



Grant & Eisenhofer Files Suit on Behalf of New Mexico against Volkswagen, Audi, and Porsche for Defying Clean Air and Consumer Laws with Diesel Emissions-Cheating Software

Lawsuit on behalf of New Mexico Attorney General Hector Balderas asserts years-long abuses of New Mexico air quality laws and deceptive trade practice statutes; seeks jury trial and punitive damages for VW's deception over diesel vehicles sold in New Mexico rigged to fool emissions control devices; New Mexico suit comes as U.S. Justice Dept. pursues civil and criminal probes of Volkswagen

SANTA FE, NM (Jan. 20, 2016) – New Mexico’s Attorney General, **Hector Balderas**, and leading consumer advocacy firm **Grant & Eisenhofer** have filed suit on behalf of the State of New Mexico against **Volkswagen, Porsche, Audi**, and their U.S. subsidiaries for state air quality control act and deceptive trade practice act violations.

The New Mexico suit stems from Volkswagen, Audi, and Porsche’s admitted use of emissions-cheating software in diesel-powered vehicles delivered and sold throughout New Mexico, as well as from those companies’ false advertisement portraying those diesel vehicles as being clean-running and eco-friendly.

The lawsuit, filed today in First Judicial District Court in Santa Fe, seeks a jury trial as well as damages to be determined by the court. Named plaintiffs are the State of New Mexico by AG Balderas; defendants are the American and German owners of the **Audi, Porsche**, and **Volkswagen** businesses.

Specific claims include violations of New Mexico’s Air Quality Control Act, Unfair Practices Act, and public nuisance going back to at least 2008, when the diesels were first introduced in New Mexico.

Nationwide, up to 600,000 Volkswagen, Audi, and Porsche diesel vehicles were sold with so-called “defeat-device” software designed to fool motor vehicle emissions tests into calibrating approved levels of greenhouse gas exhaust while the cars were operating. A just-announced U.S. Justice Dept. lawsuit could lead to penalties of more than \$45 billion against Volkswagen for the deception. The federal government is exploring both civil and criminal actions against Volkswagen.

The New Mexico complaint cites the carmakers’ “willful and deliberate violations of New Mexico environmental and consumer protection statutes” during an approximately seven-year charade in which Volkswagen-made vehicles were touted as being “clean diesels” and as eco-friendly tools in the fight against pollution from motor vehicle emissions.

In fact, the diesel versions of 16 different VW, Audi, and Porsche models marketed and sold in New Mexico were equipped with sophisticated software designed to reduce harmful emissions only when the vehicle was hooked up to testing apparatus. The rest of the time, the Volkswagen-made diesel cars and SUVs emitted illegal amounts of dangerous nitrogen oxides (NOx), which are known contributors to smog and global warming and which are particularly hazardous to children, the elderly, and people with respiratory illnesses.

According to the complaint, Volkswagen was equally shameless in its marketing of these cars for setting new standards in environmental conservation.

One of the cheating vehicles, the VW Jetta, was named 2009 “Green Car of the Year” by *Green Car Journal*, an honor later withdrawn after revelation of the scandal. As the complaint describes, Volkswagen began marketing it as the “Official Pace Car of the Environment” – all the while knowing that its sterling low-emissions performance was based on lies and that the Jetta was in fact a noxious, regulation-defying imposter on U.S. roads.

According to the complaint, Volkswagen branded itself “the first automaker to make clean diesel cars certified in all 50 states.” In New Mexico and across the country VW spent tens of millions of dollars promoting its rigged diesel cars as green and environmentally responsible, deceiving and misleading car buyers who believed they were making environmentally conscious driving purchase decisions.

Tellingly, the carmaker maintained the defeat-device software in vehicles made for the U.S. market even though technology had always been available to reduce NOx emissions by honest means.

Adam Levitt, who leads Grant & Eisenhofer’s Consumer Protection and Products Liability Litigation Group, said, “It is obvious that these Volkswagen-made vehicles were a Trojan horse into the American car market. The company cast its lot with diesel, then, by its own admission, could not come up with technology to meet U.S. emissions standards, so it decided to cheat. Volkswagen’s aggressive sales and marketing campaign for diesel vehicles in the U.S. was a house of cards built on a mirage. In New Mexico, up to 10,000 vehicles were purchased from Audi, Porsche, and VW based on false and misleading pretenses.”

He continued, “We will ask the court to fairly assess the damage this caused to the New Mexico environment and to the public health, and to quantify the effect of Volkswagen’s brazen deceptions and rampant misconduct. The companies’ actions embody the very definitions of consumer fraud, false advertising, and public nuisance under New Mexico statutory and common law, and we will seek compensatory, statutory, and punitive damages for the State of New Mexico.”

Attorney General **Hector Balderas** stated, “It’s not lawful to profiteer and breach the trust of New Mexico consumers, and Volkswagen, Audi and Porsche will be held accountable for their deceptions. Our Fraud Recovery Strike Force will work with outside counsel to ensure maximum financial return for New Mexico taxpayers and consumers for the unacceptable behavior by one of the world’s largest automakers. Volkswagen has preyed upon hard working New Mexicans who want to protect the environment or save money with fuel efficiency.”

Grant & Eisenhofer is working on the case with local counsel **Marcus J. Rael, Jr.**, Managing Partner of Albuquerque, NM-based law firm **Robles, Rael, & Anaya P.C.**

Grant & Eisenhofer is one of the nation’s leading high-impact litigation firms, whose Consumer Protection and Products Liability Litigation Group represents plaintiffs in notable automotive product liability litigation as well as in matters ranging from deceptive advertising claims to food contamination.

In addition to the Volkswagen case, G&E represents car owners across the United States in the widely reported class action brought in 2014 against General Motors. That suit alleges that the automaker knew for years that its defective key system – which could shut down without warning and turn off the car’s engine and safety features, including air bags – posed risk of injury or even death, but failed to take proper steps to take corrective action.

G&E is also litigating a class action lawsuit brought in 2013 against Ford Motor Company on behalf of drivers who experienced sudden acceleration of their vehicles. Also in 2013, Mr. Levitt and G&E secured a class action settlement worth \$45 million for more than 40,000 car owners in products liability litigation against Porsche involving the automaker’s installation of plastic coolant tubes in 2003-2006 Porsche Cayenne vehicles.

The case caption for the action is: *State of New Mexico, ex rel. Hector Balderas, Attorney General v. Volkswagen Group of America, Inc.* It was filed Jan. 19, 2016 in the First Judicial District Court, County of Santa Fe, NM.

###