

EXHIBIT A

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25 *Attorneys for Plaintiffs*

26 **UNITED STATES DISTRICT COURT**
27 **NORTHERN DISTRICT OF CALIFORNIA**

28 WARREN LAU, ELAINE HERMAN,
29 REBECCA KAPLAN, and MARGARET
30 MCGUIRE, on behalf of themselves and all
31 others similarly situated,

32 Plaintiffs,

33 v.

34 VOLKSWAGEN GROUP OF AMERICA,
35 INC. AND VOLKSWAGEN AG,

36 Defendants.

37 Case No. 5:15-cv-04302-BLF

38 **DECLARATION OF REBECCA KAPLAN**

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40 **CASE NO. 5:15-CV-04302-BLF**

1 1. I am a plaintiff in the above entitled action. I have personal knowledge of the matters
2 stated herein, and if called upon to testify, I could and would competently testify thereto.

3 2. I make this declaration in support of Plaintiffs' Motion for Preliminary Injunction.

4 3. Environmental responsibility, especially that involving vehicle emissions and its effect
5 on public health, has been both a personal commitment for me and a focus of my professional career in
6 public service. In keeping with my personal and professional convictions, throughout my life I have
7 made the conscious decision to purchase only vehicles that reduce or eliminate pollution emissions, and
8 since 1992 have purchased cars that were marketed and sold as having this quality.

9 4. Currently I serve as City Councilmember At-Large for the City of Oakland, a position I
10 have held since 2009, Vice-Chair of the Alameda County Transportation Commission, and as Chair of
11 the Oakland Public Works Committee.

12 5. During the years 2002 to 2009, I served as a Director on the Alameda - Contra Costa
13 Transit ("AC Transit") Board of Directors, which is an elected position. In that capacity, I developed
14 and advocated for the use of hydrogen fuel cell and other clean fuel technologies in public
15 transportation, a project I was personally very devoted to. I have also worked as Policy Outreach
16 Director for the Transportation and Land Use Coalition (now known as "Transform") where I designed
17 and directed advocacy efforts to promote an environmentally sound Regional Transportation Plan for
18 the Bay Area.

19 6. I have advocated and worked to institute significant reductions of NOx (nitrogen oxides)
20 emissions from the Port of Oakland's drayage truck vehicle fleet, including obtaining funding to install
21 NOx filters on drayage trucks, in implementation of the Drayage Truck Rule. The goal of this Rule
22 was to require replacement of engines in older vehicles and retrofit newer vehicles with diesel particle
23 filters ("DPFs") over two phases. By 2013, this work resulted in an 80% reduction in black carbon
24 emissions and 50% reduction in NOx emissions.

25 7. In my roles both as a member of the Oakland City Council, and as an Oakland
26 representative on the Oakland-Alameda County Coliseum Authority, I have worked to launch projects
27 and install technologies to reduce energy consumption and air pollution, including the installation of
28

1 energy-saving LED lighting and expansion of bicycle facilities and electric vehicle charging stations to
2 reduce emissions.

3 8. In September of 2011 I purchased a new 2012 Golf with a 2.0L TDI engine (“Golf
4 TDI”) from Volkswagen of Oakland, located at 2740 Broadway Avenue in Oakland, California. I
5 initially financed the purchase through Volkswagen Credit, a division of Volkswagen of America, Inc.,
6 but paid off the financing, and obtained full title in March of 2014.

7 9. I purchased my Golf TDI specifically because of the representations Volkswagen made
8 that the Golf TDI met the California Air Resources Board (CARB)’s emissions standards and was a
9 “clean diesel” vehicle. I chose this vehicle, instead of competing vehicles, because of the
10 representations Volkswagen had made regarding its low emissions. I ordered my Golf TDI in advance,
11 and had to wait approximately two months for delivery. I also paid a higher premium for the car,
12 which I was willing to do specifically to obtain the lower emissions.

13 10. Prior to purchasing my Golf TDI, I purposefully purchased vehicles based upon their
14 environmental impact and emissions. The vehicles I have owned and driven over the past twenty-plus
15 years are a Honda Civic VX, a limited edition low-fuel-consumption vehicle which I purchased when it
16 first became available in 1992, a Toyota Prius Hybrid Electric vehicle, which I purchased shortly after
17 it became available, and a 2010 Volkswagen Jetta SportsWagen TDI advertised as “clean diesel.” I
18 intentionally purchased these vehicles because of my interest in, and commitment to, reducing vehicle
19 emissions and fuel consumption, and promoting better air quality. This is also why I purchased my Golf
20 TDI.

21 11. I learned in September of 2015 that, in fact, Volkswagen’s “clean diesel” vehicles,
22 including my Golf TDI, are equipped with illegal software designed to falsify the vehicles’ emissions in
23 order to pass federal and state emissions standards, including CARB standards. As a result, these cars,
24 including my own, are not environmentally friendly, and actually emit ten to forty times the lawful
25 amount of NOx, when driven by consumers like me—a pollutant which, during a portion of my
26 professional career, I have worked to reduce in the Bay Area.

27 12. Because I purchased my vehicle in late September 2011, on September 28, 2015 it
28 became due for its biennial smog inspection, an emissions test that is required by California, in order to

1 renew my vehicle registration. In addition to passing the physical smog testing performed on the
2 vehicle, my understanding is that a car must have requisite EPA and CARB certifications in order to be
3 considered smog test-compliant. As I now know that my Golf TDI does not meet federal EPA and
4 state CARB standards and is therefore in violation of the law, were I to submit my vehicle to a smog
5 inspection, I would be doing so with the knowledge that the car's illegal software may operate to cheat
6 the test. I should not be required to participate in a lie in order to obtain a smog inspection certificate
7 which is necessary to complete my car renewal registration.

8 13. Because I do not want to participate in a lie, I have not been able to complete the
9 registration requirements for my vehicle. Although I have paid all fees required to register my car, my
10 registration will remain "incomplete" until I obtain a valid smog certification, which I cannot do.
11 Because I am not able to complete my registration, as of October 20, I will no longer be driving my car
12 and will be storing it in private parking, instead of on public streets, where I typically parked it. I will
13 now have to incur the additional expense of storing or parking my Golf TDI.

14 14. Furthermore, because of my long-time personal conviction and professional
15 commitment to driving low-emission vehicles and improving the air quality in the Bay Area, upon
16 learning of Volkswagen's falsifications, I refrained from driving my Golf TDI because it is no longer
17 compliant with EPA and CARB standards and it causes more pollution than vehicles equipped with
18 standard engines. I am now forced to purchase or lease a replacement vehicle, at significant personal
19 cost.

20 15. In October of 2015, I went to Sonnen Volkswagen, a dealership located in San Rafael,
21 California, and inquired about my options for returning my Golf TDI. The sales consultant informed
22 me that the dealership had instituted a policy to not purchase back any TDI vehicles, for any price, and
23 that Volkswagen was not providing the dealership with any instructions on what to do with TDI
24 vehicles that are now not in compliance with federal and state laws.

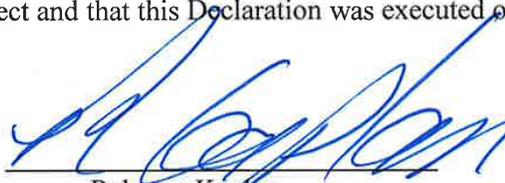
25 16. In October of 2015, I also spoke with Volkswagen of Oakland from whom I had
26 purchased my Golf TDI. The dealership offered to have me trade in my Golf TDI toward the value a
27 lease or purchase of a new vehicle. I did not accept the trade-in offer because it would not have fully
28 compensated me for my loss from Volkswagen's actions. Nor do I continue to drive my VW TDI, as I

1 am not willing to drive an illegally polluting vehicle, nor can I register it. Instead, on October 18, I
2 signed a 36-month lease for an e-Golf electric car from Volkswagen of Oakland. In order to obtain a
3 "clean" and legal car to use, I had to undergo additional expenses—even though I had already
4 previously paid a great deal to obtain a "clean" and legal car, which Volkswagen claimed they were
5 selling me, but did not actually provide.

6 17. I also called Volkswagen corporate to learn more information about a potential repair,
7 but was directed to a recorded message that stated that no fix was available currently, and that
8 Volkswagen did not know when a fix would be available.

9 18. Based on these experiences, I do not believe it is acceptable for Volkswagen to delay a
10 potential fix for an unknown period of time while it effectively requires owners to continue to pollute
11 the environment and drive a vehicle that I never would have purchased in the first place had I known
12 the truth about it, or give up their vehicles altogether. I believe Volkswagen should be ordered to
13 repurchase owners' vehicles immediately and offer restitution to owners because it defrauded them into
14 buying a vehicle that is not "clean diesel."

15 I declare under penalty of perjury under the laws of the United States and of the State of
16 California that the foregoing is true and correct and that this Declaration was executed on this 22 day of
17 October, 2015, in Oakland, California.

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20 Rebecca Kaplan