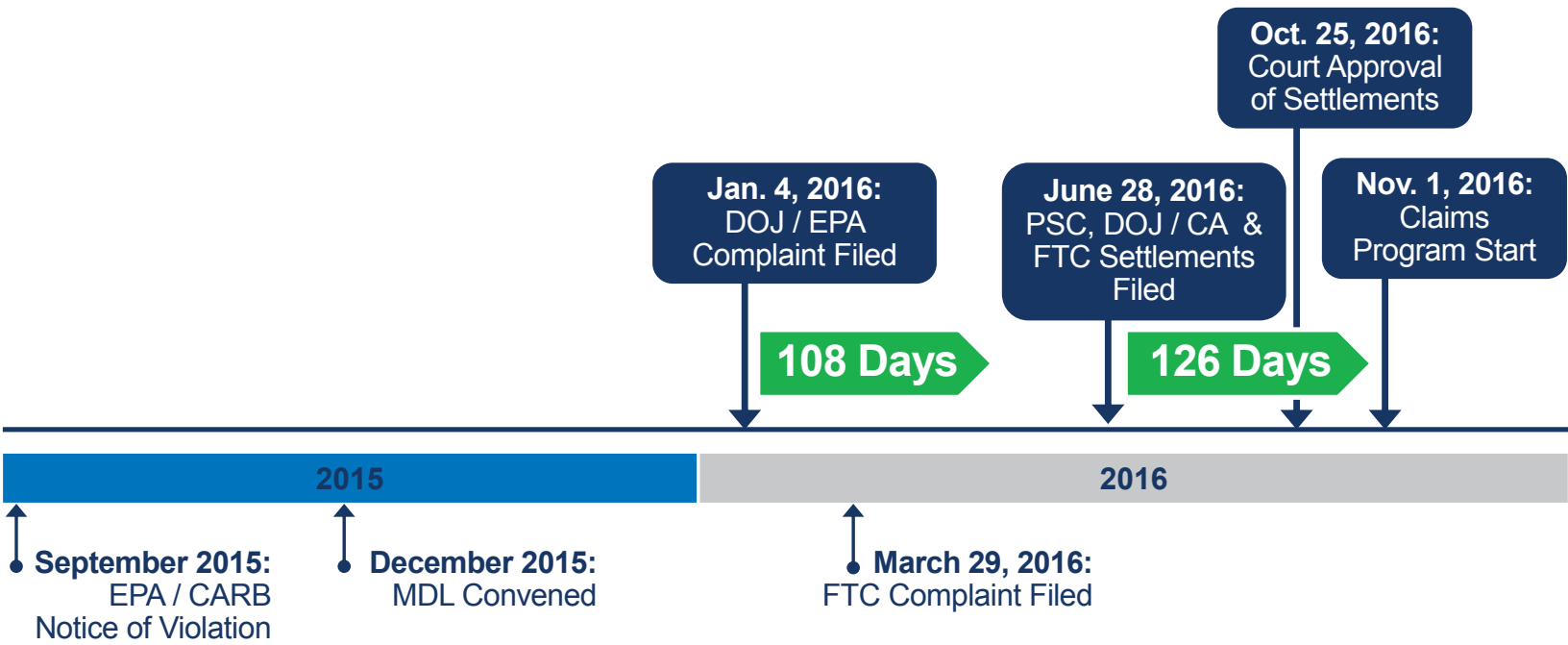
## 2.0L Claims Program Update as of June 15, 2017

- Former Lessee
- Eligible Seller
- Gen. 2 AEM
- Gen. 3 Phase 1 AEM
- Early Lease Termination ("ELT")
- Buyback



# **Exhibit 2**

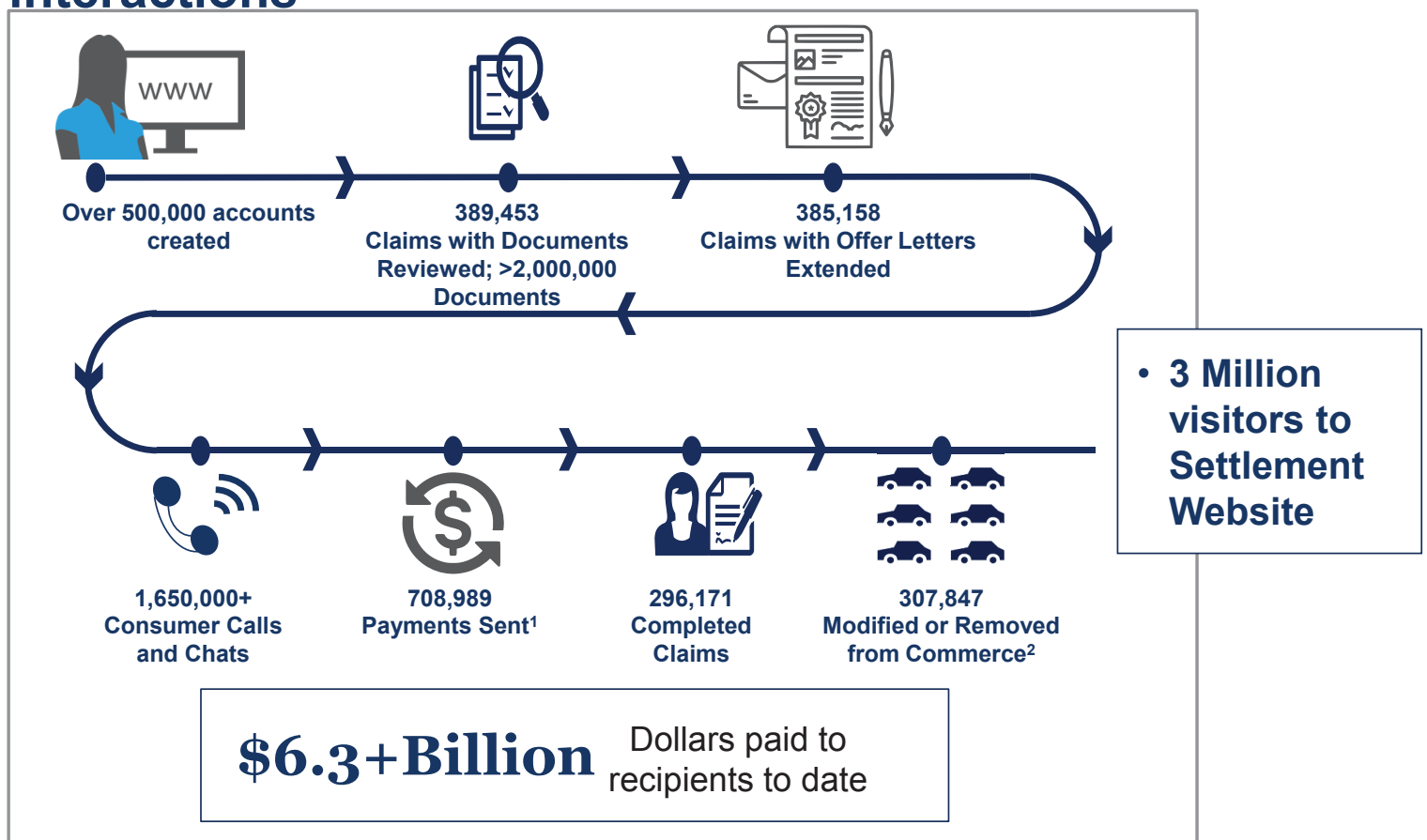
## There were only 126 days between filing and 2.0-Liter Claims Program start





# **Exhibit 3**

## 2.0-Liter Claims Program required millions of consumer interactions



<sup>1</sup> 316,764 checks and 392,225 EFTs - includes checks for payment of title transfer, and all replacements for voided payments

<sup>2</sup> Inclusive of Phase 1 Gen 3 AEM; SOURCE: Volkswagen TDI reports; data through June 15, 2017