

Defect in Atlas vehicles, VW issued a statement stating “VW is aware of concerns involving faulty door wiring harnesses in certain Atlas and Atlas Cross Sport vehicles” and that it is “working closely with NHTSA regarding the next steps towards identifying the affected vehicles.”¹

4. One Class Vehicle owner described the issue as follows in a complaint made to NHTSA: “THE REAR WINDOW ROLLS DOWN BY ITSELF WITH NOBODY TOUCHING ANY OF THE BUTTONS. THE LIGHT POPS UP ON THE DASH AND SAYS FAULTY ELECTRICAL. THE VEHICLE WAS IN MOTION, IN THE CITY. THE VEHICLE WILL SUDDENLY ATTEMPT TO STOP IN THE MIDDLE OF A DRIVE/MIDDLE OF THE ROAD. ALMOST AS IF THE EMERGENCY BREAK HAS BEEN PULLED, ONLY NOBODY HAS TOUCHED IT. THE EMERGENCY BRAKE LIGHT DOES COME ON. AGAIN, IN MOTION, ON THE HIGHWAY (HAS HAPPENED A FEW TIMES). NOW, THE REMOTE START DOES NOT WORK.” (NHTSA Complaint No. 11386994, January 7, 2021 (2019 Atlas)).

5. Other Class Vehicle owners have described that “It literally feels like the car is possessed,”² and that the Wiring Harness Defect results in a “disorienting and panic-inducing 360-degree assault on the senses”:

- NHTSA Complaint No. 11455355, March 5, 2022 (2019 Atlas): “In Jan 2022, the air bag system error light lit up at start-up and remained lit. A first-available dealer appointment was made for 1/28, two weeks away. During those two weeks, the car started to issue a burst of random alerts during cold startup - driver door contact switch failure, cruise control (ACC) failure, start/stop system failure, and the rear driver side window would roll down several inches. Shutting off and restarting the car solved these alerts. The car was inspected on Jan 28; the dealer confirmed a faulty wiring harness in the driver side door. They also confirmed the random alerts were the same cause. The dealer stated that the driver side air bag was nonfunctional,

¹ <https://apnews.com/article/technology-travel-business-lawrence-kansas-8979f0921a7af4afe568ccf02a6fe41a> (last visited March 15, 2022).

² *Id.*

but the rest of the air bag system was OK. A replacement part was ordered with an estimated delivery of 2-3 weeks. As such, we chose to keep driving the car. Over the ensuing weeks, the random alert sequence got more frequent and started to show an electronic parking brake alert and engage the parking brake at startup. It then began happening on later starts when the car was fully warmed and would resume after the car was shut off and restarted. Finally, the alerts started to happen while moving, and instead of just a single burst, became a continuing sequence. **The alerts are a rapid-fire volley of warning dings/dongs and accompanying messages in front of the driver. At the same time, the rear driver-side window is moving and the door contact switch is clicking randomly in the driver's left ear. It is a startling volley, which combined with the other weird sounds, is a disorienting and panic-inducing 360-degree assault on the senses.** After no word from the dealer. I called on Mar 4 and was told the part was on a nationwide backorder, with no ETA. I did some research and found numerous reports of the problem getting worse over time and the parking brake engaging while moving. As our experience matches the trend, I feel the car is no longer safe and have parked it until it is repaired.”

6. The Wiring Harness Defect is a serious safety hazard that substantially increases the likelihood of a vehicle collision and injury to drivers, passengers and pedestrians, and prevents the vehicles from providing safe or reliable transportation. *See, e.g.:*

- NHTSA Complaint No. 11443499, December 12, 2021 (2021 Atlas): “Within seconds of starting the vehicle, error codes started appearing on the dashboard and beeping noise stating to park the car and not drive. The back window will roll down on its own and the parking brake will engage if it wasn’t engaged already. I would turn off the car and it would go away. But after a few minutes the car would start beeping and all kinds of lights and error code started appearing again. After getting this error message and the constant beeping, the emergency brake turns on and the window from behind driver's door lowers like 5 inches from top. At this point, I cannot lower window and I cannot turn off emergency brake. The code started appearing about a week prior to December 8 which was the final straw. It got to a point that while driving, if I took my foot off the gas pedal, the emergency brake will engage automatically as I was going 10-15 miles per hr. **Everytime I slowed down and was coming to a stop** the car will engage the emergency brake. I had to turn off the car and back on in order to keep going. This almost caused me to be hit multiple times until I was able to get to a safe location and away from the main road. I’ve read many others complaint similar and I think this should be a recall. It is a safety hazard when the emergency brake engages once you slow down and foot is off the brake. This particular car was fixed on Nov.5 for a recall related to coupling rods. I was told that the issue now is called a ‘driver front door harness’ fault which the wires think I’m opening the door while driving so it engages the emergency brake. Vehicle is currently at dealership and has been since Dec. 8 with no estimated time of repair due to waiting on parts. vehicle has been in my possession since Jan. 9, 2021.”

- NHTSA Complaint No. 11448507, January 23, 2022 (2021 Atlas): “On January 8, 2022 I was driving on a main road about 30 to 35 mph when the vehicle suddenly shook violently and the engine shut off. There was loud beeping and the computer system lit up saying Error: Engine at the same time the emergency brake was activated. There was also a message about a Door Error. Luckily there were no cars around me at the time. I put the car in park and started it again. I was fairly close to home but this happened 3 more times, one time when I was pulling out on a road and traffic was coming toward me. I finally got the car home and since it was the weekend parked it. Monday morning I contacted VW Road Assistance and they towed it to the dealership for repairs. **This is a very serious and dangerous problem with the 2021 VW Atlas. If you were traveling on a major highway going 70 mph and your engine just shut down you could be seriously injured or killed.** Please look into this serious defect in the 2021 VW Atlas.”
- NHTSA Complaint No. 11449235, January 28, 2021: “The below are known issues dating back to at least 2020 Atlas models, but this first appeared in our vehicle mid-November 2021; we purchased the car new June 2021. The driver door contact switch has failed. There are annoyances - the windows randomly roll down, lots of dinging, warning lights, etc. - **but the safety issue is that the emergency brake will come on sometimes when you brake. We have a child and cannot risk suddenly being stopped on a highway. Because of this, the car is undriveable. VW estimates the part will be available in 2023, so there are people driving around with this safety issue because they have no second car and people who are paying a loan on a car they cannot drive.** These issues have been replicated by the dealer. The case has been escalated to VW and there is no sense of urgency. See here for reports of others with the same experiences: <https://www.vwatlasforum.com/threads/error-driver-door-contact-switch.6359/>”
- NHTSA Complaint No. 11451669, February 12, 2022 (2019 Atlas): “On Jan. 12th 2022 my wife and I were riding in our 2019 Volks Wagon Atlas in route to a doctors appointment and was slowing for a red light when a warning sounded the drivers side back door window lowered, multiple warning light came on and the most dangerous part was the electric e brake activated causing the vehicle to come to an immediate stop. We were lucky there wasn't any traffic behind us. **The vehicle was taken to the Volks Wagon of Reading Pennsylvania, and the service tech stated the vehicle was not safe to drive, and that that they have multiple vehicles with the same problem.** We were further informed that the drivers door wiring harness failed and the part is backed ordered. I have been to the volks wagon atlas message board and found this problem is through out the United States if not world wide. **Most of the complaints are how scared everyone was when the car stopped in traffic without warning.** Volks Wagon is aware of this problem but have not taken the initiative to inform Atlas owners that this problem exist.”
- NHTSA Complaint No. 11452328, February 16, 2022 (2021 Atlas): “At random times during driving the fault electronic parking brake with turn on and abruptly stop the vehicle making it jerk forward. It will trigger the windows to roll down, and

errors will pop up stating lane assist is unavailable with beeping noise. **This puts my family at risk because I was completely scared when the parking brake automatically came on while exiting the highway and an 18-wheeler truck was behind me with my daughter in the car. I had to completely turn my vehicle off and back on to keep going.** When I took my car in on February 1, 2022 the Service Manager said that there were multiple vehicles in their possession with the issue. He said it would take a month to get it fixed. After speaking to a regional supervisor for Volkswagen they did not have a ETA for getting the parts needed to perform the repair, yet I am still paying a monthly payment and insurance on a vehicle I own that's not in my possession. I have screenshots from my CarNet app with the warning issues that I shared with the manufacturer. There seems to be no sense of urgency to get this repaired or provide a vehicle that is comparable to fit my family size while waiting on the parts for repair.”

- NHTSA Complaint No. 11455355, March 5, 2022 (2019 Atlas): “In Jan 2022, the air bag system error light lit up at start-up and remained lit. A first-available dealer appointment was made for 1/28, two weeks away. During those two weeks, the car started to issue a burst of random alerts during cold startup - driver door contact switch failure, cruise control (ACC) failure, start/stop system failure, and the rear driver side window would roll down several inches. Shutting off and restarting the car solved these alerts. The car was inspected on Jan 28; the dealer confirmed a faulty wiring harness in the driver side door. They also confirmed the random alerts were the same cause. The dealer stated that the driver side air bag was nonfunctional, but the rest of the air bag system was OK. A replacement part was ordered with an estimated delivery of 2-3 weeks. As such, we chose to keep driving the car. Over the ensuing weeks, the random alert sequence got more frequent and started to show an electronic parking brake alert and engage the parking brake at startup. It then began happening on later starts when the car was fully warmed and would resume after the car was shut off and restarted. Finally, the alerts started to happen while moving, and instead of just a single burst, became a continuing sequence. The alerts are a rapid-fire volley of warning dings/dongs and accompanying messages in front of the driver. At the same time, the rear driver-side window is moving and the door contact switch is clicking randomly in the driver's left ear. It is a startling volley, which combined with the other weird sounds, is a disorienting and panic-inducing 360-degree assault on the senses. After no word from the dealer. I called on Mar 4 and was told the part was on a nationwide backorder, with no ETA. **I did some research and found numerous reports of the problem getting worse over time and the parking brake engaging while moving. As our experience matches the trend, I feel the car is no longer safe and have parked it until it is repaired.**”

7. Despite knowing of the Class Vehicles’ dangerous Wiring Harness Defect and that the vehicles were defective and not fit for their intended purpose of providing consumers with safe and reliable transportation at the time of the sale and thereafter, Defendant has actively

concealed the true nature and extent of the Wiring Harness Defect from Plaintiffs and the other Class Members, and failed to disclose it to them, at the time of purchase or lease and thereafter.

8. Additionally, VW has not issued any safety recall regarding the Defect and it has failed to adequately repair the defect under VW's warranty. Indeed, in November 2021 VW issued a "Technical Tip" No. 97-21-02TT to its dealerships acknowledging that when the Class Vehicles experience the Wiring Harness Defect, "Various warning lights may illuminate, the windows may operate erratically, and several communication faults are stored." It explained that "A poor connection in/at the door wiring harness may cause fault code U019900 or U020000 to be stored along with many other faults. This may also cause unwanted activation of certain vehicle systems, such as the windows opening/closing by themselves," and directed dealers to attempt a repair by replacing the wiring harness.

9. However, VW's attempts to repair the Defect are inadequate. To begin, VW has not provided its dealership with adequate replacement wiring harness, and thus when Class Vehicles owners complain about the defect and seek a repair they are told parts are unavailable. Accordingly, Class Vehicle owners, including Plaintiffs, have been waiting months for parts with no end in sight. For instance, one Class Vehicle owner waited more than two months for a replacement wiring harness and only "received a call telling her that the part had come in and that her vehicle had been repaired" after "a reporter contacted the dealership" regarding the issue.³ Other owners repeatedly complain that they are not provided with replacement parts or repair attempts. *See, e.g.:*

- NHTSA Complaint No. 11442273, December 1, 2021 (2021 Atlas): "Door Sensor causing car to throw various codes. Windows rolling down by themselves, parking brake engaging by itself. VW knows about the problem and should be a recall. **Parts is on back order with time frame.**"

³ <https://apnews.com/article/technology-travel-business-lawrence-kansas-8979f0921a7af4afe568ccf02a6fe41a> (last visited March 15, 2022).

- NHTSA Complaint No. 11445277, December 28, 2021 (2021 Atlas): “Check engine light came on, windows were going down 1/8 of the way on their own, parking brake goes on automatically while engine is on while driving and pressing on brake, cannot utilize any controls on driver door. **Dealer checked and it is the door harness that is on backorder. I was told 41 customers ahead of me waiting for same part in Northeast USA.** Car is not safe to drive due to parking brake automatically engaging. VW of America notified and my case was escalated and I have initiated the PA Lemon Law Arbitration process. Issues first appeared 11/8/21. I have been given a smaller loaner vehicle from dealer on 11/9/21 and am still using that.”
- NHTSA Complaint No. 11447177, January 12, 2022 (2021 Atlas): “Purchased the car in April 2021. After 230 miles of driving remote start stopped working. VW service center diagnosed faulty soldering on fuel pump and replaced it. In December 2021 both passenger side windows started opening on their own while in park and driving. Shortly started getting error message from proximity sensors, adaptive cruise control and finally brakes with service engine message. Brought to VW service center and got diagnosed with faulty door harness. **Service technician informed me that they had 20+ cars with similar issue and shortage of parts.** Ultimately I was told vehicle is not safe to drive, due to car identifying door as open and shutting off engine mid-driving. Harness replaced, not the trunk is opening in park and windows are still opening by themselves. Sent the vehicle to service center by tow truck, applied for lemon law replacement and VW corporate. This should be heading to recall to prevent driving accidents. VW corporate is very hard to contact and follow-up is very poor. Other vehicle issues: Low coolant level, faulty door lock on passenger door.”
- NHTSA Complaint No. 11448453, January 22, 2022 (2020 Atlas): “In the beginning of November 2021 with 7680 miles an alarm stating Error: Driver door contact switch Fault: Electronic parking brake Attention: Engine is running. Error: Start Stop The check engine light/EPC lights were on. Windows do not open or open about an inch by themselves. This issue occurs most times when starting the vehicle. VW was made aware and checked the vehicle stating the driver side door harness needs to be replaced but there is shipping delays. Over the next few months when operating the vehicle under speeds of approximately 10 to 5 miles an hour the emergency parking break activates and slows or completely stops the vehicle while driving. This is a safety issue as a vehicle that suddenly stops while in traffic regardless of speed can be rear ended or cause an accident. VW has claimed that the door harness is at fault and that the parking break activating is because of a faulty door harness. **It has been over 2 months and the door harness has still not been replaced.** I have spoke to mechanics regarding this issue and they stated a parking break activating while the car is in motion is not related to a faulty door harness. I wish to have this complaint investigated and to have my car issue recalled so VW is forced to fix this issue. I have 3 small children who regularly ride in this vehicle. A emergency parking break activating while the vehicle is in motion is unacceptable. Thank you.”

- NHTSA Complaint No. 11448985, January 26, 2022: “After 3 months of owning this brand new car, the parking system started to act up. My parking sensors would beep for no reason, windows would roll down and my parking brake would come on when I was driving. I took the car to the dealership and they did an electrical update. Two months later the same issue happened again, as well as my engine light came on because my coolant was low. Again I took it to the dealership where I was told a door harness sensor needed to be replaced and my head gasket needed to be replaced as well. **My car has been in the shop for almost two months as the part is on back order.** Now there is also a recall for the air conditioner. This is the worst experience with a new car I have ever had. I have initiated the process of trying to get Volkswagen to buy it back. When I spoke to the service manager he told me he has 9 other Atlas’s in the shop for the same reason. Customer care has been no help. I will never buy another Volkswagen again.”
- NHTSA Complaint No. 11451440, February 10, 2022 (2021 Atlas): “I have a faulty Door harness that causes the vehicle to think they the door is open, when it is not. Because the car thinks the door is open, the E brake engages while driving and a loud beeping ensues. Several sensors also start flashing like check engine, start/stop system failure, check oil, etc. **the part is back ordered with no ETA** and VW don’t do a recall because they don’t want to be on the hook for all of these cars. A quick Google search will show you that this is a widespread safety issue that is being ignored”
- NHTSA Complaint No. 11452036, February 15, 2022 (2021 Atlas): Starting in November, a series of alarms would go off on the dashboard on the engine, lane assist, collision warnings, etc. As the problem progressed, the windows would go down automatically, and in the most severe instances, the car would engage the emergency park brake while coming to a stop!!! This happened more and more frequently to the point the car became undrivable as you awaited the car engaging the emergency parking brake while coming to a stop!!!! **The car has been at the dealership since 11/22/21 as the door control wiring harness is on backorder.** Someone will get hurt if this goes unrepaired.”
- NHTSA Complaint No. 11453528, February 22, 2022 (2021 Atlas): “The component that failed is the Driver Contact Door Switch and the electronic parking brake. My safety and my children’s safety and the people behind me are put at risk of an accident if my parking break comes on while driving. **I took it to the dealer on December 27,2021 and they said that it is the driver door wiring harness it controls everything in the car. They said they would order a new harness but it is on back order. I called dealer on Monday Feb 21,2022 and they still don’t have the part,** I explained to them that as I was driving the windows automatically rolled down and I got the message contact door switch and parking break faults. They told me to deactivate the start stop system. I explained to them that it was deactivated and I got an oh well. I am worried about driving the vehicle and also teaching my son how to drive on a learners permit which we have put on hold until the problem is solved.”

- NHTSA Complaint No. 11453853, February 24, 2022 (2021 Atlas): “Due to a malfunctioning driver door wire harness, multiple errors occur, including a electric parking brake issue. This causes the vehicles parking brake to engage while in coming to a stop but still in motion. This does cause the vehicles abruptly come to a stop. Additionally the wire harness malfunction has caused an issue with the driver side door locking function and driver side windows. Often times the driver side door does not lock when in drive and in motion, as well as trying to lock using the key fob and in park. The driver side windows randomly lower 3-4 inches, when driving as well. I am especially concerned with the parking brake, there have been a few occasions where I have almost been hit from the rear due to the abrupt stop. **I have taken the car in to the dealership and have been told the part is not available and they have multiple vehicles waiting over two months for the part.** Here is a link with others that have the same issue. <https://www.vwatlasforum.com/threads/error-driver-door-contact-switch.6359/>”
- NHTSA Complaint No. 11454546, February 28, 2022 (2021 Atlas): “According to my local dealership, the microchip in the driver door is malfunctioning. My car incorrectly detects that the driver door is open and puts the parking brake on while the car is running or in drive. Alerts like, ‘error: driver door contact switch’ pop up. ‘Cruise control not available’ has also popped up. These alerts did not begin to pop up until the parking brake started being triggered on February 9th when the car was 4.5 months old with 5,000 miles. The driver side window as well as the window behind it will also roll down at times when this happens. To get my car to release the parking brake, I have to turn the car off and open and close the driver door. On average, I have to repeat this process 5 times before the car will detect that the door is closed and disengage the parking brake. My car has incorrectly alerted me that the driver door was open while I was driving down the highway. **According to the dealership, the part that needs to be fixed is on backorder nationwide and I won’t be able to get my car fixed until July. They are also out of loaners because so many people are having this issue. My safety as well as the safety of others in cars around me is at risk as the car will put the parking brake on thinking that the driver side door is open.**”
- NHTSA Complaint No. 11455931, March 9, 2022 (2019 Atlas): “Last Saturday, several warning lights appeared on the dashboard, including ‘ACC Not Available’, ‘Error: Driver Door Contact Switch’, and ‘Fault: Electronic Parking Brake’. While in traffic I slowed to around 15 mph and the emergency brake activated, stopping the car abruptly. This same scenario of slowing and the emergency brake activating happened twice more while driving home. Vehicle was taken to the dealership who advised we were the 16th Atlas that has experienced these problems. **We were told it would be 3-4 months before the parts to fix the vehicle were available.**”

10. Moreover, even though the Wiring Harness Defect renders the Class Vehicles unsafe to drive, VW consistently refuses to provide Class Vehicle owners with loaner vehicles

while they await replacement Wiring Harness Defects. Thus, Class Vehicle owners who have already experienced the Wiring Harness Defect are forced to either continue experiencing the dangerous defect in the interim while they wait for replacement parts, or cease using their vehicle to avoid experiencing the dangerous defect again. *See, e.g.:*

- NHTSA Complaint No. 11449356, January 29, 2022 (2019 Atlas): “My car had an airbag alert show up on Thursday, January 27th. It said Error: Airbag. I contacted the dealership was able to get my car into Glenwood Springs Volkswagen service center on Friday, January 28th. At 4:30 pm I was told there was an issue with the airbag system. According to the Volkswagen employee, this is a known issue and they are surprised Volkswagen has not opened a recall. The service report states: Connected scan tool and found fault B101715 crash sensor for side air bag, drivers side open circuit/short circuit to B+ (passive). They recommended to replace drivers door harness. I was informed the necessary replacement parts were back ordered and would not be replaced for at least 1 month. I believe the earliest date to expect the fix is March 5th. **The local service center has 2 loaner cars that are currently loaned out due to this issue. They cannot provide me a loaner car. I called VW care and they are unable to escalate this issue until Thursday, February 3rd. They informed me it was not an active recall and not part of my warranty for them to have to provide me a safe car to drive.**”
- NHTSA Complaint No. 11449937, February 2, 2022 (2021 Atlas): “Driver door wiring harness is faulty and needs replaced. At random times during driving all alerts will go off in car triggering the windows to roll down, the parking brake to engage while the vehicle is moving, turning off adaptive cruise, lane keep assist and many other safety features while using them. I fear for the safety of the passengers in my car and those around me as I am unable to know when the brake will engage. **The dealer has confirmed the need for replacement but does not have the parts to replace. They will not provide a loaner and have no estimate of when parts will be available for repair.** The issue is ongoing and random.”
- NHTSA Complaint No. 11451379, February 10, 2022 (2021 Atlas): “Emergency Brake engages while driving. It has happened multiple times at speeds of 25-70mph. When this happened the warning lights and beeping would start, saying "Fault Electronic Brake", Error: Driver Door Contact Switch”, "Warning, engine is running" windows in the back would also automatically start rolling down and up. It has nearly caused us to get into two high speed accidents with our children in the car with us. **Vehicle is currently at dealership along with others with the same problem, has been there for over 3 weeks as they attempt to get a harness in for it. They are telling people because they are out of loaners that they have to continue to drive the vehicle. THEY are not safe to be on the road at this point.**”

- NHTSA Complaint No. 11452157, February 15, 2022 (2021 Atlas): “There were multiple incidents where the windows would roll down and the error came on state "Driver Side Contact Error", once where the driver side door would not open, I had to crawl out the passenger side, and multiple times when the parking brake would not disengage. All of these issues have been said to be the drivers side harness kit, no rhyme or reason and lights and errors would go off after each incident. The main safety concern caused by this is when I was driving down a hill coming to a red light, I was reducing speed but was not stopped and the parking brake engaged on its own. I came to a dead stop in the middle of the road, luckily no cars behind me and on a clear road, the dash lit up with multiple errors but all disappeared before I could write them all down. The dealership where my car currently is has stated there is a parts bulletin out on this part causing all these issues with the door harness kit, but no recall. **They also could not guarantee that my parking brake would not engage again while the car was in drive, but did not want to offer me a rental car because Volkswagen doesn't consider it a 'Safety issue'.** I know there are 5 other vehicles at the dealership with the same issue as mine (as of January 10th). This is happening in brand new cars, my car is a 2021 and have not even owned it a year.”
- NHTSA Complaint No. 11453080, February 20, 2022 (2021 Atlas): “The driver door contact switch and door harness is faulty, which triggers several errors while driving. The lane keep assist and departure warning does not work when this is happening. Additionally, when braking, the car has several alarms that chime repeatedly, including low coolant, driver door contact switch, electronic parking brake failure, hill start assist, and dynamic cornering lights. The car beeps nonstop while the brakes are applied and the car is at a complete stop. The parking brake also engages when the brakes are applied, making it very unsafe to drive. When I called the dealership to schedule an inspection, they reported that they don't need to inspect the car because they know exactly which part is causing the problem, and ordered me the part. **However the part is on back order, so I've had to drive the car in this condition, as they will not put me in a rental.** The dealership has informed me there is nothing else they can do, and Volkswagen customer care will not respond to my requests to discuss.”

11. Further, in instances where VW had parts available and attempted repairs on the Class Vehicles regarding the Wiring Harness Defect, Class Vehicles continue to experience the defect post-repair. *See, e.g.:*

- NHTSA Complaint No. 11447177, January 12, 2022 (2021 Atlas): “Purchased the car in April 2021. After 230 miles of driving remote start stopped working. VW service center diagnosed faulty soldering on fuel pump and replaced it. In December 2021 both passenger side windows started opening on their own while in park and driving. Shortly started getting error message from proximity sensors, adaptive cruise control and finally brakes with service engine message. Brought to VW

service center and got diagnosed with faulty door harness. Service technician informed me that they had 20+ cars with similar issue and shortage of parts. Ultimately I was told vehicle is not safe to drive, due to car identifying door as open and shutting off engine mid-driving. **Harness replaced, not the trunk is opening in park and windows are still opening by themselves.** Sent the vehicle to service center by tow truck, applied for lemon law replacement and VW corporate. This should be heading to recall to prevent driving accidents. VW corporate is very hard to contact and follow-up is very poor. Other vehicle issues: Low coolant level, faulty door lock on passenger door.”

- NHTSA Complaint No. 11455103, March 3, 2022 (2019 Atlas): “When the car is turned on the Adaptive cruise control is not available, the error code fault is ‘driver door contact switch’, fault code ‘electronic parking brake’ appears, the rear drivers side window rolls down about 6 inches, the car beeps and alerts ‘the engine is running’. When at a complete stop, the beeping and alert with ‘the engine is running’ appears and the parking brake appears to turn back on as well. **My car had this issue in Feb 2021 and a part was replaced, but now the problem is back again.** This has been confirmed by the dealership and VW customer care that is a very known issue with Atlas. Unfortunately electrical issues are a huge concern because everything is connected. This is the primary car for me and my children. I have huge concerns of safety with my children riding in the car when it has such serious electrical issue.”
- NHTSA Complaint No. 11455650, March 8, 2022 (2019 Atlas): “The driver door wiring harness started lowering windows randomly..**it was replaced 3/1/22 and now it is bringing up two info driver door contact switch and electronic parking brake..online it is saying this is a safety issue.**”

12. Had Plaintiffs and the Class Members known about the Wiring Harness Defect, they would not have purchased the Class Vehicles or would have paid substantially less for them.

13. Despite being notified of the Wiring Harness Defect from, among other things, pre-production testing, numerous consumer complaints (both to NHTSA and on VW enthusiast websites), warranty data, and dealership repair orders, Defendant has not recalled the Class Vehicles to repair the Wiring Harness Defect and has not offered its customers a suitable repair or non-defective replacement Wiring Harness Defect free of charge.

14. VW knew of and concealed the Wiring Harness Defect that is contained in nearly every Class Vehicle, along with the attendant dangerous safety problems and associated repair

costs, from Plaintiffs and the other Class Members both at the time of sale and repair and thereafter.

15. As a result of their reliance on Defendant's omissions and/or misrepresentations, owners and/or lessees of the Class Vehicles have suffered ascertainable loss of money, property, and/or loss in value of their Class Vehicles.

16. Plaintiffs have each given VW a reasonable opportunity to cure the Wiring Harness Defect, but VW has been unable to do so within a reasonable time.

17. VW's conduct is in violation of the Tennessee Consumer Protection Act, Tenn. Code § 47-18-101, the Texas Deceptive Practices Act, Tex. Bus. & Com. Code § 17.41, *et seq.*, and constitutes fraudulent concealment, unjust enrichment, and a breach of express and implied warranties and the Magnuson-Moss Warranty Act.

18. VW has and will continue to benefit from its unlawful conduct – by selling more vehicles, at a higher price, and avoiding warranty obligations – while consumers are harmed at the point of sale as their vehicles continue to suffer from the unremedied Wiring Harness Defect.

19. To remedy VW's unlawful conduct, Plaintiffs, on behalf of the proposed class members, seek damages and restitution from VW, as well as notification to class members about the defect.

PARTIES

20. Plaintiff Mike Sherrod ("Mr. Sherrod") is an adult individual residing in Waverly, Tennessee.

21. Plaintiff Michael Fulbright ("Mr. Fulbright") is an adult individual residing in Buna, Texas.

22. Defendant Volkswagen Group of America, Inc., is a New Jersey corporation with

a principal place of business at 2200 Ferdinand Porsche Drive, Herndon, Virginia 20171.

23. At all relevant times, Defendant was engaged in the business of marketing, supplying, and selling motor vehicles accompanied by written warranties to the public at large through a system of authorized dealerships.

JURISDICTION AND VENUE

24. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332(d) of the Class Action Fairness Act of 2005 because: (i) there are 100 or more class members, (ii) there is an aggregate amount in controversy exceeding \$5,000,000, exclusive of interest and costs, and (iii) there is minimal diversity because Plaintiffs and Class Members, and Defendant are citizens of different states.

25. This Court also has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 because Plaintiffs present a claim under the federal Magnuson-Moss Warranty Act, 15 U.S.C. § 2301, et seq. As to the state law claims, this Court has supplemental jurisdiction pursuant to 28 U.S.C. §1367.

26. Personal jurisdiction and venue are proper in this District as Defendant is headquartered in this District.

FACTUAL ALLEGATIONS

I. Mike Sherrod

27. In July 2020, Mr. Sherrod purchased a new 2021 VW Atlas, Vehicle Identification Number 1V2KR2CA9MC505679 (hereafter the “Sherrod Vehicle”) from an authorized VW dealership in Tennessee.

28. In connection with the purchase, Volkswagen Group of America, Inc. provided a New Vehicle Limited Warranty to Mr. Sherrod where it promised to repair defective parts within

4 years or 50,000 miles in service, whichever comes first.

29. In or around November or December 2021, the Sherrod Vehicle first began exhibiting the symptoms of the Wire Harness Defect. While Mr. Sherrod was driving the Sherrod Vehicle, the vehicle's windows began opening and closing on their own and the vehicle's instrument cluster displayed several error messages.

30. On several occasions while Mr. Sherrod was driving the Sherrod Vehicle, the vehicle has applied the emergency brakes on its own and began slowing itself down on its own in addition to opening and closing the windows and displaying error messages. To clear the error messages Mr. Sherrod must pull over and turn off the vehicle and then turn it back on. During these episodes the vehicle's remote starter does not work.

31. In December 2021, Mr. Sherrod brought his vehicle to Volkswagen of North Nashville in Madison, Tennessee, complained that his vehicle was experiencing the above symptoms of the Wire Harness Defect, and sought a repair. In response, the dealer advised Mr. Sherrod that the Defect was a known issue, the dealer needed to replace the Sherrod Vehicle's door wire harness, however the dealer did not have any available parts. The dealer further advised that it was aware of hundreds of other Class Vehicle that were also waiting for replacement door wire harnesses. The dealer further advised Mr. Sherrod that it would call him when it received replacement wire harnesses.

32. The dealer did not provide Mr. Sherrod with a replacement vehicle.

33. To date – several months after Mr. Sherrod sought a repair from the VW dealer, the Sherrod Vehicle remains unrepaired and continues to experience the Wiring Harness Defect.

34. Mr. Sherrod, through his counsel, has sent a letter to VW advising it that the Sherrod Vehicle suffers from the Wiring Harness Defect and has not been repaired within a

reasonable period of time.

35. At all times, Mr. Sherrod has driven his vehicle in a foreseeable manner and in the manner in which it was intended to be used.

II. Michael Fulbright

36. On August 2, 2021, Mr. Fulbright purchased a new 2021 VW Atlas, Vehicle Identification Number 1V2JR2CAXMC598112 (hereafter the “Sherrod Vehicle”) from Volkswagen of Beaumont, an authorized VW dealership in Beaumont, Texas.

37. In connection with the purchase, Volkswagen Group of America, Inc. provided a New Vehicle Limited Warranty to Mr. Fulbright where it promised to repair defective parts within 4 years or 50,000 miles in service, whichever comes first.

38. Beginning in or around November 2021, the Fulbright Vehicle’s windows began opening and closing on their own.

39. On or about January 29, 2022, Mr. Fulbright’s wife (“Mrs. Fulbright”) was driving the Fulbright Vehicle with their child on a highway at approximately 70 miles per hour when the Fulbright Vehicle suddenly lost power. Mrs. Fulbright was forced to put the Fulbright vehicle in neutral and pull it to the side of the highway.

40. The following day on January 30, 2022, Mrs. Fulbright and their child experienced the Wire Harness Defect again. While Mrs. Fulbright was entering turning onto a major road from a shopping center parking lot, the Fulbright Vehicle suddenly lost power and died while the Fulbright was perpendicular to oncoming traffic; oncoming vehicles needed to stop short to avoid colliding with the Fulbright Vehicle.

41. On or about January 30, 2022, Mrs. Fulbright brought the Fulbright Vehicle to Volkswagen of Beaumont, complained that the Fulbright Vehicle was experiencing the above

symptoms of the Wire Harness Defect, and sought a repair. In response, the dealer advised Mrs. Fulbright that it needed to replace the Fulbright Vehicle's door wire harness, however the dealer did not have any available parts. The dealer further advised that it was aware of more than 1,000 other Class Vehicle between Beaumont, Texas and Louisiana that were awaiting replacement door wire harnesses.

42. The dealer initially declined to provide Mr. and Mrs. Fulbright with a replacement vehicle until Mr. and Mrs. Fulbright complained that they needed satisfactory alternative transportation

43. On February 14, 2022, a representative at Volkswagen of Beaumont sent a text message to Mrs. Fulbright stating "This is Kelsey at VW, Parts Manager checked again and let me know VW still doesn't have an eta for us. Again I am so sorry I know this is awful and frustrating. I asked the service manager to reach out to you as well."

44. To date, the Fulbright Vehicle remains unrepaired.

45. Mr. Fulbright, through his counsel, has sent a letter to VW advising it that the Fulbright Vehicle suffers from the Wiring Harness Defect and has not been repaired within a reasonable period of time.

46. At all times, Mr. and Mrs. Fulbright have driven the vehicle in a foreseeable manner and in the manner in which it was intended to be used.

III. The Wiring Harness Defect

47. VW began selling the Class Vehicles in or around 2019.

48. The Class Vehicles suffer from a dangerous manufacturing and/or design defect that causes the Class Vehicles' door wiring harnesses to fail and results in, *inter alia*, the Class Vehicles erratically applying the emergency brakes on their own, opening and closing the

windows on their own, and displaying numerous error messages and emitting warning noises.

49. On November 12, 2021, VW issued a “Technical Tip” No. 97-21-02TT, entitled “Fault code U019900 or U020000 along with Various Warnings.” The Technical Tip applies to 2019-2022 Atlas, Atlas Cross Sport, Golf, Golf Wagon, Jetta, Tiguan and Taos VW vehicles.

50. Describing the Wiring Harness Defect, the Technical Tip states “Various warning lights may illuminate, the windows may operate erratically, and several communication faults are stored,” and explained that “A poor connection in/at the door wiring harness may cause fault code U019900 or U020000 to be stored along with many other faults. This may also cause unwanted activation of certain vehicle systems, such as the windows opening/closing by themselves.”

51. Technical Tip No. 97-21-02TT advises VW dealers to attempt a repair by checking certain wire harness connections and then ultimately replacing the defective wiring harness: “Check the wiring harness at the driver side A-pillar connection, both the door and body harness sides, for any pins that have poor terminal tension or pins that are backing out of their housing. While doing these checks, be sure to pay close attention to the Comfort CAN High and Low circuits. If there are any pin issues noted, replace the affected pins and retest. If there are not any pin fit issues, it is recommended to replace the affected door harness and retest.”

52. On January 14, 2022, VW issued a revised version of its Technical Tip No. 97-21-02TT, which expanded the number of fault codes at issue with the Wiring Harness Defect. It applies to “Fault code U019900, U020000, B101729, B101715, B103611, B103629 along with Various Warnings.”

53. However, as set forth above and in the NHTSA complaints reproduced below, the proposed repair set forth in Technical Tip No. 97-21-02TT is inadequate because (1) VW does

not have replacement wiring harnesses available and thus when Class Vehicle owners complain to VW and seek a repair they are told they need to wait months or longer for a replacement part; (2) Class Vehicle owners are consistently denied loaner vehicles and thus are forced to continue experiencing the Wiring Harness Defect while awaiting a replacement part; and (3) those Class Vehicles owners who eventually were given a replacement wiring harness report that the repair attempt does not fix the Wiring Harness Defect.

54. Indeed, Plaintiffs have each been waiting months for a replacement wiring harness.

55. VW had and has a duty to fully disclose the true nature of the Wiring Harness Defect and the associated repair costs to Class Vehicle owners because, among other reasons, the Defect poses an unreasonable safety hazard; because VW had and has exclusive knowledge or access to material facts about the Class Vehicles' defective door wiring harnesses that were and are not known to or reasonably discoverable by Plaintiffs and the other Class Members; and because VW has actively concealed the Wiring Harness Defect from its customers. Because the Class Vehicles contain defective door wiring harnesses, the Class Vehicles should each be repaired by VW free of charge regardless of whether the Wiring Harness Defect has manifested, or the facts and circumstances surrounding any failure.

IV. VW's Knowledge of the Defect

56. Before VW sold Plaintiffs their Class Vehicles, VW was on notice that the Class Vehicles suffered from the Wiring Harness Defect, however VW failed to disclose the existence of the defect to Plaintiffs or any other Class Vehicle owner.

57. VW became aware of the Wiring Harness Defect through sources not available to Plaintiffs and Class Members, including, but not limited to, pre-production testing, pre-

production design failure mode and analysis data, production design failure mode and analysis data, early consumer complaints made exclusively to VW's network of dealers and directly to VW, aggregate warranty data compiled from VW's network of dealers, testing conducted by VW in response to consumer complaints, and repair order and parts data received by VW from VW's network of dealers.

58. On information and belief, during the pre-release process of designing, manufacturing, engineering, and performing durability testing on the Class Vehicles, which would have occurred before VW began selling the Class Vehicles in 2019, VW necessarily would have gained comprehensive and exclusive knowledge that the Class Vehicles suffer from the Wiring Harness Defect and would pose a safety risk to owners/lessees and the public at large. Despite that such testing on the Class Vehicles revealed the Wiring Harness Defect to VW, VW failed to remedy the manufacturing processes with the Class Vehicles before putting the vehicles into production and selling them to the public.

59. VW also knew about the Wiring Harness Defect because numerous consumer complaints regarding symptoms of the Defect (e.g., the Class Vehicles applying the emergency brakes and opening and closing the windows on their own) were made directly to VW and its authorized dealerships. The large number of complaints, and the consistency of their descriptions of the Wiring Harness Defect, alerted VW to this serious Defect affecting the Class Vehicles. The full universe of complaints made directly to VW about the Wiring Harness Defect is information presently in the exclusive custody and control of VW and is not yet available to Plaintiffs prior to discovery. However, upon information and belief, many Class Vehicle owners complained directly to VW and VW dealerships and service centers about their Vehicles experiencing the Wiring Harness Defect.

V. Customer Complaints and Online Discussions of the Defect

60. Upon information and belief, thousands of purchasers and lessees of the Class Vehicles have experienced the Wiring Harness Defect. Given how widespread the issue is and the fact that the defect manifests shortly after owners begin driving the vehicles, Class Vehicle owners have been complaining about the Wiring Harness Defect directly to VW and separately posting such complaints online since 2019.

61. Indeed, Class Vehicle owners have consistently lodged NHTSA complaints regarding the Wiring Harness Defect. The below examples of more than 50 such complaints, filed by consumers with NHTSA and posted on the Internet, which on information and belief VW actively monitored during the relevant time period, demonstrate that the Wiring Harness Defect is widespread and dangerous and that VW has known about the defect at all relevant times:

2019 Atlas NHTSA Complaints:

- NHTSA Complaint No. 11253281, September 4, 2019 (2019 Atlas): EMERGENCY BRAKE ACTIVATED WHEN THE VEHICLE WAS IN MOTION AND TURNING TOWARDS AN OPEN PARKING SPACE. NOTHING WAS IN FRONT OF THE VEHICLE AT THE TIME OF THE EMERGENCY BRAKE DEPLOYING. THIS LEFT THE VEHICLE STUCK IN THE MIDDLE OF PARKING LANE AND COULD HAVE BEEN HIT BY CROSS TRAFFIC.”
- NHTSA Complaint No. 11298885, January 12, 2020 (2019 Atlas): “VEHICLE WOULD TURN OFF WHILE IN DRIVE. ORIGINALLY HAPPENED WHEN GOING IN REVERSE UP A HILL, VEHICLE WARNING TO PUT INTO PARK AND MANUALLY RESTART. HAPPENED 2 MORE TIMES AND WAS BROUGHT IN FOR REPAIR. DEALERSHIP WAS UNABLE TO DUPLICATE THE ISSUE. IT HAPPENED AGAIN AND WAS BROUGHT BACK TO THE DEALERSHIP. THEY CONTACTED VW AND RECOMMENDED THE FUEL PUMP BE REPLACED. THEY COMPLETED THE REPAIRS. THEN A WEEK LATER WHILE DRIVING ON THE PARKWAY AT APPROX. 75 MPH THE VEHICLE BEGAN SLOWING DOWN, I WAS DRIVING IN THE MIDDLE LANE, I WAS ABLE TO START TO GET OVER TO THE SHOULDER AS THE VEHICLE STARTED DECLINING SPEED, I WAS UNABLE TO USE THE GAS, SO I WAS ALMOST COASTING TO THE SHOULDER. THEN IT STATED PUT

IN PARK AND START VEHICLE MANUALLY WHILE THE VEHICLE WAS STILL IN DRIVE AND AT A SPEED OF 45. I WAS ABLE TO GET TO THE SHOULDER AND PARKED THE VEHICLE, EVERYTHING LOCKED UP. THERE WAS AN EPC LIGHT ON, A CHECK ENGINE LIGHT. THE VEHICLE WAS TOWED.”

- NHTSA Complaint No. 11324309, May 12, 2020 (2019 Atlas): “TWICE THIS VEHICLE HAS SHUT DOWN WHILE DRIVING. IN MARCH WHILE ON AN INTERSTATE GOING 70 MPH. AND ONE TIME EXCELLING WHILE LEAVING AN EXIT RAMP. I ROLLED OFF TO SIDE OF ROAD AND PUT IN PARK. GAVE IT A TEST AND IT THEN RESTARTED. *TR”
- NHTSA Complaint No. 11354563, September 12, 2020 (2019 Atlas): “THE VEHICLE SHUTS DOWN WHILE DRIVING. IT HAS HAPPEN 3 TIMES. AUTO START/STOP IS DISENGAGED EACH TIME. ONE INCIDENT (6/19/20) WHILE DRIVING 50MPH, HAD TO COAST INTO A PARKING LOT & RESTART THE ENGINE. ANOTHER (8/19/20) WHEN SLOWING DOWN TO GO INTO OUR DRIVEWAY. TOOK THE CAR TO THE DEALER AFTER EACH OF THESE INCIDENTS. THEY COULD NOT DIAGNOSE THE ISSUE. DEALER HAS CONTACTED VW TECH & ENGINEERING. WE HAVE STARTED FILE WITH VW CUSTOMER CARE. WE WERE INSTRUCTED BY VW THAT THE NEXT TIME IT HAPPENS, LEAVE THE CAR WHERE IT STOPS & TO CALL CUSTOMER CARE FOR A TOW. WE ALSO HAVE HAD AN ISSUE WITH ONE KEY NOT BEING RECOGNIZED BY THE CAR ON SEVERAL OCCASIONS. TODAY, THE INSTRUMENT DISPLAY & THE RADIO SHUT DOWN WHILE IDLING AT CVS (AUTO START/STOP WAS OFF).
- NHTSA Complaint No. 11386994, January 7, 2021 (2019 Atlas): “THE REAR WINDOW ROLLS DOWN BY ITSELF WITH NOBODY TOUCHING ANY OF THE BUTTONS. THE LIGHT POPS UP ON THE DASH AND SAYS FAULTY ELECTRICAL. THE VEHICLE WAS IN MOTION, IN THE CITY. THE VEHICLE WILL SUDDENLY ATTEMPT TO STOP IN THE MIDDLE OF A DRIVE/MIDDLE OF THE ROAD. ALMOST AS IF THE EMERGENCY BREAK HAS BEEN PULLED, ONLY NOBODY HAS TOUCHED IT. THE EMERGENCY BRAKE LIGHT DOES COME ON. AGAIN, IN MOTION, ON THE HIGHWAY (HAS HAPPENED A FEW TIMES). NOW, THE REMOTE START DOES NOT WORK.”
- NHTSA Complaint No. 11406294, April 4, 2021 (2019 Atlas): “THE REAR WINDOW ROLLS DOWN BY ITSELF WITH NOBODY TOUCHING ANY OF THE BUTTONS. THE LIGHT POPS UP ON THE DASH AND SAYS FAULTY ELECTRICAL. THE VEHICLE WILL SUDDENLY STOP IN THE MIDDLE OF DRIVING. THE EMERGENCY BREAK APPLIES. THE EMERGENCY BRAKE LIGHT COMES ON. CHECK ENGINE LIGHT ILLUMINATES. UNABLE TO SAFELY DRIVE AS THE VEHICLE JUST STOPS WITHOUT WARNING.

VEHICLE IN MOTION ON THE STREET AND ON THE HIGHWAY OCCURRED SEVERAL TIMES”

- NHTSA Complaint No. 11449356, January 29, 2022 (2019 Atlas): “My car had an airbag alert show up on Thursday, January 27th. It said Error: Airbag. I contacted the dealership was able to get my car into Glenwood Springs Volkswagen service center on Friday, January 28th. At 4:30 pm I was told there was an issue with the airbag system. According to the Volkswagen employee, this is a known issue and they are surprised Volkswagen has not opened a recall. The service report states: Connected scan tool and found fault B101715 crash sensor for side air bag, drivers side open circuit/short circuit to B+ (passive). They recommended to replace drivers door harness. I was informed the necessary replacement parts were back ordered and would not be replaced for at least 1 month. I believe the earliest date to expect the fix is March 5th. The local service center has 2 loaner cars that are currently loaned out due to this issue. They cannot provide me a loaner car. I called VW care and they are unable to escalate this issue until Thursday, February 3rd. They informed me it was not an active recall and not part of my warranty for them to have to provide me a safe car to drive.”
- NHTSA Complaint No. 11451669, February 12, 2022 (2019 Atlas): “On Jan. 12th 2022 my wife and I were riding in our 2019 Volks Wagon Atlas in route to a doctors appointment and was slowing for a red light when a warning sounded the drivers side back door window lowered, multiple warning light came on and the most dangerous part was the electric e brake activated causing the vehicle to come to an immediate stop. We were lucky there wasn't any traffic behind us. The vehicle was taken to the Volks Wagon of Reading Pennsylvania, and the service tech stated the vehicle was not safe to drive, and that that they have multiple vehicles with the same problem. We were further informed that the drivers door wiring harness failed and the part is backed ordered. I have been to the volks wagon atlas message board and found this problem is through out the United States if not world wide. Most of the complaints are how scared everyone was when the car stopped in traffic without warning. Volks Wagon is aware of this problem but have not taken the initiative to inform Atlas owners that this problem exist.”
- NHTSA Complaint No. 11455103, March 3, 2022 (2019 Atlas): “When the car is turned on the Adaptive cruise control is not available, the error code fault is ‘driver door contact switch’, fault code ‘electronic parking brake’ appears, the rear drivers side window rolls down about 6 inches, the car beeps and alerts ‘the engine is running’. When at a complete stop, the beeping and alert with ‘the engine is running’ appears and the parking brake appears to turn back on as well. My car had this issue in Feb 2021 and a part was replaced, but now the problem is back again. This has been confirmed by the dealership and VW customer care that is a very known issue with Atlas. Unfortunately electrical issues are a huge concern because everything is connected. This is the primary car for me and my children. I have huge concerns of safety with my children riding in the car when it has such serious electrical issue.”

- NHTSA Complaint No. 11455355, March 5, 2022 (2019 Atlas): “In Jan 2022, the air bag system error light lit up at start-up and remained lit. A first-available dealer appointment was made for 1/28, two weeks away. During those two weeks, the car started to issue a burst of random alerts during cold startup - driver door contact switch failure, cruise control (ACC) failure, start/stop system failure, and the rear driver side window would roll down several inches. Shutting off and restarting the car solved these alerts. The car was inspected on Jan 28; the dealer confirmed a faulty wiring harness in the driver side door. They also confirmed the random alerts were the same cause. The dealer stated that the driver side air bag was nonfunctional, but the rest of the air bag system was OK. A replacement part was ordered with an estimated delivery of 2-3 weeks. As such, we chose to keep driving the car. Over the ensuing weeks, the random alert sequence got more frequent and started to show an electronic parking brake alert and engage the parking brake at startup. It then began happening on later starts when the car was fully warmed and would resume after the car was shut off and restarted. Finally, the alerts started to happen while moving, and instead of just a single burst, became a continuing sequence. The alerts are a rapid-fire volley of warning dings/dongs and accompanying messages in front of the driver. At the same time, the rear driver-side window is moving and the door contact switch is clicking randomly in the driver's left ear. It is a startling volley, which combined with the other weird sounds, is a disorienting and panic-inducing 360-degree assault on the senses. After no word from the dealer. I called on Mar 4 and was told the part was on a nationwide backorder, with no ETA. I did some research and found numerous reports of the problem getting worse over time and the parking brake engaging while moving. As our experience matches the trend, I feel the car is no longer safe and have parked it until it is repaired.”
- NHTSA Complaint No. 11455650, March 8, 2022 (2019 Atlas): “The driver door wiring harness started lowering windows randomly..it was replaced 3/1/22 and now it is bringing up two info driver door contact switch and electronic parking brake..online it is saying this is a safety issue.”
- NHTSA Complaint No. 11455931, March 9, 2022 (2019 Atlas): “Last Saturday, several warning lights appeared on the dashboard, including ‘ACC Not Available’, ‘Error: Driver Door Contact Switch’, and ‘Fault: Electronic Parking Brake’. While in traffic I slowed to around 15 mph and the emergency brake activated, stopping the car abruptly. This same scenario of slowing and the emergency brake activating happened twice more while driving home. Vehicle was taken to the dealership who advised we were the 16th Atlas that has experienced these problems. We were told it would be 3-4 months before the parts to fix the vehicle were available.”

2020 Atlas NHTSA Complaints:

- NHTSA Complaint No. 11448453, January 22, 2022 (2020 Atlas): “In the beginning of November 2021 with 7680 miles an alarm stating Error: Driver door contact switch Fault: Electronic parking brake Attention: Engine is running. Error: Start Stop The check engine light/EPC lights were on. Windows do not open or open about an

inch by themselves. This issue occurs most times when starting the vehicle. VW was made aware and checked the vehicle stating the driver side door harness needs to be replaced but there is shipping delays. Over the next few months when operating the vehicle under speeds of approximately 10 to 5 miles an hour the emergency parking brake activates and slows or completely stops the vehicle while driving. This is a safety issue as a vehicle that suddenly stops while in traffic regardless of speed can be rear ended or cause an accident. VW has claimed that the door harness is at fault and that the parking brake activating is because of a faulty door harness. It has been over 2 months and the door harness has still not been replaced. I have spoke to mechanics regarding this issue and they stated a parking brake activating while the car is in motion is not related to a faulty door harness. I wish to have this complaint investigated and to have my car issue recalled so VW is forced to fix this issue. I have 3 small children who regularly ride in this vehicle. A emergency parking brake activating while the vehicle is in motion is unacceptable. Thank you.”

2021 Atlas NHTSA Complaints:

- NHTSA Complaint No. 11428798, August 12, 2021 (2021 Atlas): “Driving onto the highway from the on ramp the vehicle shut off and lost control of the vehicle. Would not right away. This occurred 4 times in the last 3 months. First, 3x. i thought it was me clicking or touching something on the car, thought now i know it was not me the 4th time. im sacred”
- NHTSA Complaint No. 11438198, October 26, 2021 (2021 Atlas): “My 2021 Atlas turned itself off while I was going down the road at 70 MPH. I had over 1/2 tank of gas. I was able to get to the side of the road, put the car in park, and restart.”
- NHTSA Complaint No. 11441770, November 26, 2021 (2021 Atlas): “Driving at freeway speeds between Elko Nevada and Salt Lake City Utah car completely lost power shut off had to coast To a stop and restart the engine after several semi’s and vehicles passed us honking their horns”
- NHTSA Complaint No. 11442273, December 1, 2021 (2021 Atlas): “Door Sensor causing car to throw various codes. Windows rolling down by themselves, parking brake engaging by itself. VW knows about the problem and should be a recall. Parts is on back order with time frame.”
- NHTSA Complaint No. 11442319, December 1, 2021 (2021 Atlas): “Today, December 1, 2021 my Atlas completely shut off while driving twice. This has happened 2 times prior on separate occasions, bringing the total times to 4 to date. Today it happened first in the morning while I was exiting the school parking lot and attempting to enter the main road of traffic. It completely stopped, turned off, and asked me to put in park before I could turn the engine back on. It then happened again while driving in a parking lot. It completely shut off and would not move. In all of these instances I felt in danger and at risk of causing or being involved in a car

accident due to this sudden engine failure. All 4 times have been within the past few weeks, but today was the worst in that it was twice in the same day.”

- NHTSA Complaint No. 11443499, December 12, 2021 (2021 Atlas): “Within seconds of starting the vehicle, error codes started appearing on the dashboard and beeping noise stating to park the car and not drive. The back window will roll down on its own and the parking brake will engage if it wasn’t engaged already. I would turn off the car and it would go away. But after a few minutes the car would start beeping and all kinds of lights and error code started appearing again. After getting this error message and the constant beeping, the emergency brake turns on and the window from behind driver's door lowers like 5 inches from top. At this point, I cannot lower window and I cannot turn off emergency brake. The code started appearing about a week prior to December 8 which was the final straw. It got to a point that while driving, if I took my foot off the gas pedal, the emergency brake will engage automatically as I was going 10-15 miles per hr. Everytime I slowed down and was coming to a stop the car will engage the emergency brake. I had to turn off the car and back on in order to keep going. This almost caused me to be hit multiple times until I was able to get to a safe location and away from the main road. I’ve read many others complaint similar and I think this should be a recall. It is a safety hazard when the emergency brake engages once you slow down and foot is off the break. This particular car was fixed on Nov.5 for a recall related to coupling rods. I was told that the issue now is called a “driver front door harness” fault which the wires think I’m opening the door while driving so it engages the emergency brake. Vehicle is currently at dealership and has been since Dec. 8 with no estimated time of repair due to waiting on parts. vehicle has been in my possession since Jan. 9, 2021.”
- NHTSA Complaint No. 11444633, December 21, 2021 (2021 Atlas): “The vehicle indicated the door sensor was not working. This cause all warning lights on my dashboard to come on. Additionally, the car would beep notifying me that the engine was running as if the door had been opened. The car would then apply the emergency brake anytime I would begin to slow down causing me to almost get into an accident.”
- NHTSA Complaint No. 11445277, December 28, 2021 (2021 Atlas): “Check engine light came on, windows were going down 1/8 of the way on their own, parking brake goes on automatically while engine is on while driving and pressing on brake, cannot utilize any controls on driver door. Dealer checked and it is the door harness that is on backorder. I was told 41 customers ahead of me waiting for same part in Northeast USA. Car is not safe to drive due to parking brake automatically engaging. VW of America notified and my case was escalated and I have initiated the PA Lemon Law Arbitration process. Issues first appeared 11/8/21. I have been given a smaller loaner vehicle from dealer on 11/9/21 and am still using that.”
- NHTSA Complaint No. 11447177, January 12, 2022 (2021 Atlas): “Purchased the car in April 2021. After 230 miles of driving remote start stopped working. VW service center diagnosed faulty soldering on fuel pump and replaced it. In December

2021 both passenger side windows started opening on their own while in park and driving. Shortly started getting error message from proximity sensors, adaptive cruise control and finally brakes with service engine message. Brought to VW service center and got diagnosed with faulty door harness. Service technician informed me that they had 20+ cars with similar issue and shortage of parts. Ultimately I was told vehicle is not safe to drive, due to car identifying door as open and shutting off engine mid-driving. Harness replaced, not the trunk is opening in park and windows are still opening by themselves. Sent the vehicle to service center by tow truck, applied for lemon law replacement and VW corporate. This should be heading to recall to prevent driving accidents. VW corporate is very hard to contact and follow-up is very poor. Other vehicle issues: Low coolant level, faulty door lock on passenger door.”

- NHTSA Complaint No. 11448507, January 23, 2022 (2021 Atlas): “On January 8, 2022 I was driving on a main road about 30 to 35 mph when the vehicle suddenly shook violently and the engine shut off. There was loud beeping and the computer system lit up saying Error: Engine at the same time the emergency brake was activated. There was also a message about a Door Error. Luckily there were no cars around me at the time. I put the car in park and started it again. I was fairly close to home but this happened 3 more times, one time when I was pulling out on a road and traffic was coming toward me. I finally got the car home and since it was the weekend parked it. Monday morning I contacted VW Road Assistance and they towed it to the dealership for repairs. This is a very serious and dangerous problem with the 2021 VW Atlas. If you were traveling on a major highway going 70 mph and your engine just shut down you could be seriously injured or killed. Please look into this serious defect in the 2021 VW Atlas.”
- NHTSA Complaint No. 11448603, January 24, 2022 (2021 Atlas): “Due to faulty driver side wiring harness the computer system on the vehicle will engage the automatic parking break while driving. In addition windows open randomly and vehicle displays a variety of warnings on the dash indicating that the engine is running and that the door sensor is malfunctioning. When the parking break engages the vehicle jolts to a stop unexpectedly creating a dangerous situation for the vehicle, especially when moving through an intersection. The problem has been confirmed by the dealership where it is waiting on a new part. Other owners have reported the symptoms as reported here : <https://www.vwatlasforum.com/threads/error-driver-door-contact-switch.6359/>
- NHTSA Complaint No. 11448811, January 25, 2022 (2021 Atlas): “Upon starting car warning is light comes on regarding faulty door sensor then several other random warnings. Rear passenger windows open a few inches automatically. The warning signal beeps continuously until car begins to move but when you come to a complete stop the parking brake engages automatically and beeping begins again. It is very random and unpredictable, not rhyme or reason as to what triggers it or not. I have been waiting ever since Dec 17 to take it in to dealership. I was informed by dealership that they would need the car for at least 1 week to diagnose the problem. I

have been waiting since then for them to have an available loaner car since dealer told me it was safe to continue driving the car. PLEASE ISSUE RECALL ORDER FOR THIS VEHICLE!”

- NHTSA Complaint No. 11448985, January 26, 2022: “After 3 months of owning this brand new car, the parking system started to act up. My parking sensors would beep for no reason, windows would roll down and my parking brake would come on when I was driving. I took the car to the dealership and they did an electrical update. Two months later the same issue happened again, as well as my engine light came on because my coolant was low. Again I took it to the dealership where I was told a door harness sensor needed to be replaced and my head gasket needed to be replaced as well. My car has been in the shop for almost two months as the part is on back order. Now there is also a recall for the air conditioner. This is the worst experience with a new car I have ever had. I have initiated the process of trying to get Volkswagen to buy it back. When I spoke to the service manager he told me he has 9 other Atlas’s in the shop for the same reason. Customer care has been no help. I will never buy another Volkswagen again.”
- NHTSA Complaint No. 11449235, January 28, 2021: “The below are known issues dating back to at least 2020 Atlas models, but this first appeared in our vehicle mid-November 2021; we purchased the car new June 2021. The driver door contact switch has failed. There are annoyances - the windows randomly roll down, lots of dinging, warning lights, etc. - but the safety issue is that the emergency brake will come on sometimes when you brake. We have a child and cannot risk suddenly being stopped on a highway. Because of this, the car is undriveable. VW estimates the part will be available in 2023, so there are people driving around with this safety issue because they have no second car and people who are paying a loan on a car they cannot drive. These issues have been replicated by the dealer. The case has been escalated to VW and there is no sense of urgency. See here for reports of others with the same experiences: <https://www.vwatlasforum.com/threads/error-driver-door-contact-switch.6359/>”
- NHTSA Complaint No. 11449492, January 30, 2022 (2021 Atlas): “While i am driving my car start acting crazy first the windows go down following for some mesenges in the screen, Error: driver door contact switch Error: start/stop Fault:electronic parking brake The electric brake is activated wile i am driving that was the mos scare thing happened to my family and me.”
- NHTSA Complaint No. 11449937, February 2, 2022 (2021 Atlas): “Driver door wiring harness is faulty and needs replaced. At random times during driving all alerts will go off in car triggering the windows to roll down, the parking brake to engage while the vehicle is moving, turning off adaptive cruise, lane keep assist and many other safety features while using them. I fear for the safety of the passengers in my car and those around me as I am unable to know when the brake will engage. The dealer has confirmed the need for replacement but does not have the parts to replace.

They will not provide a loaner and have no estimate of when parts will be available for repair. The issue is ongoing and random.”

- NHTSA Complaint No. 11450635, February 6, 2022 (2021 Atlas): “While driving 35mph then coming to a stop, the car automatically engages the parking brake. When this occurs it also notes that I am on a hill... which is incorrect. This causes me to fully shut of the car in traffic and restart the engine. While this occurs the driver door lock engages and flash red.”
- NHTSA Complaint No. 11451440, February 10, 2022 (2021 Atlas): “I have a faulty Door harness that causes the vehicle to think they the door is open, when it is not. Because the car thinks the door is open, the E brake engages while driving and a loud beeping ensues. Several sensors also start flashing like check engine, start/stop system failure, check oil, etc. the part is back ordered with no ETA and VW don’t do a recall because they don’t want to be on the hook for all of these cars. A quick Google search will show you that this is a widespread safety issue that is being ignored”
- NHTSA Complaint No. 11451379, February 10, 2022 (2021 Atlas): “Emergency Brake engages while driving. It has happened multiple times at speeds of 25-70mph. When this happened the warning lights and beeping would start, saying "Fault Electronic Brake", Error: Driver Door Contact Switch”, "Warning, engine is running" windows in the back would also automatically start rolling down and up. It has nearly caused us to get into two high speed accidents with our children in the car with us. Vehicle is currently at dealership along with others with the same problem, has been there for over 3 weeks as they attempt to get a harness in for it. They are telling people because they are out of loaners that they have to continue to drive the vehicle. THEY are not safe to be on the road at this point.”
- NHTSA Complaint No. 11451781, February 13, 2022 (2021 Atlas): “The emergency brake will randomly go off when driving or tapping my brakes. Then doors will lock and windows roll half down. I have to stop car, turn off and turn on again to get the car moving again. This happens randomly and frequently. It is 2/13 and my car has been in the shop since 1/3/2022.”
 - 1.
- NHTSA Complaint No. 11452157, February 15, 2022 (2021 Atlas): “There were multiple incidents where the windows would roll down and the error came on state "Driver Side Contact Error", once where the driver side door would not open, I had to crawl out the passenger side, and multiple times when the parking brake would not disengage. All of these issues have been said to be the drivers side harness kit, no rhyme or reason and lights and errors would go off after each incident. The main safety concern caused be this is when i was driving down a hill coming to a red light, i was reducing speed but was not stopped and the parking brake engaged on its own. I came to a dead stop in the middle of the road, luckily no cars behind me and on a clear road, the dash lit up with multiple errors but all disappeared before i a could write them all down. The dealership where my car current is has stated there is a

parts bulletin out on this part causing all these issues with the door harness kit, but no recall. They also could not guarantee that my parking brake would not engage again while the car was in drive, but did not want to offer me a rental car because Volkswagen doesn't consider it a 'Safety issue'. I know there are 5 other vehicles at the dealership with the same issue as mine (as of January 10th). This is happening in brand new cars, my car is a 2021 and have not even owned it a year.”

- NHTSA Complaint No. 11452036, February 15, 2022 (2021 Atlas): Starting in November, a series of alarms would go off on the dashboard on the engine, lane assist, collision warnings, etc. As the problem progressed, the windows would go down automatically, and in the most severe instances, the car would engage the emergency park brake while coming to a stop!!! This happened more and more frequently to the point the car became undrivable as you awaited the car engaging the emergency parking brake while coming to a stop!!!! The car has been at the dealership since 11/22/21 as the door control wiring harness is on backorder. Someone will get hurt if this goes unrepaired.”
- NHTSA Complaint No. 11452328, February 16, 2022 (2021 Atlas): “At random times during driving the fault electronic parking brake with turn on and abruptly stop the vehicle making it jerk forward. It will trigger the windows to roll down, and errors will pop up stating lane assist is unavailable with beeping noise. This puts my family at risk because I was completely scared when the parking brake automatically came on while exiting the highway and an 18-wheeler truck was behind me with my daughter in the car. I had to completely turn my vehicle off and back on to keep going. When I took my car in on February 1,2022 the Service Manager said that there were multiple vehicles in their possession with the issue. He said it would take a month to get it fixed. After speaker to a regional supervisor for Volkswagen they did not have a ETA for getting the parts needed to perform the repair, yet I am still paying a mthly payment and insurance on a vehicle I own that's not in my possession. I have screenshots from my CarNet app with the warning issues that I shared with the manufacturer. There seems to be no sense of urgency to get this repaired or provide a vehicle that is comparable to fit my family size while waiting on the parts for repair.”
- NHTSA Complaint No. 11452697, February 18, 2022 (2021 Atlas): “Door harness replacement needed, car is only a few months old, less than 10k Miles. Various sensors go off indicating a contact door switch issue, and the parking brake will go off and windows will open. This happened to me with children in the car and snowy weather, which could have caused an accident when the parking brake went off while driving.”
- NHTSA Complaint No. 11453080, February 20, 2022 (2021 Atlas): “The driver door contact switch and door harness is faulty, which triggers several errors while driving. The lane keep assist and departure warning does not work when this is happening. Additionally, when braking, the car has several alarms that chime repeatedly, including low coolant, driver door contact switch, electronic parking

brake failure, hill start assist, and dynamic cornering lights. The car beeps nonstop while the brakes are applied and the car is at a complete stop. The parking brake also engages when the brakes are applied, making it very unsafe to drive. When I called the dealership to schedule an inspection, they reported that they don't need to inspect the car because they know exactly which part is causing the problem, and ordered me the part. However the part is on back order, so I've had to drive the car in this condition, as they will not put me in a rental. The dealership has Informed me there is nothing else they can do, and Volkswagen customer care will not respond to my requests to discuss."

- NHTSA Complaint No. 11453528, February 22, 2022 (2021 Atlas): "The component that failed is the Driver Contact Door Switch and the electronic parking brake. My safety and my children's safety and the people behind me are put at risk of an accident if my parking break comes on while driving. I took it to the dealer on December 27,2021 and they said that it is the driver door wiring harness it controls everything in the car. They said they would order a new harness but it is on back order. I called dealer on Monday Feb 21,2022 and they still don't have the part, I explained to them that as I was driving the windows automatically rolled down and I got the message contact door switch and parking break faults. They told me to deactivate the start stop system. I explained to them that it was deactivated and I got an oh well. I am worried about driving the vehicle and also teaching my son how to drive on a learners permit which we have put on hold until the problem is solved."
- NHTSA Complaint No. 11453898, February 24, 2022 (2021 Atlas): "Alerts of door being open, back windows then go down and parking break engages out of nowhere. The Check engine light comes on and there is a yellow triangle with an exclamation mark. Driver Door Contact Switch", "Attention: Engine is Running", "Fault Electronic Parking Brake", and the Emergency Brake automatically engaging."
- NHTSA Complaint No. 11453853, February 24, 2022 (2021 Atlas): "Due to a malfunctioning driver door wire harness, multiple errors occur, including a electric parking brake issue. This causes the vehicles parking brake to engage while in coming to a stop but still in motion. This does cause the vehicles abruptly come to a stop. Additionally the wire harness malfunction has caused an issue with the driver side door locking function and driver side windows. Often times the driver side door does not lock when in drive and in motion, as well as trying to lock using the key fob and in park. The driver side windows randomly lower 3-4 inches, when driving as well. I am especially concerned with the parking brake, there have been a few occasions where I have almost been hit from the rear due to the abrupt stop. I have taken the car in to the dealership and have been told the part is not available and they have multiple vehicles waiting over two months for the part. Here is a link with others that have the same issue. <https://www.vwatlasforum.com/threads/error-driver-door-contact-switch.6359/>"
- NHTSA Complaint No. 11454101, February 25, 2022 (2021 Atlas): "The car started giving multiple warnings and the check engine light went on. When these warnings

started, it would force the windows to go down and put the emergency brake on. It is a huge safety concern because when this issue worsens, it will throw the emergency brake on any time the car begins to slow down - so if a driver is actively driving the car and slowing for traffic - it will suddenly have an emergency brake trying to bring the car to a stop. The issue (Driver Door Contact Switch Error) has been confirmed by dealership. Car has been in the shop for 2 months waiting for a replacement part but in the meantime the dealer has multiple Atlas's waiting to be fixed for the same issue and the problem is all over the internet. It is unsafe to have these cars on the road.”

- NHTSA Complaint No. 11454546, February 28, 2022 (2021 Atlas): “According to my local dealership, the microchip in the driver door is malfunctioning. My car incorrectly detects that the driver door is open and puts the parking brake on while the car is running or in drive. Alerts like, “error: driver door contact switch” pop up. “Cruise control not available” has also popped up. These alerts did not begin to pop up until the parking brake started being triggered on February 9th when the car was 4.5 months old with 5,000 miles. The driver side window as well as the window behind it will also roll down at times when this happens. To get my car to release the parking brake, I have to turn the car off and open and close the driver door. On average, I have to repeat this process 5 times before the car will detect that the door is closed and disengage the parking brake. My car has incorrectly alerted me that the driver door was open while I was driving down the highway. According to the dealership, the part that needs to be fixed is on backorder nationwide and I won’t be able to get my car fixed until July. They are also out of loaners because so many people are having this issue. My safety as well as the safety of others in cars around me is at risk as the car will put the parking brake on thinking that the driver side door is open.”
- NHTSA Complaint No. 11454545, February 28, 2022 (2021 Atlas): “Upon starting vehicle, dash screen indicated that there was an issue with the Driver Door Contact Switch, and back driver's window lowered automatically. This automatically triggers the emergency brake to engage. If you disengage the emergency brake, the vehicle beeps, acting like a door is open, even with all doors closed. There were other incidents where this did not happen until driving on the road, in which the vehicle would engage the emergency brake as it was stopping. The brake would have to be manually disengaged in order to keep driving down the street. This may have been a safety hazard to others around if the vehicle all of a sudden turned on the emergency brake. This problem is not new to the local Volkswagen dealer, where my vehicle has been for the last month. Eight other vehicles are there with the same issue. They said that a door harness replacement is needed, but this part is backordered for the foreseeable future.”
- NHTSA Complaint No. 11454747, March 1, 2022 (2021 Atlas): “When I was driving anytime I started to slow down the emergency brake would activate and apply the emergency brake to stop the car. The back window also went down. The check engine light and warning message came on saying there was an error with the

auto start stop feature. The dealership advised that the driver door wiring harness was needing replaced and they have been seeing this in the 2021 atlas.”

- NHTSA Complaint No. 11455094, March 3, 2022 (2021 Atlas): “My wife, 4-year-old and 3-year-old were driving down a 3 lane NYS Highway at approximately 20mph when my abovementioned vehicle came to an immediate stop due to the fact that the parking brake automatically engaged. Error messages popped up on my informational display stating driver door contact fault as well a parking brake error. My vehicle was brought to the dealership, and it was determined that the cause is a faulty wiring harness from engine compartment to the driver’s door. This could have been worse if my wife was traveling at a higher rate of speed or if there were cars behind here when this happened. Fortunately, enough that was not the case in this situation.”
- NHTSA Complaint No. 11455032, March 3, 2022 (2021 Atlas): “My car check engine light came on, the car stated beeping loudly, the automatic breaking system slammed the breaks on for no reason repeatedly and the windows were going up and down by themselves. The only way to get the car to stop all of this was to turn it off put it in park and restart it at which point it would move forward a little bit before the brakes would slam on again and the beeping and windows would repeat. I had two children in the car and it was very unsafe as the car kept stopping itself suddenly in city traffic. There was nothing wrong with the car before this all started. I took the car strait to the dealer where I was told they do not have the part to fix it (door harness) and they have no loaners to offer.”
- NHTSA Complaint No. 11455549, March 7, 2022 (2021 Atlas): “The driver side door contact switch is faulty. It is throwing the emergency braking system on stopped or in park. There is no ETA for repair at this time.”
- NHTSA Complaint No. 11455904, March 9, 2022 (2021 Atlas): “While driving the vehicle the parking brake engaged by itself causing the car to come to a sudden stop while driving on a main road. This proceeded to happen two more times while I tried to get off main road. before the parking brake couldn’t be shut off any longer and car had to be towed. I was told by dealer this is due to an issue with the door module telling the car the door opened causing the parking brake to engage. This is a known issue with the dealers and a huge safety issue yet there is no recall. An addition, the car had stalled approximately 10x at traffic lights during the first 2 months I had it while the automatic stop and start system is activated. I keep that off to avoid the issue from happening. I have spoken to several other Volkswagon owners that say it is a common problem.”
- NHTSA Complaint No. 11456099, March 10, 2022 (2021 Atlas): “I purchased a brand new 2021 VW Atlas Cross Sport . In January I started experiencing major electrical sensor failures including automatically opening the windows, engaging the electronic parking brake when in motion, power steering sensor warning, engine warning and epc warning. VW has told me this is a wiring harness failure and they

have over 6000 cars with this problem and can not give me a date as to when the parts will be available. I can not drive the car any distance for fear it will break down as I have had to have it towed once already. VW of America has provided no resolution for time to fix this brand new car.”

2022 Tiguan NHTSA Complaints:

- NHTSA Complaint No. 11454875, March 2, 2022 (2022 Tiguan): “While driving car gives error messages: Driver door contact switch, then drivers window and drivers side passengers window rolls down 2 inches. With in a few seconds get Error Start/Stop, and a few seconds later Fault: Electronic parking brake. When I slowed to a stop the parking break engaged and stopped the vehicle. The only way to move the vehicle is to turn off and restart. Upon restart you can disengage the parking break and move the vehicle from the roadway.”

62. Likewise, Class Vehicle owners have been consistently complaining about the Wiring Harness Defect on VW enthusiast websites which on information and belief VW actively monitored during the relevant time period. For instance, on March 15, 2021, one Class Vehicle owner wrote on a VW Atlas-enthusiast website, “I recently started receiving this error for no reason, just within 15 seconds within starting the vehicle while being parked at my driveway or even being stopped at a red light. After getting this error message and the constant beeping, the emergency brake turns on and the window from behind driver's door lowers like 5 inches from top. At this point, I cannot lower window and I cannot turn off emergency brake. So in order to reset, I have to turn off the engine then open behind driver door(where the window is lowered) and when closing it back I turn on engine. This makes the error go away, everything goes back to normal. So ODD but so annoying too. This has happened 3 times in the last 2 weeks. Don't know what triggers this. Anyone with similar issue?”⁴

63. In response, another Class Vehicle owner responded on March 30, 2021 that they were having the same issue, the defect “became more frequent until it was happening all the time,” and their dealer advised the issue was a faulty wiring harness, and that as of March 2021

⁴ <https://www.vwatlasforum.com/threads/error-driver-door-contact-switch.6359/> (last visited March 15, 2022).

their dealer already had “ several other vehicles currently waiting for a replacement part and have repaired several others with the same problem”: “I am having the exact same problem with my 2020 Atlas SE that has only 5k on the odometer. You are not alone with this issue as the service department at my dealership informs me that they have several other vehicles currently waiting for a replacement part and have repaired several others with the same problem. They inform me that the cause is a faulty wiring harness from engine compartment to the driver’s door. Unfortunately, I fear that your issue will get worse before it gets better. Mine started out as an intermittent problem then became more frequent until it was happening all the time. I took a video of the alerts popping up on the dash to show the service department. My Atlas has now been at the dealership since Feb 23rd with no end in sight due to a nationwide lack of the specific part. I spoke with the service manager and she suggested I call VW Customer Care to try to light a fire into the situation. They are assigning me an advocate. I have been given a new Tiguan to drive but that is not the car that I leased and am currently paying for. I am hoping that VW will make this right and if I don’t have my car back repaired in the near future, that they swap out my leased Atlas for a new one. I am also going to make an official report complaint on the NHTSA website.”⁵

64. Over the following year, Class Vehicles owners published more than 120 additional posts stating that they too were experiencing the Wiring Harness Defect and were not provided with replacement parts.⁶ In addition to those vehicle owners who never received a replacement wiring harness, one owner complained on March 3, 2022 that their vehicle continues to suffer from the defect post-repair: “My 2019 Atlas has been in 4 times to replace this same issue. Literally one year ago (feb 2021) They replaced my drivers side wiring harness

⁵ *Id.*

⁶ *See id.*

and had my car for 30 days just to get a part! Everything was great during that year period, but now i'm getting the same exact error. I'm beyond annoyed at this point and i'm very worried about the safety of me and my kids. I may be moving away from VW after this issue.”⁷

65. Although VW is and was aware of the widespread nature of the Wiring Harness Defect in the Class Vehicles, and that it poses grave safety risks, VW has failed to take adequate steps to repair the Defect or notify Class Vehicle owners of the Defect.

66. Customers have reported the Wiring Harness Defect in the Class Vehicles to VW directly and through its dealers. Defendant is fully aware of the Wiring Harness Defect contained in the Class Vehicles. Nevertheless, despite knowing of the Wiring Harness at all relevant times, Defendant actively concealed the existence and nature of the Defect from Plaintiffs and the other Class Members at the time of purchase and thereafter by not disclosing that the Class Vehicles suffer from the Wiring Harness Defect and not disclosing the full extent and severity of the Defect.

67. Defendant has deprived Class Members of the benefit of their bargain, exposed them all to a dangerous safety Defect, and caused them to expend money at its dealerships or other third-party repair facilities and/or take other remedial measures related to the Wiring Harness Defect contained in the Class Vehicles.

68. Defendant has not recalled the Class Vehicles to repair the Wiring Harness Defect, has not offered to its customers a suitable repair or replacement parts related to the Wiring Harness Defect free of charge and within a reasonable period of time, and has not reimbursed all Class Vehicle owners and leaseholders who incurred costs for repairs related to the Wiring Harness Defect.

⁷ <https://www.vwatlasforum.com/threads/error-driver-door-contact-switch.6359/page-6> (last visited March 15, 2022).

69. Class Members have not received the value for which they bargained when they purchased or leased the Class Vehicles.

70. As a result of the Wiring Harness Defect, the value of the Class Vehicles has diminished, including without limitation, the resale value of the Class Vehicles. Reasonable consumers, like Plaintiffs, expect and assume that their vehicles will be able to provide safe and reliable transportation and that the vehicles will not apply the emergency brakes or open and close the windows on their own, resulting in the vehicle shutting down while in use. Plaintiffs and Class Members further expect and assume that VW will not sell or lease vehicles with known safety defects, such as the Wiring Harness Defect, and will fully disclose any such defect to consumers prior to purchase or offer a suitable non-defective repair. They do not expect that VW would fail to disclose the Wiring Harness Defect to them and then purport to remedy the defect with an underinclusive and inadequate repair attempt.

CLASS ACTION ALLEGATIONS

A. The Classes

71. Plaintiffs bring this action on their own behalf, and on behalf of a nationwide class pursuant to Fed. R. Civ. P. 23(a), 23(b)(2), and/or 23(b)(3).

Nationwide Class: All persons or entities who purchased or leased any 2019-2022 Volkswagen Atlas, Golf, Jetta, Tiguan and Taos vehicle in in the United States.

72. In the alternative to the Nationwide Class, and pursuant to Fed. R. Civ. P. 23(c)(5), Plaintiffs seek to represent the following state-specific classes:

Tennessee Class: All persons or entities who purchased or leased any 2019-2022 Volkswagen Atlas, Golf, Jetta, Tiguan and Taos vehicle in the State of Tennessee (the “Tennessee Class”)

Texas Class: All persons or entities who purchased or leased any 2019-2022 Volkswagen Atlas, Golf, Jetta, Tiguan and Taos vehicle in the State of Texas (the “Texas Class”)

73. Defendant and its employees or agents are excluded from the Class.

B. Numerosity

74. Upon information and belief, the Classes are each so numerous that joinder of all members is impracticable. While the exact number and identities of individual members of the Classes are unknown at this time, such information being in the sole possession of Defendant and obtainable by Plaintiffs only through the discovery process, Plaintiffs believe, and on that basis allege, that thousands of Class Vehicles have been sold and leased nationwide and throughout Tennessee and Texas.

C. Common Questions of Law and Fact

75. There are questions of law and fact common to the Classes that predominate over any questions affecting only individual Class members. These questions include:

- a. whether the Class Vehicles suffer from the Wiring Harness Defect;
- b. whether the Wiring Harness Defect constitutes an unreasonable safety hazard;
- c. whether Defendant knows about the Wiring Harness Defect and, if so, how long Defendant has known of the Defect;
- d. whether the Wiring Harness Defect constitutes a material defect;
- e. whether Defendant had and has a duty to disclose the Wiring Harness Defect to Plaintiffs and the other Class Members;
- f. whether Plaintiffs and the other Class Members are entitled to equitable relief, including, but not limited to, a preliminary and/or permanent injunction;
- g. whether Defendant knew or reasonably should have known of the Wiring Harness Defect contained in the Class Vehicles before it sold or leased them to Class Members; and

- h. Whether Defendant breached its express warranty and the implied warranty of merchantability, engaged in fraudulent concealment and unjust enrichment, and whether Defendant violated the Tennessee Consumer Protection Act, Tenn. Code § 47-18-101, *et seq.*, the Texas Deceptive Practices Act, Tex. Bus. & Com. Code § 17.41, *et seq.*, and the Magnuson-Moss Warranty Act, as alleged in this Complaint.

D. Typicality

76. The Plaintiffs' claims are typical of the claims of the Classes since Plaintiffs purchased or leased defective Class Vehicles, as did each member of the Classes. Furthermore, Plaintiffs and all members of the Classes sustained economic injuries arising out of Defendant's wrongful conduct. Plaintiffs are advancing the same claims and legal theories on behalf of themselves and all absent Class members.

E. Protecting the Interests of the Class Members

77. Plaintiffs will fairly and adequately protect the interests of the Class and have retained counsel experienced in handling class actions and claims involving unlawful business practices. Neither Plaintiffs nor their counsel has any interest which might cause them not to vigorously pursue this action.

F. Proceeding Via Class Action is Superior and Advisable

78. A class action is the superior method for the fair and efficient adjudication of this controversy. The injury suffered by each individual Class member is relatively small in comparison to the burden and expense of individual prosecution of the complex and extensive litigation necessitated by Defendant's conduct. It would be virtually impossible for members of the Class individually to redress effectively the wrongs done to them. Even if the members of

the Class could afford such individual litigation, the court system could not. Individualized litigation presents a potential for inconsistent or contradictory judgments. Individualized litigation increases the delay and expense to all parties, and to the court system, presented by the complex legal and factual issues of the case. By contrast, the class action device presents far fewer management difficulties, and provides the benefits of single adjudication, an economy of scale, and comprehensive supervision by a single court. Upon information and belief, members of the Class can be readily identified and notified based on, *inter alia*, Defendant's vehicle identification numbers, warranty claims, registration records, and database of complaints.

79. Defendant has acted, and refused to act, on grounds generally applicable to the Classes, thereby making appropriate final equitable relief with respect to the Classes as a whole.

FIRST CAUSE OF ACTION

Breach of Implied and Express Warranties Pursuant to the Magnuson-Moss Warranty Act, 15 U.S.C. §2301, *et seq.*

(Plaintiffs on behalf of the Nationwide Class or in the alternative Plaintiff Sherrod on behalf of the Tennessee Class and Plaintiff Fulbright on behalf of the Texas Class)

80. Plaintiffs incorporate by reference all of the above paragraphs of this Complaint as though fully stated herein.

81. Plaintiffs and members of the Classes are each a "consumer" as defined in 15 U.S.C. § 2301(3).

82. Defendant is a "supplier" and "warrantor" as defined in 15 U.S.C. § 2301(4) and (5).

83. The Class Vehicles are each a "consumer product" as defined in 15 U.S.C. § 2301(6). 15 U.S.C. § 2310(d)(1) provides a cause of action for any consumer who is damaged by the failure of a warrantor to comply with the written and implied warranties.

84. 15 U.S.C. § 2304(a)(1) requires Defendant, as a warrantor, to remedy any defect, malfunction or nonconformance of the Class Vehicles within a reasonable time and without charge to the Plaintiffs and Class members.

85. The Defendant's sale of the defective Class Vehicles and its failure and/or refusal to repair the Class Vehicles' Wiring Harness Defect within a reasonable period of time during the applicable warranty period constitutes a breach of the written and implied warranties applicable to the Class Vehicles.

86. Despite repeated demands, Defendant has failed to remedy the Class Vehicles' defects within a reasonable time, and/or a reasonable number of attempts, thereby breaching the written and implied warranties applicable to the Class Vehicles.

87. As a result of Defendant's breaches of the written and implied warranties, and Defendant's failure to remedy the same within a reasonable time, Plaintiffs and class members have suffered damaged.

SECOND CAUSE OF ACTION

Fraudulent Concealment

(Plaintiffs on behalf of the Nationwide Class or in the alternative Plaintiff Sherrod on behalf of the Tennessee Class and Plaintiff Fulbright on behalf of the Texas Class)

88. Plaintiffs incorporate by reference all allegations contained in this Complaint as though fully stated herein.

89. By failing to disclose and concealing the Wiring Harness Defect from Plaintiffs and Class Members, VW concealed and suppressed material facts concerning the performance and quality of the Class Vehicles.

90. Defendant knew that the Class Vehicles suffered from an inherent defect, were defectively manufactured or made, would fail prematurely, and were not suitable for their

intended use.

91. Defendant was under a duty to Plaintiffs and the Class Members to disclose the defective nature of the Class Vehicles because:

- a. Defendant was in a superior position to know the true state of facts about the safety-related Wiring Harness Defect contained in the Class Vehicles;
- b. Plaintiffs and the Class Members could not reasonably have been expected to learn or discover that their vehicles had a dangerous safety defect until after they purchased the Class Vehicles; and,
- c. Defendant knew that Plaintiffs and the Class Members could not reasonably have been expected to learn about or discover the Wiring Harness Defect.

92. On information and belief, VW still has not made full and adequate disclosures, and continues to defraud consumers by concealing material information regarding the Wiring Harness Defect and the performance and quality of Class Vehicles.

93. The facts concealed or not disclosed by Defendant to Plaintiffs and Class Members are material in that a reasonable person would have considered them to be important in deciding whether or not to purchase the Class Vehicles.

94. Plaintiffs and the Class relied on Defendant to disclose material information it knew, such as the existence of the Wiring Harness Defect in the Class Vehicles, and not to induce them into a transaction they would not have entered had the Defendant disclosed this information.

95. By failing to disclose the Wiring Harness Defect, Defendant knowingly and intentionally concealed material facts and breached its duty not to do so.

96. The facts concealed or not disclosed by Defendant to Plaintiffs and the other

Class Members are material because a reasonable consumer would have considered them to be important in deciding whether or not to purchase the Class Vehicles, or to pay less for them.

97. Had Plaintiffs and other Class Members known that the Class Vehicles suffer from the Wiring Harness Defect, they would not have purchased the Class Vehicles or would have paid less for them.

98. Plaintiffs and the other Class Members are reasonable consumers who do not expect that their vehicles will suffer from a Wiring Harness Defect. That is the reasonable and objective consumer expectation for vehicles.

99. As a result of Defendant's misconduct, Plaintiffs and the other Class Members have been harmed and have suffered actual and economic damages in that the Class Vehicles are defective and require repairs or replacement parts and are worth less money because of the Defect.

100. Accordingly, VW is liable to Plaintiffs and Class Members for damages in an amount to be proven at trial.

101. VW's actions and omissions were done maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiffs' and the Class's rights and well-being, to enrich VW. VW's conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

102. Furthermore, as the intended and expected result of its fraud and conscious wrongdoing, VW has profited and benefited from Plaintiffs' and Class Members' purchase of Class Vehicles containing the Wiring Harness Defect. VW has voluntarily accepted and retained these profits and benefits with full knowledge and awareness that, as a result of VW's

misconduct alleged herein, Plaintiffs and Class Members were not receiving vehicles of the quality, nature, fitness, or value that had been represented by VW, and that a reasonable consumer would expect.

103. VW has been unjustly enriched by its fraudulent, deceptive, and otherwise unlawful conduct in connection with the sale and lease of Class Vehicles and by withholding benefits from Plaintiffs and Class Members at the expense of these parties. Equity and good conscience militate against permitting VW to retain these profits and benefits, and VW should be required to make restitution of its ill-gotten gains resulting from the conduct alleged herein.

THIRD CAUSE OF ACTION

Unjust Enrichment

(Plaintiffs on behalf of the Nationwide Class or in the alternative Plaintiff Sherrod on behalf of the Tennessee Class and Plaintiff Fulbright on behalf of the Texas Class)

104. Plaintiffs incorporate by reference all allegations contained in this Complaint as though fully stated herein.

105. VW has long known that about the Wiring Harness Defect which it concealed and failed to disclose to Plaintiffs and Class Members.

106. As a result of its fraudulent acts and omissions related to the Wiring Harness Defect, VW obtained monies which rightfully belong to Plaintiffs and the Class Members to the detriment of Plaintiffs and Class Members.

107. VW appreciated, accepted, and retained the non-gratuitous benefits conferred by Plaintiffs and the proposed Class Members who, without knowledge of the Wiring Harness Defect, paid a higher price for their vehicles which actually had lower values. VW also received monies for vehicles that Plaintiffs and the Class Members would not have otherwise purchased or leased.

108. It would be inequitable and unjust for VW to retain these wrongfully obtained profits.

109. VW's retention of these wrongfully obtained profits would violate the fundamental principles of justice, equity, and good conscience.

110. As a result of Defendant's unjust enrichment, Plaintiffs and Class Members have suffered damages.

111. Plaintiffs do not seek restitution under their Unjust Enrichment claim. Rather, Plaintiffs and Class Members seek non-restitutionary disgorgement of the financial profits that Defendant obtained as a result of its unjust conduct.

112. Additionally, Plaintiffs seek injunctive relief to compel Defendant to offer, under warranty, remediation solutions that Defendant identifies. Plaintiffs also seek injunctive relief enjoining Defendant from further deceptive distribution, sales, and lease practices with respect to Class Vehicles, enjoining Defendant from selling the Class Vehicles with misleading information concerning the Wiring Harness Defect; compelling Defendant to provide Class members with adequate repairs or with replacement components that do not contain the defects alleged herein; and/or compelling Defendant to reform its warranty, in a manner deemed to be appropriate by the Court, to cover the injury alleged and to notify all Class Members that such warranty has been reformed. Money damages are not an adequate remedy for the above requested non-monetary injunctive relief.

FOURTH CAUSE OF ACTION
Violation of the Tennessee Consumer Protection Act,
Tenn. Code § 47-18-101, *et seq.*

(Plaintiff Sherrod on behalf of the Tennessee Class)

113. Plaintiffs incorporate by reference all allegations contained in this Complaint as

though fully stated herein.

114. Plaintiff Sherrod and the Tennessee Class Members are each “consumers” under Tenn. Code § 47-18-103(3).

115. Plaintiff Sherrod, the Tennessee Class Members, and Defendant are each “persons” under Tenn. Code § 47-18-103(14).

116. The Class Vehicles are each “goods” under Tenn. Code § 47-18-103(8) as they are “tangible chattels leased, bought, or otherwise obtained for use by an individual primarily for personal, family, or household purposes or a franchise, distributorship agreement, or similar business opportunity.”

117. At all relevant times, Defendant has engaged in “trade,” “commerce” and “consumer transactions” under Tenn. Code § 47-18-103(20) by advertising, offering for sale, selling, leasing, and/or distributing vehicles in the United States, including Tennessee, directly or indirectly affecting Tennessee citizens through that trade and commerce.

118. The allegations set forth herein constitute unfair and deceptive acts and practices in violation of the Tennessee Consumer Protection Act, Tenn. Code § 47-18-101, et seq.

119. By failing to disclose and concealing the Wiring Harness Defect from Plaintiff Sherrod and the Tennessee Class Members, Defendant violated the Tennessee Consumer Protection Act, because, inter alia, Defendant represented that the Class Vehicles had characteristics and benefits that they do not have, represented that the Class Vehicles were of a particular standard, quality, or grade when they were of another, and advertised the Class Vehicles with the intent not to sell them as advertised.

120. Defendant’s unfair and deceptive acts and practices occurred repeatedly in Defendant’s trade or business, were capable of deceiving a substantial portion of the purchasing

public and imposed a serious safety risk on the public.

121. Defendant knew that the Class Vehicles suffer from the Wiring Harness Defect, were defectively manufactured or made, and were not suitable for their intended use.

122. Defendant was under a duty to Plaintiff Sherrod and the Tennessee Class Members to disclose the Wiring Harness Defect because:

- a. Defendant was in a superior position to know the true state of facts about the Wiring Harness Defect contained in the Class Vehicles;
- b. Plaintiff Sherrod and the Tennessee Class Members could not reasonably have been expected to learn or discover that their vehicles have a dangerous safety defect until after they purchased the Class Vehicles; and,
- c. Defendant knew that Plaintiff Sherrod and the Tennessee Class Members could not reasonably have been expected to learn about or discover the Wiring Harness Defect.

123. The facts concealed or not disclosed by Defendant to Plaintiff Sherrod and the Tennessee Class Members are material in that a reasonable person would have considered them to be important in deciding whether or not to purchase the Class Vehicles.

124. Plaintiff Sherrod and the Tennessee Class Members relied on Defendant to disclose material information it knew, such as the Wiring Harness Defect in the Class Vehicles, and not to induce them into a transaction they would not have entered had the Defendant disclosed this information.

125. By failing to disclose the Wiring Harness Defect, Defendant knowingly and intentionally concealed material facts and breached its duty not to do so.

126. Moreover, Defendant's intentional concealment of and failure to disclose the

Wiring Harness Defect constitutes an unfair and deceptive act and practice because, to the detriment of Plaintiff Sherrod and the Tennessee Class Members, that conduct took advantage of Plaintiff Sherrod and the Tennessee Class Members' lack of knowledge, ability, and experience to a grossly unfair degree. Defendant's unfair and deceptive trade practices were a producing cause of the economic damages sustained by Plaintiff Sherrod and the Tennessee Class Members.

127. The facts concealed or not disclosed by Defendant to Plaintiff Sherrod and the Tennessee Class Members are material because a reasonable consumer would have considered them to be important in deciding whether or not to purchase the Class Vehicles, or to pay less for them.

128. Had Plaintiff Sherrod and the Tennessee Class Members known that the Class Vehicles would suffer from the Wiring Harness Defect, they would not have purchased the Class Vehicles or would have paid substantially less for them.

129. Plaintiff Sherrod and the Tennessee Class Members are reasonable consumers who do not expect that their vehicles will suffer from a Wiring Harness Defect. That is the reasonable and objective consumer expectation for vehicles.

130. As a result of Defendant's misconduct, Plaintiff Sherrod and the Tennessee Class Members have been harmed and have suffered actual and economic damages in that the Class Vehicles are defective and require repairs or replacement and are worth less money because of the Defect.

131. Plaintiff Sherrod has provided adequate notice to Defendant.

132. Plaintiff Sherrod and the Tennessee Class Members should be awarded three times the amount of their economic damages because Defendant intentionally concealed and

failed to disclose the defective nature of the Class Vehicles.

FIFTH CAUSE OF ACTION

Breach of the Implied Warranty of Merchantability Pursuant to Tenn. Code § 47-2-314

(Plaintiff Sherrod on behalf of the Tennessee Class)

133. Plaintiffs incorporate by reference all allegations contained in this Complaint as though fully stated herein.

134. Defendant is a merchant with respect to motor vehicles.

135. The Class Vehicles were subject to implied warranties of merchantability running from the Defendant to Plaintiff Sherrod and the Tennessee Class Members.

136. An implied warranty that the Class Vehicles were merchantable arose by operation of law as part of the sale or lease of the Class Vehicles.

137. Defendant breached the implied warranty of merchantability in that the Class Vehicles suffer from the defects referenced herein and thus were not in merchantable condition when Plaintiff Sherrod and the Tennessee Class Members purchased or leased the Class Vehicles, or at any time thereafter, and the Class Vehicles are unfit for the ordinary purposes for which such vehicles are used. Specifically, the Class Vehicles were and are not fit for their ordinary purpose of providing reasonably reliable and safe transportation because the Class Vehicles suffer from a Wiring Harness Defect that can make driving unreasonably dangerous, and can result in the Class Vehicles, inter alia, applying the emergency brakes and shutting off on their own and while being driven.

138. As a result of Defendant's breach of the applicable implied warranties, owners and lessees of the Class Vehicles suffered an ascertainable loss of money, property, and/or value of their Class Vehicles. Defendant's actions, as complained of herein, breached the implied warranty that the Class Vehicles were of merchantable quality and fit for such use.

SIXTH CAUSE OF ACTION

Breach of Express Warranty Pursuant to Tenn. Code § 47-2-313

(Plaintiff Sherrod on behalf of the Tennessee Class)

139. Plaintiffs incorporate by reference all allegations contained in this Complaint as though fully stated herein.

140. In connection with the sale or lease of the Class Vehicles, Defendant provided Plaintiff Sherrod and Tennessee Class Members with its New Vehicle Limited Warranty where it promised to repair defective parts within 4 years or 50,000 miles in service, whichever comes first.

141. Plaintiff Sherrod and Tennessee Class Members relied on Defendant's warranties when they agreed to purchase or lease the Class Vehicles and Defendant's warranties were part of the basis of the bargain.

142. Plaintiff Sherrod and Tennessee Class Members submitted their Vehicles for warranty repairs as referenced herein. Defendant failed to comply with the terms of the express written warranty provided to each Class member, by failing to repair the Wiring Harness Defect under the vehicle's warranty within a reasonable period of time as described herein.

143. Plaintiff Sherrod and Tennessee Class Members have given Defendant reasonable opportunities to cure said defect, but Defendant has been unable and/or has refused to do so within a reasonable time.

144. As a result of said nonconformities, Plaintiff Sherrod and Tennessee Class Members cannot reasonably rely on the Class Vehicles for the ordinary purpose of safe, reliable, comfortable, and efficient transportation.

145. Plaintiff Sherrod and Tennessee Class Members could not reasonably have discovered said nonconformities with the Class Vehicles prior to Plaintiff Sherrod and Tennessee

Class Members' acceptance of the Class Vehicles.

146. Plaintiff Sherrod and Tennessee Class Members would not have purchased or leased the Class Vehicles, or would have paid less for the Class Vehicles, had they known, prior to their respective time of purchase or lease, that Class Vehicles contained the Wiring Harness Defect.

147. As a direct and proximate result of the willful failure of Defendant to comply with its obligations under the express warranties, Plaintiff Sherrod and Tennessee Class Members have suffered actual and consequential damages. Such damages include, but are not limited to, the loss of the use and enjoyment of their vehicles, and a diminution in the value of the vehicles containing the defects identified herein.

SEVENTH CAUSE OF ACTION

**Violation of the Texas Deceptive Practices Act
Tex. Bus. & Com. Code § 17.41, *et seq.***

(Plaintiff Fulbright on behalf of the Texas Class)

148. Plaintiffs incorporate by reference all allegations contained in this Complaint as though fully stated herein.

149. The Fulbright Vehicle and the Texas Class Vehicles are “goods” under Tex. Bus. & Com. Code § 17.45(1) because they are tangible chattel that were purchased or leased for use.

150. Defendant is a “person” under Tex. Bus. & Com. Code § 17.45(3) because it is a corporation.

151. Plaintiff Fulbright and the Texas Class Members are “consumers” under Tex. Bus. & Com. Code § 17.45(4) because they sought or acquired their vehicle by purchase.

152. At all relevant times, Defendant has engaged in “trade” and “commerce” under Tex. Bus. & Com. Code § 17.45(6) by advertising, offering for sale, selling, leasing, and/or

distributing vehicles in the United States, including Texas, directly or indirectly affecting Texas citizens through that trade and commerce.

153. The allegations set forth herein constitute false, misleading, or deceptive trade acts or practices in violation of Texas's Deceptive Trade Practices-Consumer Protection Act ("DTPA"), Tex. Bus. & Com. Code § 17.41, et seq.

154. By failing to disclose and concealing the Wiring Harness Defect from Plaintiff Fulbright and Texas Class Members, Defendant violated the Texas Deceptive Practices Act as it represented that the Class Vehicles had characteristics and benefits that they do not have, represented that the Class Vehicles were of a particular standard, quality, or grade when they were of another, and advertised the Class Vehicles with the intent not to sell them as advertised.

155. Defendant's unfair and deceptive acts or practices occurred repeatedly in Defendant's trade or business, were capable of deceiving a substantial portion of the purchasing public and imposed a serious safety risk on the public.

156. Defendant knew that the Class Vehicles suffered from the Wiring Harness Defect, were defectively manufactured or made, would fail prematurely, and were not suitable for their intended use.

157. Defendant was under a duty to Plaintiff Fulbright and the Texas Class Members to disclose the defective nature of the Class Vehicles because:

- a. Defendant was in a superior position to know the true state of facts about the Wiring Harness Defect contained in the Class Vehicles;
- b. Plaintiff Fulbright and the Texas Class Members could not reasonably have been expected to learn or discover that their vehicles have a dangerous safety defect until after they purchased the Class Vehicles; and,

c. Defendant knew that Plaintiff Fulbright and the Texas Class Members could not reasonably have been expected to learn about or discover the Wiring Harness Defect.

158. The facts concealed or not disclosed by Defendant to Plaintiff Fulbright and Texas Class Members are material in that a reasonable person would have considered them to be important in deciding whether or not to purchase the Class Vehicles.

159. Plaintiff Fulbright and the Texas Class relied on Defendant to disclose material information it knew, such as the Wiring Harness Defect in the Class Vehicles, and not to induce them into a transaction they would not have entered had the Defendant disclosed this information.

160. By failing to disclose the Wiring Harness Defect, Defendant knowingly and intentionally concealed material facts and breached its duty not to do so.

161. Moreover, Defendant's intentional concealment of and failure to disclose the Wiring Harness Defect constitutes an "unconscionable action or course of action" under Tex. Bus. & Com. Code § 17.45(5) because, to the detriment of Plaintiff Fulbright and the Texas Class, that conduct took advantage of Plaintiff and Class Members' lack of knowledge, ability, and experience to a grossly unfair degree. That "unconscionable action or course of action" was a producing cause of the economic damages sustained by Plaintiff Fulbright and the Texas Class.

162. The facts concealed or not disclosed by Defendant to Plaintiff Fulbright and the other Texas Class Members are material because a reasonable consumer would have considered them to be important in deciding whether or not to purchase the Class Vehicles, or to pay less for them.

163. Had Plaintiff Fulbright and other Texas Class Members known that the Class

Vehicles would suffer from the Wiring Harness Defect, they would not have purchased the Class Vehicles or would have paid less for them.

164. Plaintiff Fulbright and the other Texas Class Members are reasonable consumers who do not expect that their vehicles will suffer from a Wiring Harness Defect. That is the reasonable and objective consumer expectation for vehicles.

165. As a result of Defendant's misconduct, Plaintiff Fulbright and the other Texas Class Members have been harmed and have suffered actual and economic damages in that the Class Vehicles are defective and require repairs or replacement and are worth less money because of the Defect.

166. In addition, Defendant is also liable under Tex. Bus. & Com. Code § 17.50(a) because Defendant's breach of the implied warranty of merchantability set forth below was a producing cause of economic damages sustained by Plaintiff Fulbright and the Texas Class Members.

167. Plaintiff Fulbright has provided adequate notice to Defendant.

168. Plaintiff Fulbright and the Texas Class should be awarded three times the amount of their economic damages because Defendant intentionally concealed and failed to disclose the defective nature of the Class Vehicles

EIGHTH CAUSE OF ACTION

Breach of the Implied Warranty of Merchantability Pursuant to the Tex. Bus. & Com. Code § 2.314

(Plaintiff Fulbright on behalf of the Texas Class)

169. Plaintiffs incorporate by reference all allegations contained in this Complaint as though fully stated herein.

170. Defendant is a merchant with respect to motor vehicles.

171. The Class Vehicles were subject to implied warranties of merchantability running from the Defendant to Plaintiff Fulbright and the Texas Class members.

172. An implied warranty that the Class Vehicles were merchantable arose by operation of law as part of the sale or lease of the Class Vehicles.

173. Defendant breached the implied warranty of merchantability in that the Class Vehicles suffer from the defects referenced herein and thus were not in merchantable condition when Plaintiff Fulbright and Texas class members purchased or leased the Class Vehicles, or at any time thereafter, and the Class Vehicles are unfit for the ordinary purposes for which such vehicles are used. Specifically, the Class Vehicles were and are not fit for their ordinary purpose of providing reasonably reliable and safe transportation because the Class Vehicles suffer from a Wiring Harness Defect that can make driving unreasonably dangerous, and can result in the Class Vehicles, inter alia, applying the emergency brakes and shutting off on their own and while being driven.

174. As a result of Defendant's breach of the applicable implied warranties, owners and lessees of the Class Vehicles suffered an ascertainable loss of money, property, and/or value of their Class Vehicles. Defendant's actions, as complained of herein, breached the implied warranty that the Class Vehicles were of merchantable quality and fit for such use.

NINTH CAUSE OF ACTION

Breach of Express Warranty under Tex. Bus. & Com. Code Ann. § 2.313 (Plaintiff Fulbright on behalf of the proposed Texas Class)

175. Plaintiffs incorporate by reference all allegations contained in this Complaint as though fully stated herein.

176. In connection with the sale or lease of the Class Vehicles to Plaintiff Fulbright and Texas Class members, Defendant provided Plaintiff Fulbright and Texas Class members

with its New Vehicle Limited Warranty where it promised to repair defective parts within 4 years or 50,000 miles in service, whichever comes first.

177. Plaintiff Fulbright and Texas Class members relied on Defendant's warranties when they agreed to purchase or lease the Class Vehicles and Defendant's warranties were part of the basis of the bargain.

178. Plaintiff Fulbright and the Texas Class members submitted their Vehicles for warranty repairs as referenced herein. Defendant failed to comply with the terms of the express written warranty provided to each Class member, by failing and/or refusing to repair the Wiring Harness Defect within a reasonable period of time under the vehicle's warranty as described herein.

179. Plaintiff Fulbright and Texas Class members have given Defendant reasonable opportunities to cure said defect, but Defendant has been unable and/or has refused to do so within a reasonable time.

180. As a result of said nonconformities, Plaintiff Fulbright and Texas Class members cannot reasonably rely on the Class Vehicles for the ordinary purpose of safe, reliable, comfortable, and efficient transportation.

181. Plaintiff Fulbright and Texas Class members could not reasonably have discovered said nonconformities with the Class Vehicles prior to Plaintiff Fulbright's and Texas Class members' acceptance of the Class Vehicles.

182. Plaintiff Fulbright and Texas Class members would not have purchased or leased the Class Vehicles, or would have paid less for the Class Vehicles, had they known, prior to their respective time of purchase or lease, that Class Vehicles contained the Wiring Harness Defect.

183. As a direct and proximate result of the willful failure of Defendant to comply with

its obligations under the express warranties, Plaintiff Fulbright and Texas Class members have suffered actual and consequential damages. Such damages include, but are not limited to, the loss of the use and enjoyment of their vehicles, and a diminution in the value of the vehicles containing the defects identified herein.

DEMAND FOR RELIEF

WHEREFORE, Plaintiffs, on behalf of themselves and all others similarly situated, pray for judgment against Defendant as follows:

- a. An order certifying the proposed Classes, designating Plaintiffs as named representative of the Classes, and designating the undersigned as Class Counsel;
- b. An order awarding Plaintiffs and class members their actual damages, incidental and consequential damages, punitive damages, and/or other form of monetary relief provided by law;
- c. An order awarding Plaintiffs and the classes restitution, disgorgement, or other equitable relief as the Court deems proper;
- d. Equitable relief including, but not limited to, replacement of the Class Vehicles with new vehicles, or repair of the defective Class Vehicles with an extension of the express warranties and service contracts which are or were applicable to the Class Vehicles;
- e. A declaration requiring Defendant to comply with the various provisions of the state and federal consumer protection statutes herein alleged and to make all the required disclosures;
- f. Reasonable attorneys' fees and costs;

- g. Pre-judgment and post-judgment interest, as provided by law;
- h. Plaintiffs demand that Defendant perform a recall, and repair all Class Vehicles; and
- i. Such other and further relief as this Court deems just and proper.

TRIAL BY JURY DEMANDED ON ALL COUNTS

Dated: March 18, 2022

Respectfully submitted,

By /s/ Sofia Balile
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