

1 **KRISTIN K. MAYES**
2 **ATTORNEY GENERAL**
3 (Firm State Bar No. 14000)
4 Alyse Meislik (024052)
5 Kristin M. Wrobel (031147)
6 Alexandria L. Gordon (038644)
7 Assistant Attorneys General
8 Office of the Attorney General
9 2005 North Central Avenue
10 Phoenix, AZ 85004-1592
11 Telephone: (602) 542-3725
12 Facsimile: (602) 542-4377
13 Email: consumer@azag.gov
14 (Additional Counsel Listed on Signature Page)
15 *Attorneys for Plaintiff, State of Arizona*

11 **THE SUPERIOR COURT OF THE STATE OF ARIZONA**
12 **IN AND FOR THE COUNTY OF MARICOPA**

13 STATE OF ARIZONA, *EX REL.* KRIS
14 MAYES, ATTORNEY GENERAL

15 Plaintiff,

16 VS.

17 FCA US LLC and CUMMINS, INC.

18 Defendants.

Case No.

**COMPLAINT FOR INJUNCTIVE AND
OTHER RELIEF**

19
20 Plaintiff, the State of Arizona *ex rel.* Kris Mayes, Attorney General (the “State”), for its
21 Complaint against Defendants FCA US LLC (“FCA”) and Cummins, Inc. (“Cummins,” and with
22 FCA, “Defendants”), alleges as follows.

23 **INTRODUCTION**

24 1. The State brings this consumer protection enforcement action against Defendants
25 for their violations of the Arizona Consumer Fraud Act, Arizona Revised Statutes (“A.R.S.”)
26 §§ 44-1521 through -1534 (“ACFA”), in connection with the marketing, advertisement, and sale
27 of model year 2013 through 2019 RAM 2500 and 3500 trucks equipped with 6.7-liter diesel
28 engines manufactured by Cummins that included undisclosed, illegal emissions “defeat devices”

1 (the “Affected Vehicles”). On information and belief, thousands of Affected Vehicles have been
2 sold in Arizona.

3 2. On December 21, 2023, United States Attorney General Merrick Garland
4 announced that the United States Department of Justice (“US DOJ”) reached an agreement with
5 Cummins to settle claims for Cummins’s violations of the Clean Air Act arising out of an
6 investigation by the United States Environmental Protection Agency (“EPA”) and other
7 regulators into the use of defeat devices in the Affected Vehicles. As part of that agreement,
8 Cummins will pay \$1.675 billion in civil penalties—the largest penalty in a Clean Air Act case
9 to date.

10 3. Per the consent order entered into by Cummins with the US DOJ (the “Consent
11 Order”), through the use of illegal, secret defeat devices, during normal operations, the Affected
12 Vehicles emitted “increased levels of oxides of nitrogen (‘NOx’).” The US DOJ estimates that
13 the use of defeat devices in the Affected Vehicles caused those engines to “produce thousands of
14 tons of excess emissions of nitrogen oxides.” The health consequences of excess NOx emissions
15 are well established. NOx pollution contributes to smog formation, which is linked to a number
16 of respiratory- and cardiovascular-related health effects and death.

17 4. Defeat devices, including the ones installed in the Affected Vehicles, are Auxiliary
18 Emission Control Devices (“AECD(s)”) that detect when vehicles or engines are undergoing
19 testing for EPA certification—a vehicle’s or engine’s emission control features are fully engaged
20 during testing, but effectiveness is reduced under conditions that may reasonably be expected to
21 be encountered in normal operation and use, maximizing power and performance, without the
22 burden of ensuring emissions compliance.

23 5. Defeat devices are illegal, and vehicles that have defeat devices installed are not
24 eligible to receive the Certificates of Conformity (“COC(s)”) required for any vehicles to be
25 legally sold in the United States.

26 6. Cars and trucks equipped with diesel engines, while typically more expensive than
27 comparable gasoline-engine vehicles, offer attractive features to consumers. Diesel engines are
28 more efficient than gas engines—each gallon of diesel fuel produces more energy than each gallon

1 of traditional gasoline, allowing vehicles with diesel engines to achieve higher gas mileage than
2 vehicles using traditional gasoline. Further, diesel engines are more powerful than gasoline
3 engines. For example, according to *Car & Driver*, “you would need an 8-liter gas engine to access
4 the same amount of power as with a 6-liter diesel engine.” Nonetheless, diesel engines have
5 substantial downsides. In addition to being more expensive, diesel fuel engines are more harmful
6 to the environment than gasoline engines in that, among other things, they emit substantially
7 more particulate matter and NOx than gasoline engines. Controlling diesel engine emissions
8 requires tradeoffs—power and performance are often sacrificed to ensure compliance with
9 emissions regulations. Bad actors, such as Defendants, utilize illegal defeat devices to allow their
10 diesel vehicles to pass EPA emissions testing and receive COCs, but suppress the emissions
11 control systems during normal operations.

12 7. A key selling point Defendants used to sell the Affected Vehicles to Arizona
13 consumers is that they offered a more efficient and more powerful engine purportedly without
14 adverse environmental consequences. FCA advertised the Affected Vehicles as “clean” or “super
15 clean” and eco-friendly, and Cummins falsely promoted their engines as employing “clean
16 diesel” technology. These advertisements were false.

17 8. Similarly, the Affected Vehicles were deceptively and misleadingly promoted on
18 the basis of their purported compliance with EPA emissions requirements. In reality, because of
19 the inclusion of illegal defeat devices, the Affected Vehicles were neither “clean” nor eco-
20 friendly and do not, without repair, comply with EPA emissions requirements.

21 9. Defendants’ false advertisements and material omissions allowed them to collect a
22 substantial premium for the Affected Vehicles—trucks equipped with Cummins diesel engines
23 were sold at \$9,000+ to \$12,000+ premiums when compared with identical vehicles equipped
24 with gasoline engines.

25 10. As the engine designer and manufacturer, Cummins knew that its diesel engines
26 installed in the Affected Vehicles included illegal emissions defeat devices and software that
27 allowed them to detect EPA testing conditions in order to pass emissions testing, but to emit
28 excess NOx and particulate matter during normal operating conditions. Cummins also knew

1 when applying for COCs to allow the Affected Vehicles to be sold in the United States, including
2 Arizona, that it did not disclose the presence of these illegal defeat devices and software.

3 11. As manufacturer and seller of the Affected Vehicles, FCA knew or should have
4 known about its use of illegal emissions defeat devices. FCA was well aware of its obligations
5 to ensure vehicles it sold and manufactured did not contain illegal defeat devices. Indeed, in 2019,
6 FCA was fined over \$300 million by the federal government for selling over 100,000 RAM 1500
7 and Jeep Grand Cherokee diesel vehicles equipped with Bosch-manufactured “EcoDiesel” 3.0-
8 liter engines with similar emissions defeat devices installed. In addition to civil liability, FCA
9 pleaded guilty to criminal conspiracy charges and was subject to a three-year period of probation.
10 FCA was required “to implement corporate governance, organizational and technical process
11 reforms to minimize the likelihood of future Clean Air Act violations, and to hire a compliance
12 auditor for three years to oversee and assess the effectiveness of these reforms.” Ultimately, as
13 the manufacturer of the Affected Vehicles, FCA bears responsibility for its vehicles’ conformity
14 with FCA’s representations and disclosures it uses to market to consumers.

15 12. Although the Consent Order required the Affected Vehicles to be recalled to
16 address their failures to comply with the Clean Air Act, neither Cummins nor FCA compensated
17 the Arizona consumers, purchasers, or lessees of the Affected Vehicles who were sold these
18 purportedly “super clean” eco-friendly Affected Vehicles, and who paid a premium over
19 comparable gasoline vehicles, but did not receive the advertised vehicles in return.

20 13. The State seeks all relief provided by law against each Defendant for the unlawful
21 conduct in violation of the ACFA, as described herein.

22 **JURISDICTION AND VENUE**

23 14. The State brings this action pursuant to the Arizona Consumer Fraud Act, A.R.S.
24 §§ 44-1521 to -1534, to obtain injunctive relief to permanently enjoin and prevent the unlawful
25 acts and practices alleged in this Complaint, and to obtain other relief, including restitution,
26 disgorgement of profits, gains, gross receipts, or other benefits, civil penalties, and costs and
27 attorneys’ fees.

28 15. This Court has subject matter jurisdiction.

1 28. By purposefully placing the Affected Vehicles in the State of Arizona, and
2 purposefully placing advertisements and statements across a variety of media throughout the
3 State, FCA purposefully availed itself through specific acts of the privilege of conducting
4 business within the State of Arizona.

5 29. FCA’s deceptive conduct alleged herein is directed at, and has the foreseeable and
6 intended effect of, harming consumers residing in, located in, or doing business in Arizona.

7 30. FCA purposefully availed itself of the privilege of doing business within this State
8 and derived substantial financial gain from doing so.

9 31. Defendant Cummins is incorporated in the State of Indiana with its headquarters
10 and principal place of business in Columbus, Indiana.

11 32. Cummins is registered to conduct business within the State of Arizona and
12 maintains an agent for service of process: Corporation Service Company, 8825 N 23rd Avenue,
13 Suite 100, Phoenix, Arizona 85021.

14 33. Cummins manufactures vehicle engines and other vehicle components and has
15 three separate sales and service locations within Arizona.

16 34. Throughout the relevant time period, Cummins sold diesel engines to FCA for use
17 in its RAM 2500 and 3500 trucks that Cummins knew and intended to be sold, delivered, and
18 marketed nationwide, including in the State of Arizona.

19 35. Cummins’s deceptive conduct alleged herein is directed at, and has the foreseeable
20 and intended effect of, harming consumers residing in, located in, or doing business in Arizona.

21 36. Transactions involving Affected Vehicles occurred in the State of Arizona and/or
22 involved Arizona residents.

23 37. Cummins purposefully availed itself of the privilege of doing business within this
24 State and derived substantial financial gain from doing so.

25 **FACTUAL ALLEGATIONS**

26 38. Cars and trucks equipped with diesel engines offer attractive features to consumers.
27 Diesel engines are more efficient than gas engines—each gallon of diesel fuel produces more
28 energy than each gallon of traditional gasoline, allowing vehicles with diesel engines to achieve

1 higher gas mileage than vehicles with traditional gasoline engines. Diesel engines also are more
2 powerful than gasoline engines, providing greater towing and load capacity—an important
3 feature to consumers purchasing pick-up trucks like the Affected Vehicles.

4 39. Diesel engines also have substantial downsides. The use of diesel fuel is more
5 harmful to the environment and human health than gasoline. Among other things, engines
6 utilizing diesel fuel emit substantially more particulate matter and NOx than gasoline engines.
7 Controlling these emissions requires tradeoffs—often requiring a sacrifice of power and
8 performance to ensure compliance with emissions regulations or increasing the cost of the
9 vehicles.

10 40. Because diesel engines are more harmful to the environment and human health, it
11 is more difficult for vehicle and engine manufacturers like Defendants to design and manufacture
12 vehicles that appropriately and legally control these emissions. Doing so requires substantial
13 investment in research and design and engineering improvements. FCA, Cummins, and other
14 vehicle and engine manufacturers, like Volkswagen, Audi, and Bosch, have attempted to produce
15 vehicles and engines that deliver the fuel efficiency, power, and torque of diesel technology
16 without the adverse environmental consequences in order to appeal to environmentally conscious
17 consumers and increase sales of their diesel-powered vehicles.

18 41. Unfortunately, ensuring that diesel-powered trucks and cars comply with emissions
19 regulations has proven both difficult and costly. Bad actors like Defendants and other diesel
20 vehicle and engine manufacturers, have turned to cheating emissions tests to obtain COCs and
21 put their diesel vehicles on the road. Defendants did so by installing illegal defeat devices in the
22 Affected Vehicles.

23 42. Emissions control defeat devices work in a variety of ways, but all detect and
24 distinguish when EPA emissions testing conditions are in place and when they are not. Where
25 emissions testing conditions are not detected by a defeat device-equipped system, *i.e.*, in real-
26 world operation, the defeat device suppresses, modifies, or otherwise controls the emissions
27 control system such that the pollution mitigating features are minimized or rendered inactive. But
28 where emissions testing conditions are detected, the emissions control system operates

1 effectively. Vehicle and engine manufacturers know the regulatory tests and parameters prior to
2 regulatory testing, and thus can program the vehicles' computers and software to allow them to
3 recognize those conditions and parameters to fully engage the AECM system in a vehicle to
4 ensure maximum emission mitigation.

5 43. FCA and Cummins installed and utilized such emissions control defeat devices in
6 hundreds of thousands of its RAM 2500 and 3500 series trucks (as defined above, the Affected
7 Vehicles) including, at least, model years 2013 to 2019.

8 44. The Affected Vehicles were falsely marketed and promoted as being powered by
9 "clean" and "super clean" diesel technology, delivering the kind of fuel efficiency, power, torque,
10 *and* environmental benefits that diesel vehicles traditionally cannot deliver.

11 **A. FCA's MOVE TO FOCUS ON DIESEL AND THE MARKET-WIDE**
12 **INABILITY TO COMPLY WITH EMISSIONS REGULATIONS**

13 45. In 2007, FCA, then operating, in relevant part, as Chrysler, announced what was
14 called an "aggressive" five-year plan to compete worldwide with the likes of diesel heavyweights
15 Volkswagen and BMW. The plan involved a substantial expansion of FCA's diesel business in
16 North America. At the time, FCA spokesperson Nick Cappa noted, "[d]emand is key," "[b]ottom
17 line, if customers want it, we'll build it, and immense consumer demand would obviously pave
18 the way. Customers may have to pay a slight premium for a diesel powertrain, which reduces
19 fuel costs by up to 30 percent. The market has proved willing to do so, and Chrysler is acting on
20 it." Although Cappa acknowledged passing emissions testing to be a problem, he noted, "New
21 diesel technology has evolved with the speed of electronics." "There are multiple systems on
22 today's diesel engine, which make instant decisions to maximize fuel economy, refinement and
23 performance. The image that diesel's created in the past is due for a makeover."

24 46. In 2007, FCA already began implementation of its diesel-focused plan with its
25 manufacture of RAM 1500 trucks and Jeep Grand Cherokees using Bosch-manufactured diesel
26 engines. At the same time, it started working with Cummins on development of a larger diesel
27 engine for FCA's heavier duty trucks, which launched that same year and would ultimately form
28 the partnership that resulted in the use of defeat devices in the Affected Vehicles.

1 47. While FCA was ratcheting up its diesel focus to compete with the likes of
2 Volkswagen and BMW, emissions standards worldwide became stricter. Many manufacturers
3 focused on electric or hybrid vehicle development. FCA and Cummins chose a different path—
4 one that would prove difficult. According to a news article summarizing a press conference with
5 FCA Chief Executive Officer Sergio Marchionne in 2012, in which he called the push to electric
6 vehicles a “money loser.” Marchionne reported that FCA was “struggling to develop a product
7 portfolio and technology solutions that [would] allow it to meet 2016 and 2025 corporate average
8 fuel economy targets.” At the same conference, he acknowledged “significant emissions
9 challenges,” but reiterated that FCA was still optimistic about the potential of diesel.

10 48. Volkswagen, BMW, and Audi saw the same market opportunity and increased
11 focus on the U.S. market for diesel-powered vehicles. All of these manufacturers, including FCA
12 and Cummins, invested in and promoted diesel as a more efficient, and, thus, more
13 environmentally friendly alternative to gasoline engines.

14 49. Ultimately, these manufacturers would confront the same problem. They could not
15 sell diesel vehicles with the advertised performance if they were forced to comply with emissions
16 regulations. Instead, each found ways to scheme and skirt environmental safety to maximize
17 profits and increase sales of their diesel vehicles through the use of defeat devices.

18 50. In 2015, Volkswagen, along with auto supplier Bosch, were at the center of the
19 scandal that became known as “Dieselgate.” Federal authorities announced that Volkswagen and
20 Bosch installed illegal defeat devices that intentionally caused their allegedly “clean diesel”
21 Volkswagen and Audi vehicles to activate emissions controls during emissions testing
22 procedures such that the vehicles’ NOx emissions satisfied EPA standards during testing, while
23 in real-world use, those same vehicles would emit significantly more NOx.

24 51. Approximately 500,000 Volkswagen and Audi vehicles sold in the United States
25 were affected, and Volkswagen agreed to pay billions of dollars in fines, civil penalties, damages,
26 and consumer restitution to various parties, including federal regulators, states, and individual
27 purchasers and lessees, and to plead guilty to criminal charges. Volkswagen’s then-CEO, along
28 with lower-level employees, also pleaded guilty to criminal charges in connection with the

1 scandal.

2 52. Bosch, which supplied certain software technology to Volkswagen, was also fined
3 and subject to civil penalties and damages claims from federal regulators, states, and consumers,
4 among others, and has paid over \$500 million to resolve its liability.

5 53. Moreover, this is not the first time that FCA has come under fire for its use of defeat
6 devices. In 2019, after a years-long investigation by the EPA and state regulators, FCA paid over
7 \$300 million in fines to the federal government for selling over 100,000 RAM 1500 and Jeep
8 Grand Cherokee diesel vehicles equipped with Bosch-manufactured “EcoDiesel” 3.0-liter
9 engines that had emissions defeat devices installed. In connection with a consent decree entered
10 related to that misconduct, FCA was required “to implement corporate governance,
11 organizational and technical process reforms to minimize the likelihood of future Clean Air Act
12 violations, and to hire a compliance auditor for three years to oversee and assess the effectiveness
13 of these reforms.” FCA and its engine manufacturer, Bosch, also settled claims by consumers
14 regarding their misrepresentations in selling these vehicles, at a settlement value of over \$300
15 million in addition to the penalties.

16 54. In addition to those civil settlements, FCA pleaded guilty to *criminal* conspiracy
17 charges in connection with its use of defeat devices in those vehicles, arising out of its false
18 representations on COCs that failed to disclose the use of illegal defeat devices, and was subject
19 to a three-year period of probation.

20 55. Today, FCA and Cummins have replicated the Volkswagen “dieselgate” scandal
21 on an even larger scale. Where Volkswagen’s emissions cheating affected approximately
22 500,000 vehicles in the United States, FCA’s cheating affects over 630,000 vehicles.

23 **B. THE DANGERS OF EXCESS DIESEL ENGINE EMISSIONS**

24 56. Federal emissions standards have been enacted to reduce harmful air pollutant
25 emissions, including the emission of NO_x, “which contributes to the production of ground-level
26 ozone (smog) and acid rain.”

27 57. NO_x pollution is associated with a range of serious health effects, including asthma
28 attacks, respiratory illnesses, and other respiratory-related or cardiovascular-related effects,

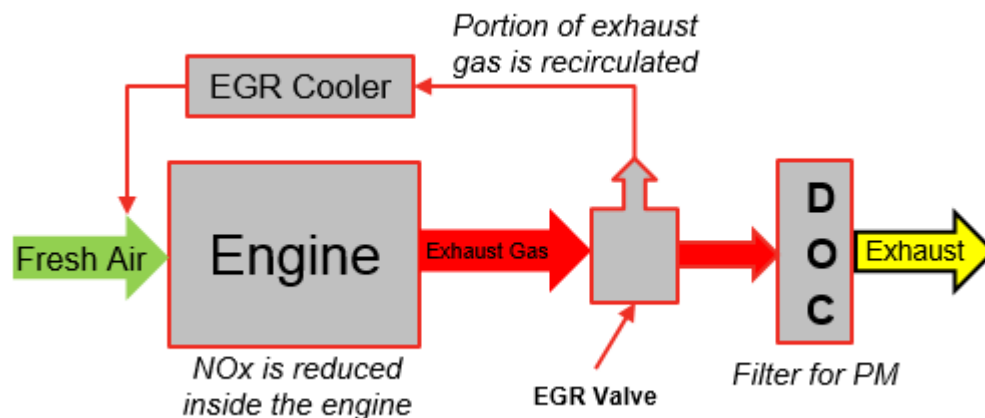
1 including damage to lung tissue and premature death.

2 58. NO_x pollution emitted from diesel engines is more challenging to mitigate
3 compared to typical gasoline engines. Moreover, diesel engines generate significantly more NO_x
4 than their gasoline counterparts.

5 C. HOW AECDs CONTROL EMISSIONS

6 60. Vehicle and engine manufacturers have options to reduce the emission profile of
7 their diesel vehicles and engines, including using AECDs—engine control systems or after-
8 treatment systems, or a combination thereof.

9 61. Engine control systems can take various forms. An engine control system using
10 Exhaust Gas Recirculation (“EGR”) reduces NO_x emissions by “recirculating a portion of the
11 exhaust gas to back to the engine cylinders depriving it of a certain amount of oxygen thereby
12 leading to a lower temperature burn,” and reducing NO_x emissions.

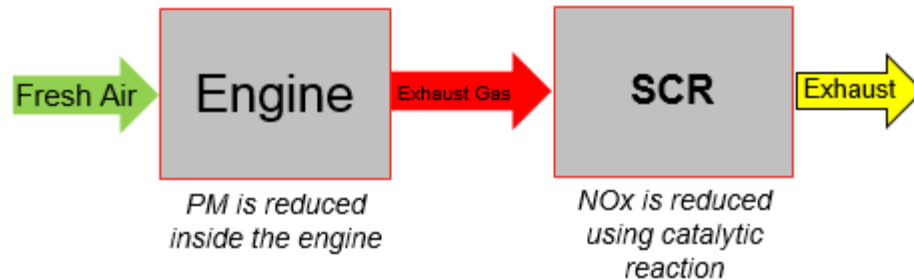


21 62. An engine control system using Selective Catalytic Reduction (“SCR”) removes
22 NO_x after it flows out of the engine.

23 Hot exhaust gases flow out of the engine and into the SCR system where aqueous
24 urea (known as Diesel Exhaust Fluid, or DEF) is sprayed onto a special catalyst.
25 The DEF sets off a chemical reaction in the exhaust on a special catalyst that
26 converts nitrogen oxides into nitrogen, water, and tiny amounts of carbon dioxide
27 (CO₂), natural components of the air we breathe. The exhaust also passes through a
28 particulate filter somewhere in the system and then is then expelled through the
vehicle tailpipe.

.....

What is a SCR System?



63. Vehicle and engine manufacturers also use electronic control modules (“ECM(s)”) to tell the emission control systems when to operate and how. According to Cummins, “the ECM is like a minicomputer located in the heart of an engine.”

64. The ECM can optimize performance or reduce emissions by adjusting “parameters like fuel consumption and ignition timing, thereby playing a pivotal role in enhancing engine efficiency, while reducing fuel usage.”

65. The ECM “software includes algorithms that process inputs (for example, engine speed or ambient temperature) to the ECM and send[s] messages to the components of the engine to perform certain actions depending on those inputs. The ECM software includes a large number of software variables that can be set by the manufacturer, and which define the thresholds or other values used in the software algorithms. Manufacturers calibrate these individual software variables to establish, among other things, the motor vehicle’s emissions performance.”

66. Because manufacturers can calibrate these ECMs to operate in different ways depending on different inputs, they can be manipulated to implement certain emissions controls during conditions that replicate the conditions used in EPA emissions testing, but suppress or eliminate the use of these emissions controls during normal operation. In such circumstances, the ECM, or the software used to tell the ECM what to do in what conditions, is a defeat device.

67. A “defeat device,” “which [is] often sold to enhance engine performance, work by disabling a vehicle’s emission controls, causing air pollution.” Defeat devices are illegal under the Clean Air Act, 42 U.S.C. § 7522(a)(3)(A), which prohibits manufacturers of motor vehicles

1 from “remov[ing] or render[ing] inoperative any device or element of design installed on or in a
2 motor vehicle or motor vehicle engine in compliance with regulations . . . prior to its sale and
3 delivery to the ultimate purchaser, or for any person knowingly to remove or render inoperative
4 any such device or element of design after such sale and delivery to the ultimate purchaser[.]”

5 68. It is a violation of the Clean Air Act “for any person to manufacture or sell, or offer
6 to sell, or install, any part or component intended for use with, or as part of, any motor vehicle or
7 motor vehicle engine, where a principal effect of the part or component is to bypass, defeat, or
8 render inoperative any device or element of design installed on or in a motor vehicle or motor
9 vehicle engine . . . and where the person knows or should know that such part or component is
10 being offered for sale or installed for such use or put to such use[.]” 42 U.S.C. § 7522(a)(3)(B).

11 69. In accordance with the Clean Air Act requirements, the EPA administers a
12 certification program to ensure that vehicles sold in the United States conform with all applicable
13 standards, including emissions standards related to NOx (a “Certificate of Conformity” or COC).
14 *See generally* 40 C.F.R. § 86.000-2 *et seq.*; *see also* 40 C.F.R. § 86.007-30 (discussing
15 certification).

16 70. Pursuant to 42 U.S.C. § 7522 (a)(1), vehicle and engine manufacturers such as FCA
17 and Cummins are prohibited from selling vehicles and engines, including the Affected Vehicles,
18 without a valid certificate of conformity from the EPA.

19 **D. EMISSIONS CONTROL DEFEAT DEVICES IN THE AFFECTED** 20 **VEHICLES**

21 71. According to the EPA and US DOJ investigation, each Affected Vehicle contains
22 an EGR and SCR system, but also includes illegal ECM software that limits the use of these
23 systems and other AECDs during normal operations. During federal emissions testing, the
24 Affected Vehicles’ “ECM software functions and calibrations operate the EGR and SCR systems
25 in a manner that produces emission results that are compliant with emission standards.”

26 72. During normal vehicle operation, certain of the Affected Vehicles’ AECDs
27 “included as part of the ECM software functions and calibrations for the 2013–2019 RAMs cause
28 a reduction in the effectiveness of the emission control system, including the after-treatment

1 control system, resulting in increased NOx emissions.”

2 73. Specifically, EPA “[t]esting has shown that there is an increase in harmful nitrogen
3 oxides (NOx) emissions from these [Affected Vehicles]. The increase results from the reduced
4 use and reduced efficiency of the selective catalytic reduction (SCR) system.”

5 74. On December 21, 2023, the US DOJ, EPA, and California state regulators
6 announced a proposed settlement with Cummins, concluding their investigation that showed
7 nearly one million RAM 2500 and 3500 trucks utilized undisclosed engine control software
8 features, and that more than 630,000 vehicles (the Affected Vehicles) had illegal emissions
9 control software defeat device features.

10 75. The settlement requires Cummins to pay a \$1.675 billion civil penalty, the largest
11 ever assessed in a Clean Air Act case.

12 76. In concluding the investigation, the EPA and US DOJ determined that “Cummins’
13 applications for EPA Certificates of Conformity (‘COC’) for the [RAM vehicles] did not disclose
14 multiple software-based features that affect the [vehicles’] emission control system.
15 Consequently, each [vehicle] differs from the specifications provided in Cummins’ COC
16 applications and none of the [v]ehicles is certified by the COC that purportedly covered it.”

17 **E. CUMMINS AND FCA ADVERTISE THEIR CHEATING VEHICLES AS**
18 **“SUPER CLEAN” DIESEL TRUCKS**

19 77. To market and promote the Affected Vehicles, FCA leveraged consumer interest
20 in environmentally sound vehicles and vehicle emissions.

21 78. In particular, in numerous advertisements and promotional materials, FCA falsely
22 described the Affected Vehicles as “clean” or “super clean,” in order to combat the perception
23 that diesel trucks are environmentally harmful.

24 79. By way of specific example, in a vehicle brochure for 2018 RAM 2500/3500
25 trucks, FCA described the 6.7-liter Cummins diesel engine as “a next-generation and *super-clean*
26 Diesel Exhaust Fluid (DEF) system.” (emphasis added).

27 80. Likewise, Cummins advertised its engine as “the most powerful engine option for
28 RAM 2500 and 3500 pickup trucks. Producing up to 400 horsepower and 1,000 pound-feet of

1 *clean diesel* torque, this powerhouse helps RAM deliver best-in-class towing.” (emphasis added).

2 81. According to Cummins’ web site, “[a]t Cummins, our broad portfolio of advanced
3 *clean diesel* engines *meets the most stringent emission standards* in the United States.” (emphasis
4 added).

5 82. Defendants also represented that the Affected Vehicles complied with EPA
6 emissions standards.

7 83. As set forth herein, all of these statements were knowingly false and misleading.
8 In reality, due to the presence of emissions control defeat devices in the Affected Vehicles, none
9 of the Affected Vehicles was “clean” or “super clean,” nor in compliance with EPA emissions
10 standards.

11 84. Further, Defendants omitted to consumers that the Affected Vehicles had illegal
12 emissions control defeat devices installed, that such vehicles were releasing more carcinogenic
13 poison than stated, and that by purchasing or leasing the Affected Vehicles, consumers were thus
14 putting their health and environment at risk at a level determined to be unacceptable by the EPA.

15 **F. DEFENDANTS’ KNOWLEDGE OF THEIR MISCONDUCT**

16 85. Both FCA and Cummins knew or should have known that utilization of emissions
17 defeat devices in the Affected Vehicles would render their representations and statements to
18 consumers deceptive or misleading.

19 86. The history of enforcement at the federal, state, and local levels in prior
20 “dieselgate” scandals—including the Volkswagen scandal and FCA’s own 2019 controversy—
21 and the public outcry following the revelations underlying those scandals clearly indicate that
22 consumers value and, indeed, place a premium on environmentally sound vehicles and vehicle
23 emissions.

24 87. Indeed, given its 2019 “dieselgate” scandal, FCA should have been on heightened
25 alert to issues pertaining to emissions controls in its vehicles.

26 88. Nonetheless, FCA and Cummins falsely advertised the benefits of their “clean”
27 diesel technology that purportedly balanced power and performance with environmental
28 soundness and regulatory compliance with emissions standards.

1 89. Despite knowing or recklessly disregarding that the Affected Vehicles were not
2 “clean” or “super clean” as advertised, but, rather, emitted far more pollution than EPA standards
3 permit due to the presence of emissions control defeat devices, FCA and Cummins did not
4 disclose but actively concealed that the Cummins engines installed in the Affected Vehicles
5 contained such defeat devices.

6 90. For instance, in a vehicle brochure for 2018 RAM 2500/3500 trucks, FCA
7 described the 6.7-liter Cummins diesel engine as “a next-generation and *super-clean* Diesel
8 Exhaust Fluid (DEF) system.”

9 91. Likewise, Cummins advertised its engine as “the most powerful engine option for
10 RAM 2500 and 3500 pickup trucks. Producing up to 400 horsepower and 1,000 pound-feet of
11 *clean diesel* torque, this powerhouse helps RAM deliver best-in-class towing.” (emphasis added).

12 92. According to Cummins’ web site, “[a]t Cummins, our broad portfolio of advanced
13 clean diesel engines meets the most stringent emission standards in the United States.”

14 93. Had Defendants fully and accurately disclosed the presence of emissions control
15 defeat devices in Affected Vehicles, their non-compliance with emissions requirements, and that
16 they are not “clean” or “super clean” diesel vehicles, Arizona consumers would not have paid a
17 premium for the Affected Vehicles or would not have even purchased these vehicles at all.

18 94. Defendants placed their own profits ahead of the well-being of Arizona consumers
19 and must be held accountable.

20 **CLAIMS FOR RELIEF**

21 **COUNT ONE**

22 **Arizona Consumer Fraud Act,**
23 **A.R.S. § 44-1521 through § 44-1534**
24 **(Against all Defendants)**

25 95. Plaintiff re-alleges and incorporates by reference all preceding and succeeding
26 factual allegations.

27 96. FCA and Cummins are “persons” and the vehicles and engines at issue are
28 “merchandise” within the meaning of the ACFA. A.R.S. § 44-1521(6) (person “means any . . .
partnership or domestic or foreign corporation, any company, trust, business entity or association

1 or any agent, employee, salesman, partner, officer, director, member, stockholder, associate or
2 trustee.”); *id.* § 44-1521(5) (merchandise “means any objects, wares, goods, commodities,
3 intangibles, real estate or services.”).

4 97. The conduct alleged herein constitutes “deception, deceptive or unfair act(s) or
5 practice(s), fraud, false pretense, false promise, misrepresentation, or concealment, suppression
6 or omission of any material fact with intent that others rely on such concealment, suppression or
7 omission, in connection with the sale or advertisement of any merchandise,” A.R.S. § 44-1522,
8 including but not limited to:

9 a. Defendants engaged in deceptive and unfair acts and practices by selling the
10 Affected Vehicles at an inflated price with promises of “clean” diesel technology, when
11 such vehicles included illegal emissions control defeat devices and did not comply with
12 EPA emissions and certification requirements, which deceptively and unfairly increased
13 the price for consumers who purchased or leased these vehicles in Arizona.

14 b. Defendants’ advertisements of the Affected Vehicles constituted unfair acts
15 or practices because their advertisements that the Affected Vehicles used “clean” diesel,
16 were “super clean,” or “complied with the most stringent emissions standards” were
17 objectively false or misleading.

18 c. Defendants’ failure to disclose the presence of illegal emissions defeat
19 devices in their vehicles constituted unfair acts or practices, because Defendants
20 misleadingly implied that the Affected Vehicles were safe, complied with applicable
21 emissions regulations, and did not include any illegal components.

22 98. As described herein, Defendants intentionally failed to disclose material facts
23 and/or made misrepresentations concerning the functionality, efficiency, safety, and performance
24 of the Affected Vehicles in order to charge a premium and realize profits, which they knew would
25 be material to potential purchasers in making their purchase decisions.

26 99. Defendants’ conduct constitutes misrepresentation, unfair acts and practices, and
27 unlawful practices in violation of A.R.S. § 44-1522.

28 100. With respect to the concealments, suppressions, or omissions of material fact

1 described above, Defendants did so with the intent that others rely on such concealments,
2 suppressions, or omissions.

3 101. With respect to the unfair acts and practices described above, these acts and
4 practices caused or were likely to cause substantial injuries to consumers that were not reasonably
5 avoidable by consumers and were not outweighed by countervailing benefits to consumers or to
6 competition.

7 102. Pursuant to A.R.S. § 44-1528(A)(2)–(3), Defendants must pay restitution to
8 Arizona consumers and must disgorge their ill-gotten gains from the conduct as described in this
9 complaint.

10 103. While engaging in the acts and practices alleged in this Complaint, Defendants
11 knew or should have known that their conduct was of the nature prohibited by A.R.S. § 44-1522,
12 subjecting themselves to penalties pursuant to A.R.S. § 44-1531(A)–(B).

13 104. Finally, Defendants must pay the State’s costs and attorneys’ fees for bringing this
14 action. A.R.S. § 44-1534.

15 **COUNT TWO**
16 **UNJUST ENRICHMENT**
17 **(Against all Defendants)**

18 105. Plaintiff re-alleges and incorporates by reference all preceding and succeeding
19 factual allegations.

20 106. The State brings this cause of action in its capacity as *parens patriae* on behalf of
21 Arizona consumers.

22 107. As described above, Defendants have been substantially enriched by sales of
23 Affected Vehicles equipped with emissions control defeat devices at a premium price.

24 108. Arizona consumers who paid a premium for the Affected Vehicles were
25 impoverished thereby.

26 109. Had the truth regarding Defendants’ scheme been disclosed, Arizona consumers
27 would not have paid a premium for the Affected Vehicles or would not have even purchased the
28 Affected Vehicles at all.

110. Accordingly, Defendants are not entitled to retain their ill-gotten gains and must

1 pay restitution.

2 **PRAYER FOR RELIEF**

3 WHEREFORE, the State prays for entry of judgment against Defendants for all the relief
4 requested herein and to which the State may otherwise be entitled, specifically, but without
5 limitation, as follows:

- 6 A. Pursuant to A.R.S. § 44-1528(A)(1), issue a permanent injunction in accordance
7 with Ariz. R. Civ. P. 65(d)(1), enjoining and restraining (a) Defendants, (b) their
8 officers, agents, servants, employees, attorneys, and (c) all persons in active concert
9 or participation with anyone described in part (a) or (b) of this paragraph, directly
10 or indirectly, from engaging in deceptive, misleading, or unfair acts or practices, or
11 concealments, suppressions, or omissions, that violate the CFA, A.R.S. § 44-
12 1522(A), including specific injunctive relief barring Defendants from engaging in
13 the unlawful acts and practices set forth above;
- 14 B. Pursuant to A.R.S. § 44-1528(A)(2), order Defendants to restore to all persons in
15 interest any monies or property, real or personal, which may have been acquired
16 by any means or any practice declared to be unlawful;
- 17 C. Pursuant to A.R.S. § 44-1528(A)(3), order Defendants to disgorge all profits, gains,
18 gross receipts, or other benefits obtained as a result of their unlawful acts alleged
19 herein;
- 20 D. Pursuant to A.R.S. § 44-1531, order each Defendant to pay to the State of Arizona
21 a civil penalty in the amount of \$10,000 per each willful violation of A.R.S. § 44-
22 1522;
- 23 E. Pursuant to A.R.S. § 44-1201, require Defendants to pay pre- and post-judgment
24 interest as provided by law to the State and all consumers;
- 25 F. Pursuant to A.R.S. § 44-1534, require Defendants to pay the costs of this action,
26 including reasonable attorneys' fees; and
- 27 G. Award such other further relief as the case may require and the Court may deem
28 just and proper under the circumstances.


1 **JURY DEMAND**

2 The State demands trial by jury on all issues so triable.

3
4 DATED this 18th day of July, 2024.

5 KRISTIN K. MAYES

6 Attorney General

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8
9 By: 

10 Kristin K. Wrobel

11 Alyse C. Meislik

12 Alexandria L. Gordon

13 Assistant Attorney General

Attorneys for the State of Arizona

14 -and-

15
16 Kyle J. McGee

17 (pending Pro Hac Vice)

18 Viola Vetter

19 (pending Pro Hac Vice)

20 Kelly L. Tucker

(pending Pro Hac Vice)

GRANT & EISENHOFER P.A.

123 Justison Street

Wilmington, DE 19801

22 Telephone: (302) 622-7000

23 Facsimile: (302) 622-7100

kmcgee@gelaw.com

24 vvetter@gelaw.com

25 ktucker@gelaw.com