

***Statement regarding Ontario court decision on post-ECR performance complaints:***

Following complaints by some Canadian class members of a post-repair ‘lag/surge’ issue, Ontario class counsel brought the matter to the attention of the Court and sought production of testing data and an extension of the Settlement program deadline. Following an oral hearing, the motion was dismissed. The decision by the Ontario Superior Court of Justice, dated August 7, 2019, confirms that the August 31, 2019 Claims Period Deadline stands and remains unchanged for all claimants under the 3.0L Settlement Agreement. To qualify for compensation under the Settlement, a 3.0L claimant with a Generation 2 vehicle (MY 2013 – 2016) must both receive the Emissions Compliant Repair (“ECR”) and return a signed offer letter by that date.

The Ontario court found that complaints of a post-ECR ‘lag/surge’ could not be a matter of “Reduced Performance” or “adverse material degradation” covered by the Settlement. Accordingly, the ‘lag/surge’ complaints cannot be used to seek remedies under the Settlement, whether in the form of additional compensation, data from VW or an extension of the August 31, 2019 deadline.

The Ontario court also found that any post-repair defect caused by the ECR would be “outside the ambit of the releases provided by the Settlement Agreement,” and therefore any rights that class members may have in that regard are not precluded by the Settlement. However, the Ontario court also noted that the ECR was tested and approved by the appropriate regulators. And that, in addition, Volkswagen Group has not identified any safety impact from the ECR, and it is subject to stringent reporting obligations should it ever determine that the ECR “affects or is likely to affect the safety of any person.”

A copy of the Ontario court’s decision is available [here](#).