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United States District Court  
Northern District of California

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

IN RE: VOLKSWAGEN “CLEAN DIESEL”  
MARKETING, SALES PRACTICES, AND  
PRODUCTS LIABILITY LITIGATION

MDL No. 2672 CRB (JSC)

**PRETRIAL ORDER NO. 24: OPT-OUT  
PLAINTIFF FACT SHEETS**

\_\_\_\_\_ /  
This Order Relates To:

Remaining Consumer Actions  
\_\_\_\_\_ /

**I. SCOPE OF ORDER**

This Order applies to:

- Defendants Volkswagen AG (“VW AG”), Volkswagen Group of America, Inc. (“VWGoA”), Audi AG, and Audi of America, LLC (“AoA”) (together the “Volkswagen Defendants”); and
- Plaintiffs who (a) opted out of the Volkswagen 2.0-liter or Volkswagen 3.0-liter class action settlements in this MDL, and (b) have not since settled with, or otherwise released their claims against the Volkswagen Defendants.

For avoidance of doubt, this Order does not apply to persons who only fall within the putative class definition in *Nemet*, No. 17-cv-4372-CRB, or within the class definition in the Audi CO<sub>2</sub> putative class action (*see* MDL Dkt. No. 4043). This Order also does not apply to Defendants Porsche AG, Porsche Cars North America, Inc. (“PCNA”), Robert Bosch GmbH (“Bosch GmbH”), or Robert Bosch LLC (“Bosch LLC”), or to any plaintiff who only asserts claims against Porsche AG, PCNA, Bosch GmbH, or Bosch LLC.

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**II. PLAINTIFF FACT SHEETS AND SUPPORTING DOCUMENTS**

A. Fact Sheets

Each Plaintiff bound by this Order shall serve upon the Volkswagen Defendants’ counsel a complete and signed Plaintiff Fact Sheet (“PFS”) in the form set forth in Attachment A. Each PFS shall be mailed or emailed to the Volkswagen Defendants’ counsel at the following address:

William B. Monahan, Esq.  
Attn: Volkswagen MDL, PFS  
SULLIVAN & CROMWELL LLP  
125 Broad Street  
New York, NY 10004  
monahanw@sullcrom.com

B. Supporting Documents

Each Plaintiff bound by this Order shall also provide the Volkswagen Defendants’ counsel with all documents that support the statements he or she makes in the PFS, with the exception that Plaintiffs need not produce documents that only support basic personal facts (e.g., birth certificates, marriage licenses, social security cards).

C. Answers Binding

All responses in the PFS are binding as if they were contained in responses to interrogatories. Each PFS shall be signed and dated by the Plaintiff or the proper Plaintiff representative under penalty of perjury.

D. Schedule for Serving Plaintiff Fact Sheets and Supporting Documents

Each Plaintiff bound by this Order shall have until **Thursday, August 15, 2019** to serve upon the Volkswagen Defendants’ counsel a complete and signed PFS and all supporting documents.

E. Notice that Claims May Be Dismissed

Any Plaintiff who fails to comply with any obligations imposed by this Order within the time period set forth may be subject to having his or her claims dismissed if good cause for such dismissal is shown. Any dismissal may be with or without prejudice as the Court may determine in an individual case.

United States District Court  
Northern District of California

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**III. BELLWETHER CASES**

No later than **Friday, September 6, 2019**, Plaintiffs’ counsel and the Volkswagen Defendants’ counsel shall identify the specific cases that they recommend setting for bellwether trials, any recommended groupings of plaintiffs for trial, and the number of hours of trial time that they anticipate. A joint submission is preferred.

**IV. CASE MANAGEMENT CONFERENCE**

The Court will hold a further case management conference on **Friday, September 13, 2019**. After reviewing the September 6 submission, the Court will decide whether it will permit certain Plaintiffs’ counsel to appear by CourtCall at the September 13 case management conference.

**IT IS SO ORDERED.**

Dated: May 14, 2019



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CHARLES R. BREYER  
United States District Judge

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

IN RE: VOLKSWAGEN 'CLEAN DIESEL'  
MARKETING, SALES PRACTICES, AND  
PRODUCTS LIABILITY LITIGATION

MDL 2672 CRB (JSC)

This Document Relates to:

REMAINING CONSUMER ACTIONS

**CONSUMER PLAINTIFF FACT SHEET**

**Prefatory Statement**

The following questions are to be treated as interrogatories pursuant to Federal Rule of Civil Procedure 33. Plaintiff's responses are governed by the confidentiality protections set forth in Pretrial Order No. 12: Stipulated Protective Order [Dkt. No. 1255]. Pursuant to Pretrial Order No. 9 [Dkt. No. 1252], all objections to the admissibility of information contained in or provided with the Plaintiff Fact Sheet ("PFS") are reserved and, therefore, no objections need be lodged in response to the questions and requests contained in the PFS.

The following responses are given without prejudice to Plaintiff's right to produce evidence of any subsequently remembered or discovered facts.

**Definitions**

A. "Subject Vehicle" is defined as the vehicle that serves as the basis for Plaintiff's claims in this lawsuit. If Plaintiff's claims involve more than one Subject Vehicle, Plaintiff should address each Subject Vehicle in the responses to questions pertaining to a Subject Vehicle.

**I. FILER INFORMATION**

1. Are you completing this Fact Sheet in a representative capacity (*e.g.*, on behalf of the estate of a deceased person, or an incapacitated individual, or a minor claiming the damages or injury on which this lawsuit is based)?

Yes  No

a. If yes, continue to question no. 2. If no, continue to question no. 8.

2. Your Name: \_\_\_\_\_
3. Date of Birth: \_\_\_\_\_
4. Address: \_\_\_\_\_
5. Male  Female
6. What is your relationship to the represented individual? \_\_\_\_\_
7. Were you appointed by the court?  
Yes  No

**If you are completing this Fact Sheet in a representative capacity, please respond to the remaining questions with respect to the person who you are representing. If the individual is deceased, please respond as of the time immediately prior to his or her death unless a different time period is specified. For the remaining questions of the Fact Sheet, “you” or “your” means the person who is claiming damage or injury in this matter.**

## II. PERSONAL INFORMATION

8. Your Name: \_\_\_\_\_
9. Your Case Name: \_\_\_\_\_
10. Your Northern District of California Case Number: \_\_\_\_\_
11. Male  Female
12. Your maiden or other names used or by which you have been known during the last ten (10) years and the dates during which you were known by such names.  
\_\_\_\_\_  
\_\_\_\_\_
13. List the address at which you have resided during the last ten (10) years and the time period in which you resided at each location, beginning with your current address:  
Current Address: \_\_\_\_\_  
Dates: \_\_\_\_\_  
Previous Address #1: \_\_\_\_\_  
Dates: \_\_\_\_\_  
Previous Address #2: \_\_\_\_\_

Dates: \_\_\_\_\_

Previous Address #3: \_\_\_\_\_

Dates: \_\_\_\_\_

14. Last Four Digits of Your Social Security Number: \_\_\_\_\_

15. Driver's License:

a. Number: \_\_\_\_\_

b. State of Issuance: \_\_\_\_\_

c. Date of First Issuance: \_\_\_\_\_

16. Marital Status: Are you currently married?

Yes  No

a. If yes, please list your spouse's name and state how long you have been married:

\_\_\_\_\_

17. Educational Background: List any schools or training you received beyond high school, the dates of attendance, your major or the type of training you received, and the degree or certificate received, and the date each was obtained. If you are a minor, list all grade schools attended and the highest grade level reached.

Name of School/Training	Dates Attended	Major/Degree/Certificate	Date Obtained

18. Military Service: Have you ever served in any branch of the military?

Yes  No

a. If yes, please provide the branch and dates of service, and indicate whether you were honorably discharged. \_\_\_\_\_

19. Employment History: Are you currently employed?

Yes  No

a. If yes, identify your current employer and position.

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### III. PREVIOUS LEGAL MATTERS

20. Have you been convicted of a felony within the last ten (10) years?

Yes  No

21. If yes, please identify the charge for which you were convicted, the court where you were convicted, the criminal action number assigned to the case, and the sentence imposed.

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22. Have you ever been a named plaintiff in a class action lawsuit other than in this case?

Yes  No

If yes, identify the Court, the case name, and the names of adverse parties, and the civil action number if filed. \_\_\_\_\_

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23. Outside of Volkswagen's, Audi's, and Porsche's "Goodwill" Program, have you been compensated in any way, either in whole or in part, either in money or in-kind, for the damages you have alleged in this matter:

Yes  No

a. If yes, identify the type of compensation, amount of compensation, source of compensation, and date of compensation for any and all that you received.

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24. Other than this case, have you been involved with any other non-personal injury claims or cases concerning the Subject Vehicle?

Yes  No

- a. If yes, identify the other persons or entities against whom the non-personal injury claims were made or the lawsuits were filed, the date of the claims or lawsuits, where the claims or lawsuits were filed, and the status of the claims or lawsuits.

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- 25. Identify every person and/or entity with a financial interest in the claims asserted in this lawsuit, including but not limited to lien holders or co-owners of the Subject Vehicle. (Please exclude reference to other purported class actions involving these matters.)

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**IV. VEHICLE INFORMATION**

- 26. Provide the Make, Model, and Model Year for the Subject Vehicle:

**MAKE:** \_\_\_\_\_ **MODEL:** \_\_\_\_\_ **YEAR:** \_\_\_\_\_

- 27. Provide the Vehicle Identification Number (VIN) for the Subject Vehicle:

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- 28. Provide the current license plate number and state of registration for the Subject Vehicle:

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- 29. Identify the registered owner(s) of the Subject Vehicle: \_\_\_\_\_

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- 30. Identify the last three (3) vehicles that you purchased or leased before you purchased or leased the Subject Vehicle. For each vehicle identified, please provide the make, model, year, seller or lessor, and the date of purchase or lease, and state whether the vehicle was new or used when you purchased or leased it.

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31. Do you currently own or lease any vehicles aside from the Subject Vehicle?

Yes  No

a. If yes, identify the make, model, year, seller or lessor, and approximately date of purchase or lease, and state whether the vehicle was new or used when you purchased or leased it.

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32. When did you acquire the Subject Vehicle? \_\_\_\_\_

33. Did you purchase or lease the Subject Vehicle? Purchase  Lease

34. Identify the name and location of the seller or lessor of the Subject Vehicle:

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35. Was the Subject Vehicle new or used when you acquired it? New  Used

a. If used, list the owners of the Subject Vehicle that you are aware of other than yourself (name and address if known), beginning with the first purchaser and ending with the current owner(s), including co-buyers; and the date on which each one acquired the Subject Vehicle.

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36. If the Subject Vehicle was used when you acquired it, please state the mileage of the Subject Vehicle when you acquired it: \_\_\_\_\_

37. If the Subject Vehicle was used when you acquired it, please identify any repairs or modifications to the Subject Vehicle that you are aware of, which were made prior to your acquisition of the Subject Vehicle. \_\_\_\_\_

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38. If you purchased the Subject Vehicle, what was the base purchase price of the vehicle, excluding taxes, registration, and other related purchase costs? \_\_\_\_\_
39. If you leased the Subject Vehicle, what were the terms of payment for your lease, excluding taxes, registration, and other related lease costs? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
40. If you leased the Subject Vehicle, when does the lease expire? \_\_\_\_\_
41. What is the total amount of additional expenses you incurred at the time you acquired the Subject Vehicle (e.g., taxes, registration costs, warranty costs, etc.)? Also provide an item-by-item breakdown of such expenses.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
42. Did you finance the purchase or lease of the Subject Vehicle? Yes  No
43. If you financed the Subject Vehicle, identify any current or prior lien holders on the vehicle: \_\_\_\_\_
44. Do you still possess the Subject Vehicle? Yes  No
45. If you no longer possess the Subject Vehicle, describe the transaction in which you sold, traded-in, or otherwise relinquished it, including the state and location, price (if applicable), and the name and location of any person or business to which you sold, traded-in, or otherwise relinquished the vehicle.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
46. If you still possess the Subject Vehicle, state where the Subject Vehicle is currently located, the date on which the Subject Vehicle was last driven, and the current mileage on the Subject Vehicle.
- a. Location of Subject Vehicle: \_\_\_\_\_
- b. Date Subject Vehicle Last Driven: \_\_\_\_\_
- c. Current Mileage of Subject Vehicle: \_\_\_\_\_

47. Was the Subject Vehicle used for any business or work purposes?

Yes  No

a. If yes, please describe how the Subject Vehicle was used for business or work purposes. For example, how was the vehicle used for these purposes, by whom, and how frequently?

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b. If yes, have you or others in your household claimed reimbursements or other tax benefits for the business or work use of the Subject Vehicle?

Yes  No

48. Identify any tax credit or deduction that you or someone in your household has claimed in connection with your purchase and/or use of the Subject Vehicle, and the amount of any such credit or deduction that was received.

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49. Aside from taxes paid at the time of purchase, identify any other taxes that you paid based on the value of your Subject Vehicle.

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50. Identify all documents you are aware of related to testing of the emissions of the Subject Vehicle, including any emissions inspections or certificates issued in accordance with a state vehicle emissions inspection program.

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51. Describe how the Subject Vehicle is or was used, including who drove it (owner, children, spouse, etc.), approximately how far it was driven daily, and on what types of roads it was driven (interstates, surface roads, both, etc.).

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52. Did you receive a written warranty with the Subject Vehicle?

Yes  No

a. If yes, please list the warranty(ies).

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53. At the time you purchased the Subject Vehicle or at any time thereafter, did you purchase an optional extended warranty or vehicle service agreement for the Subject Vehicle?

Yes  No

a. If yes, identify the warranty provider and provide details about the cost.

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54. Identify all carriers that have received or paid out insurance claims related to the Subject Vehicle. For each carrier, state the carrier's name, the policy number under which the claim was received or paid out, and the name of the policy holder.

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**V. RESEARCH ON SUBJECT VEHICLE BEFORE ACQUISITION**

55. Did you research the Subject Vehicle before purchasing or leasing the vehicle?

Yes  No

a. If yes, describe the efforts to research the Subject Vehicle that you recall, including what sources you consulted and what you learned from such sources concerning (i) emissions, (ii) fuel efficiency, (iii) performance or durability, and (iv) resale value.

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56. Identify any dealers, sales representatives, or other persons with whom you discussed the Subject Vehicle and describe the representations made about the Subject Vehicle by such person(s) that you recall.

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57. Identify any print advertisements for the Subject Vehicle that you recall viewing prior to acquisition.

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58. Identify any online, mobile, or other electronic advertisements or commercials (*e.g.* online videos, website banners, etc.) for the Subject Vehicle that you recall viewing prior to acquisition.

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59. Identify any television, radio, or podcast advertisements or commercials for the Subject Vehicle that you recall viewing or hearing prior to acquisition.

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60. Identify any hard copy or electronic promotional materials you recall receiving about the Subject Vehicle prior to acquisition.

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61. Identify any hard copy or electronic brochures for the Subject Vehicle that you recall reviewing prior to acquisition.

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62. Identify any billboards, banners, or other signage about the Subject Vehicle that you recall viewing prior to acquisition.

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63. Identify any documents, advertisements, memoranda, reviews, or other materials that you recall reviewing about the Subject Vehicle prior to acquisition.

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## VI. MAINTENANCE HISTORY

64. To your knowledge, has the Subject Vehicle's exhaust system, or any components thereof, ever been repaired or replaced outside of an official recall performed by a Volkswagen, Audi, or Porsche authorized dealer?

Yes  No

- a. If yes, to the extent known, please identify what modifications and/or alterations were made or accessories added, by whom, on what date and the reason for such modifications, alterations, and/or accessory components.

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65. Have you obtained the EPA- and CARB-approved emissions modification available for the Subject Vehicle?

Yes  No

- a. If yes, please identify when and where you obtained the emissions modification.

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66. Have you ever acquired any part, component, or software the effect of which is to modify in any way the emissions or engine control software, systems, devices, or elements of design on your Subject Vehicle?

Yes  No

- a. If yes, please (1) identify the part, component, or software, when and where you acquired it, and the price paid for it, (2) explain your reason for acquiring it, and (3) state whether and, if so, when it was installed on or applied to your Subject Vehicle.

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## VII. DAMAGES

67. Identify all losses or out of pocket expenses that you incurred after learning that the Subject Vehicle was equipped with an emissions defeat device (e.g., expenses for repairs, alternative transportation, towing, etc.).

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68. Did you change your driving habits with respect to the Subject Vehicle at any time because of the facts and circumstances alleged in this lawsuit?

Yes  No

- a. If yes, please describe such a change in driving habits, including any period of time in which you stopped driving the Subject Vehicle: \_\_\_\_\_

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b. If you used alternative transportation because of the facts and circumstances alleged in this lawsuit, describe what alternative transportation you used and the cost of such alternative transportation, if any: \_\_\_\_\_

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69. Have you attempted to sell, trade in, or otherwise dispose of the Subject Vehicle after September 18, 2015?

Yes  No

70. If you attempted to sell, trade in, or otherwise relinquish the Subject Vehicle, please identify:

a. If applicable, the efforts you undertook to sell or otherwise relinquish the Subject Vehicle, including all online, mobile, print, or other advertising:

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b. If applicable, any offers made on the Subject Vehicle, including the date, amount, and party making the offer:

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c. If applicable, any dealership you communicated with about a trade-in, and the trade-in value offered by any dealership.

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d. If applicable, the date of sale or trade-in, how it was sold or traded in, any counter-party to the sale or trade-in, any money or other consideration received in exchange for the Subject Vehicle, the mileage on the date of sale or disposal, and the condition of the vehicle at the time of sale or disposal:



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71. Do you claim that the Subject Vehicle's value has been diminished?

Yes  No

a. If yes, describe the basis for that claim.

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72. If you attempted to sell the Subject Vehicle on or after September 18, 2015, did any potential buyers rescind their offer?

Yes  No

a. If yes, describe the basis for that rescindment:

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73. If you have sold the Subject Vehicle, do you claim a loss upon the resale of the vehicle?

Yes  No

a. If yes, describe the basis for that loss upon resale:

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74. If you leased your Subject Vehicle, did you terminate your lease early?

Yes  No

a. If yes, what amount did you pay to terminate the lease? \_\_\_\_\_

75. Other than your counsel, the parties to this litigation, and individuals previously identified, please identify any individuals you are aware of who possess knowledge of the facts and circumstances regarding your Subject Vehicle that you have included in this fact sheet. Please identify the name, address (if known), and relationship of any such person to you, if applicable, and provide a brief description of such person's knowledge.

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76. If you sold the Subject Vehicle or terminated your lease on the Subject Vehicle on or after September 18, 2015, please state why:

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**VIII. OTHER COMMUNICATIONS**

77. Identify any communications, presentations and/or submissions that you are aware of that have been made by you, or on your behalf by your counsel (to the extent not privileged), to any state or federal government official or representative, or any state or federal regulatory body (*e.g.* EPA) or any departments, divisions, staff members or technical experts or personnel of any state or federal government or regulatory body regarding the Subject Vehicle or any Class Vehicles and involving the issue of emissions and/or your claims. Please include the date of the communication, presentation and/or submission, the form in which it was made, to whom it was made, and whether you received a response and if so, from whom.

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78. Have you or someone on your behalf blogged, uploaded or posted any information or videos regarding the Subject Vehicle, the allegations made in this matter, and/or your injuries and damages to web pages, social networking sites, blog sites or the Internet?

Yes  No

a. If yes, please identify the blog, web page, internet site or social networking site, when the posting or uploading or blogging was done, and your service provider.

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**DECLARATION**

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that all the information provided in this Fact Sheet is true and correct to the best of my knowledge, information and belief formed after a reasonable inquiry.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

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