

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

BEATRIZ TIJERINA, *et al.*,

Plaintiffs,

v.

VOLKSWAGEN GROUP OF AMERICA,
INC., *et al.*,

Defendants.

Case No. 2:21-cv-18755 (BRM) (LDW)

ORDER

THIS MATTER is before the Court on motions to dismiss pursuant to Federal Rules of Civil Procedure 12(b)(2) and 12(b)(6) filed by Defendant Volkswagen Group of America, Inc., (“VW America”) (ECF No. 32); Defendant Volkswagen Group of America Chattanooga Operations, LLC (“VW Chattanooga”) (ECF No. 38); and Defendant Volkswagen Aktiengesellschaft (“VWAG”) (ECF No. 52.) Plaintiffs filed oppositions to the motions. (ECF Nos. 45, 61.) VW America, VW Chattanooga, and VWAG filed their respective replies. (ECF Nos. 50, 51, 69.) Having reviewed the parties’ submissions filed in connection with the motions and having declined to hold oral argument pursuant to Federal Rule of Civil Procedure 78(b), for the reasons set forth in the accompanying Opinion and for good cause shown,

IT IS on this 19th day of October, 2023,

ORDERED that VW America’s (ECF No. 32), VW Chattanooga’s (ECF No. 38), and VWAG’s (ECF No. 52) Motions to Dismiss Plaintiffs’ nationwide claims for lack of standing are **GRANTED** to the extent the claims are premised on state-law claims brought on behalf of putative class members outside of the eleven states represented by named Plaintiffs; and it is further

ORDERED that VW America's (ECF No. 32), VW Chattanooga's (ECF No. 38), and VWAG's (ECF No. 52) Motions to Dismiss, as to Plaintiffs Concepción, Ferrara, McDonald, Upshur, and Moutra for lack of standing are **DENIED**; and it is further

ORDERED that VW Chattanooga's Motion to Dismiss (ECF No. 38), for lack of personal jurisdiction is **GRANTED**; and it is further

ORDERED that all claims, to the extent they are against VW Chattanooga, are **DISMISSED WITHOUT PREJUDICE**; and it is further

ORDERED that VW America's (ECF No. 32) and VWAG's (ECF No. 52) Motions to Dismiss Plaintiffs' breach of express warranty claims (Nationwide Claim VI, California Count IV, Florida Count II, Kentucky Count II, Massachusetts Count II, Michigan Count II, Missouri Count II, New York Count II, Pennsylvania Count II, Texas Count II, and Virginia Count II) for failure to state a claim are **GRANTED**; and it is further

ORDERED that Nationwide Claim VI, California Count IV, Florida Count II, Kentucky Count II, Massachusetts Count II, Michigan Count II, Missouri Count II, New York Count II, Pennsylvania Count II, Texas Count II, and Virginia Count II, to the extent they are asserted against VW America and VWAG, are **DISMISSED WITHOUT PREJUDICE**; and it is further

ORDERED that VW America's (ECF No. 32) and VWAG's (ECF No. 52) Motions to Dismiss Plaintiffs' breach of implied warranty claims (Nationwide Claim VII, California Claims V and VI, Florida Count III, Kentucky Count III, Massachusetts Count III, Michigan Count III, Missouri Count III, New York Count III, Pennsylvania Count III, Texas Count III, Virginia Count III, New Jersey Count III) for failure to state a claim are **DENIED**; and it is further

ORDERED that VW America's (ECF No. 32) and VWAG's (ECF No. 52) Motions to Dismiss Plaintiffs' Magnuson-Moss Warranty Act claims (Nationwide Count I) are **GRANTED**; and it is further

ORDERED that Nationwide Count I is **DISMISSED WITHOUT PREJUDICE**; and it is further

ORDERED that VW America's (ECF No. 32) and VWAG's (ECF No. 52) Motions to Dismiss Plaintiffs' common law fraud claims (Nationwide Count II; California Counts I, II, and III to the extent they are premised on common law fraud; Florida Count I; Massachusetts Count I; Michigan Count I; Pennsylvania Count I; and Texas Count I) for failure to state a claim are **GRANTED**; and it is further

ORDERED that Nationwide Count II; California Counts I, II, and III to the extent they are premised on common law fraud; Florida Count I; Massachusetts Count I; Michigan Count I; Pennsylvania Count I; and Texas Count I, to the extent they are asserted against VW America and VWAG, are **DISMISSED WITHOUT PREJUDICE**; and it is further

ORDERED that VW America's (ECF No. 32) and VWAG's (ECF No. 52) Motions to Dismiss, Plaintiffs' common law fraud claims (Kentucky Count I, New York Count I, Virginia Count I, and Missouri Count I) for failure to state a claim are **DENIED**; and it is further

ORDERED that VW America's (ECF No. 32) and VWAG's (ECF No. 52) Motions to Dismiss, Plaintiffs' statutory fraud claims (Michigan Count I) are **GRANTED**; and it is further

ORDERED that Michigan Count I, to the extent it is asserted against VW America and VWAG, is **DISMISSED WITHOUT PREJUDICE**; and it is further

ORDERED that VW America's (ECF No. 32) and VWAG's (ECF No. 52) Motions to Dismiss, Plaintiffs' statutory fraud claims (Nationwide Count V, Texas Count I, Pennsylvania

Count I, California Count I, Virginia Count I) for failure to state a claim are **DENIED**; and it is further

ORDERED that VW America's (ECF No. 32) and VWAG's (ECF No. 52) Motions to Dismiss, Plaintiffs' negligent misrepresentation claims (Nationwide Count III) for failure to state a claim are **GRANTED**; and it is further

ORDERED that Nationwide Count III, to the extent it is asserted against VW America and VWAG, is **DISMISSED WITHOUT PREJUDICE**; and it is further

ORDERED that VW America's (ECF No. 32) and VWAG's (ECF No. 52) Motions to Dismiss, Plaintiffs' injunctive relief claims are **DENIED**; and it is further

ORDERED that VW America's (ECF No. 32) and VWAG's (ECF No. 52) Motions to Dismiss, Plaintiffs' unjust enrichment claims are **DENIED**; and it is further

ORDERED that VWAG's Motion to Dismiss (ECF No. 52), Plaintiffs' breach of express warranty claims (Nationwide Claim VI, California Count IV, Florida Count II, Kentucky Count II, Massachusetts Count II, Michigan Count II, Missouri Count II, New York Count II, Pennsylvania Count II, Texas Count II, and Virginia Count II) is **GRANTED**; and it is further

ORDERED that Nationwide Claim VI, California Count IV, Florida Count II, Kentucky Count II, Massachusetts Count II, Michigan Count II, Missouri Count II, New York Count II, Pennsylvania Count II, Texas Count II, and Virginia Count II, to the extent they are asserted against VWAG, are **DISMISSED WITHOUT PREJUDICE**; and it is further

ORDERED that VWAG's Motion to Dismiss (ECF No. 52), Plaintiffs' breach of implied warranty claim (California Count V) is **GRANTED**; and it is further

ORDERED that California Count V, to the extent it is asserted against VWAG, is **DISMISSED WITHOUT PREJUDICE**; and it is further

ORDERED that VWAG's Motion to Dismiss (ECF No. 52), Plaintiffs' statutory fraud claims (California Counts II and III, Kentucky Count I, Massachusetts Count I, Missouri Count I, Virginia Count I) is **DENIED**; and it is further

ORDERED that Plaintiffs may file an amended complaint curing the deficiencies raised in the accompanying Opinion by November 19, 2023. If Plaintiffs fail to do so, the relevant claims will be dismissed with prejudice.

/s/ Brian R. Martinotti
HON. BRIAN R. MARTINOTTI
UNITED STATES DISTRICT JUDGE