



Facsimile Transmission

To: Chris Lewis
 Location: Product Liaison
 Fax: 201-894-5498

Melinda Prentice Name
 Southern Regional Consultant Title
 Volkswagen Customer CARE Department
 248-754-3558 Phone
 248-754-6504 Fax
<http://www.vw.com> E-Mail

8/6/09 Date

2 Total Pages

Re: Incident Report 90191724

Chris,

Please find attached report. Email pictures to follow.

Thanks,
 Mindy Prentice
 VWOA-Customer Care

Volkswagen of America, Inc.
 3800 Hamlin Road
 Auburn Hills, MI 48326
 Tel. +1 248 754 5000
www.vw.com

CONFIDENTIALITY NOTICE: THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED, AND MAY CONTAIN INFORMATION WHICH IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT OR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING THE MESSAGE TO THE INTENDED RECIPIENT, YOU ARE NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS MESSAGE IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY THE SENDER IMMEDIATELY BY TELEPHONE (YOU MAY CALL COLLECT), AND RETURN THE ORIGINAL MESSAGE TO THE SENDER BY U.S. POSTAL SERVICE. YOU WILL BE REIMBURSED FOR POSTAGE. THANK YOU.

Lewis, Chris

From: Prentice, Melinda
Sent: Thursday, August 06, 2009 12:26 PM
To: Lewis, Chris
Subject: FW: MERTEN/08 EOS/WWWA71F88V [REDACTED]
Attachments: JEFF 001.jpg; JEFF 002.jpg; JEFF 003.jpg; JEFF 004.jpg; JEFF 005.jpg

Chris:

I faxed you an incident report on this. DSG failure caused an accident.

Thanks,

Mindy Prentice
Regional Consultant
Volkswagen Customer CARE

Volkswagen of America
3499 West Hamlin Road
Rochester Hills, MI 48309

Phone: 248-754-3558
Fax: 248-754-6504
Melinda.Prentice@vw.com
<http://www.vw.com>

From: Prentice, Melinda
Sent: Thursday, August 06, 2009 12:13 PM
To: 'jwrushing@westhoustonvw-subaru.com'; Asmussen, Jeff
Cc: Gelfusa (Cramer), Bonnie; Baldwin, Aaron
Subject: FW: MERTEN/08 EOS/WWWA71F88V [REDACTED]

Hi everyone:

Aaron forwarded this to me so that I could engage our Product Liaison team. I will forward this information to Chris Lewis for review.

In the meantime, could I get a repair order showing that the mechatronic unit failure contributed to this accident and also an estimate for repairs? Please fax whatever documentation there is to me at 248-754-6504.

Thanks!

Mindy Prentice
Regional Consultant
Volkswagen of America, Customer CARE
Phone: 248-754-3558
Fax: 248-754-6504

From: Asmussen, Jeff
Sent: Wednesday, August 05, 2009 3:09 PM
To: Gelfusa (Cramer), Bonnie; Baldwin, Aaron
Subject: Fw: MERTEN/08 EOS/WWWA71F88V025082

This customer has damaged vehicle that dealership personnel witnessed transmission shifting irregularities in. Parts are on order. Please file with liason too sionce customer wants reimbursement for damages.

From: James Rushing <jwrushing@westhoustonvw-subaru.com>
To: Asmussen, Jeff
Sent: Mon Aug 03 16:14:54 2009
Subject: MERTEN/08 EOS/WWBA71F88V [REDACTED]

JEFF

This is the eos information I spoke with you about
This lady has contacted customer care I told them
About the situation that they where asking for help
And that you and I were talking about the body damage
If you have any question are need anything else let me no.

James w rushing

G 3, 2009 R/O CLOSE OUT Store 01 SERVC01 PORT 5023 3651

X. R/O NO. 92487 TYPE SERVICE	11. ADVISOR 4165
-----	12. DATE IN 07/28/2009
1. CUSTOMER [REDACTED]	13. TIME IN 07:32am
[REDACTED]	14. DATE PR 07/28/2009
KATY TX	15. TIME PR 07:00pm
PHONE(B) [REDACTED] PHONE(H) [REDACTED]	16. TAG NO. 3680
-----	17. MI I/O 4466/
2. SERIAL# WWBA71F88V [REDACTED] PROD DT 10/29/2007	18. PO NO.
LICENSE# [REDACTED] STK#208043 DEL 06/30/2008	19. COMMENTS Y
DESC. VW EOS BLACK UNI CORNSILK BEIGE 08	20. RECOMMEN
-----	21. JRNL PFX PICKUP
3. JOBS (J#) 1 2 3 4 5	22.
STATUS	-----
4. LABOR 0.00 0.00 0.00	
5. PARTS 0.00 0.00 0.00	
6. SUBLET 0.00 0.00 0.00	
7. G.O.G. 0.00 0.00 0.00	
8. MISC 0.00 0.00 0.00	
9. TAX 0.00 0.00 0.00	
10. EST \$ [0.00] TOTALS [C] 0.00 [W] 0.00 [I] 0.00	

(S=SAVE)(I=INVOICE)(CR=CONS REACH)(W=WA

All Customer Contacts for: [REDACTED]

08/06/2009 02:20:08 PM PRENTIM Case: 090191724

E-Mail From FOM - Jeff Asmussen

FOM advised he just asked Service Manager to forward all information to RC for review. Wait dealer fax.

08/06/2009 02:18:57 PM PRENTIM Case: 090191724

Call To Product Liaison - Chris Lewis

RC informed PL that warranty was not going to cover bumper repairs. PL to wait for all information from dealer before making a decision. RC to wait dealer fax.

08/06/2009 02:09:59 PM PRENTIM Case: 090191724

Continued Comment With Warranty Admin. - John Booms

Warranty advised the damage to the bumper would not be covered under warranty as consequential damage as the failure of the DSG does not override the brake. The customer would have been able to engage the brake and the surging does not occur when brake is engaged. Additionally, the surge only occurs forward or backward depending on the gear it is in. It would never surge back and forth in the same gear. RC to inform PL.

08/06/2009 01:52:01 PM PRENTIM Case: 090191724

Call To Warranty Admin. - Linda

RC asked if damage caused by failed mechatronic unit could be claimed as consequential damage. Warranty Helpline (Linda) placed RC on hold to consult with supervisor. RC was transferred to Powertrain leader, John Booms.

08/06/2009 01:41:35 PM PRENTIM Case: 090191724

E-Mail From Product Liaison - Chris Lewis

If a failure of the DSG caused the damage and the repair of the DSG is a warranty matter than wouldn't the bumper repair be warranty as well? RC to call warranty helpline.

Let's wait for the estimate and see what we're looking at. RC to call warranty helpline.

08/06/2009 12:26:07 PM PRENTIM Case: 090191724

E-Mail To Product Liaison - Chris Lewis

RC forwarded pictures to PL. Wait PL.

08/06/2009 12:24:56 PM PRENTIM Case: 090191724

FAX To Product Liaison - Chris Lewis

RC faxed incident report. RC to forward pictures.

08/06/2009 12:22:08 PM PRENTIM Case: 090191724

FAX To Product Liaison - Chris Lewis

RC faxed incident report to PL. RC to forward pictures via email.

All Customer Contacts for: [REDACTED]

08/06/2009 12:13:44 PM PRENTIM Case: 090191724

E-Mail To Multiple Roles - SM-James Rushing, FOM Jeff Asmussen

Hi everyone:

Aaron forwarded this to me so that I could engage our Product Liaison team. I will forward this information to Chris Lewis for review. In the meantime, could I get a repair order showing that the mechatronic unit failure contributed to this accident and also an estimate for repairs? Please fax whatever documentation there is to me at 248-754-6504.

Thanks!

RC to forward incident report and pictures to PL for review.

08/06/2009 12:13:21 PM PRENTIM Case: 090191724

Assigned To Southern - PRENTIM

RC to engage PL.

08/06/2009 12:03:28 PM BALDWIA Case: 090191724

Assigned To Southern - unassigned

Please research concern with damage to customer rear bumper. Level 2 to research.

08/06/2009 11:47:51 AM BALDWIA Case: 090191724

Call To Dealer Service Mgr - James Rushing @ West Houston Volkswagen (425047)

RCM advised calling regarding customer concern. SM advised the mechatronic unit is supposed to be in next week; CUST is in a loaner vehicle at this time; customer was told the mechatronic unit can take 4-6 weeks to arrive. RCM asked if DLR was able to experience the complaint that customer described caused the rear bumper damage. SM advised that he can see the concern happening as Customer described; there is a bad hesitation and surging back and forth; the whole rear bumper. RCM to assign to Level 2.

08/06/2009 11:30:06 AM BALDWIA Case: 090191724

E-Mail From FOM - Jeff Asmussen

This customer has damaged vehicle that dealership personnel witnessed transmission shifting irregularities in. Parts are on order. Please file with liaison since customer wants reimbursement for damages.
RCM to call dealer.

08/05/2009 10:53:30 AM ZIEHMEC Case: 090191724

Note To User - CCC

RCM to e-mail dealer 425047

Vehicle Information

Model Year	2008	Status	Active	Shipping Num	121
Make/Model/Sub	VLK / EOS / Eos 2.0L	Eng Family		Invoice Num	05116
Sales Model	1F78V3	Prod Date	10/29/2007	Invoice Date	
Factory Model	1F77V3	Ign Key		Order POE	UH
Exterior Color	BLACK EXTERIOR	A/C Installed		Deliver POE	UH
Interior Color	UNKNOWN	Source	US Delivery from Europe		
In Service Date	06/30/2008	Engine#	BPY 197220	Expires	Miles
Demo Ext Num		Base Warranty	06/2012	50	
Addl Wrnty Num		Demo Warranty		0	
# Claims	5 \$208.00	Addl Warranty		0	
		Addl Wrnty Typ	Not Applicable		
Ordered By	425038	Momentum Volkswagen			
Billed To	425038	Momentum Volkswagen			
Sales Options	EMM				
Factory Options	PSO,WCO				

Purchase History

Dealer ID	Dealer Name	Delivery Date	Kind of Sale	Customer
425047	West Houston Volkswagen	06/30/2008	New	[REDACTED]

Repair/Campaign History

Dealer ID	Dealer Name	Claim	Type	Part Id	Part Description	Repair Date	Paid Amt	Odom Unit	Measure	Audit	Ctr
425047	West Houston Volkswagen	87782AC	W2	5557	Rear lock mechanism	2009/03/06	\$100.00	3,000	Miles	200911	95
425047	West Houston Volkswagen	81542AC	W2	6121	Molding	2008/08/14	\$44.00	1,000	Miles	200833	96
425047	West Houston Volkswagen	79942AC	FM	0181	Inventory inspection US	2008/06/27	\$22.00	0	Miles	200827	97
425047	West Houston Volkswagen	78612AC	FM	0181	Inventory inspection US	2008/05/08	\$21.00	0	Miles	200820	98
425047	West Houston Volkswagen	77782AC	FM	0181	Inventory inspection US	2008/04/08	\$21.00	0	Miles	200815	99

CT CORPORATION
A WoltersKluwer Company

**Service of Process
Transmittal**

11/26/2007

CT Log Number 512820671



TO: ROBERT CAMERON
VOLKSWAGEN OF AMERICA, INC.
PRODUCT LIAISON OFFICE, One Executive Drive, Suite LL50
Fort Lee, NJ 07024

RECEIVED
NOV 28 2007

RE: Process Served in Utah

FOR: VOLKSWAGEN OF AMERICA, INC. (Domestic State: NJ)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: [REDACTED], Petitioner vs. Volkswagen of America, Inc., Respondents

DOCUMENT(S) SERVED: Summons, Complaint

COURT/AGENCY: Third District Court, Salt Lake County, Salt Lake Department, UT
Case # 070916146

NATURE OF ACTION: Product Liability Litigation - Manufacturing Defect - Volkswagen sold a car with manufacturing defect, wherefore, plaintiff prays for judgment requiring Volkswagen to accept return of the motor vehicle.

ON WHOM PROCESS WAS SERVED: C T Corporation System, Salt Lake City, UT

DATE AND HOUR OF SERVICE: By Process Server on 11/26/2007 at 14:00

APPEARANCE OR ANSWER DUE: Within 20 days

ATTORNEY(S) / SENDER(S): Jeffrey Buckner
Utah Attorney's General's Office
PO Box 140872
160 East 300 South, Fifth Floor
Salt Lake City, UT 84114-0872
801-366-0310

ACTION ITEMS: SOP Papers with Transmittal, via Fed Ex 2 Day , 790389542239
Image SOP - Page(s): 10
Email Notification, ROBERT CAMERON robert.cameron@vw.com

SIGNED: C T Corporation System

ADDRESS: 136 East South Temple
Suite 2100
Salt Lake City, UT 84111

TELEPHONE: 801-364-5101

Case # 83 U 745 43 / 07
R. Parker Esq.
C. Boettcher

JEFFREY BUCKNER (4546)
Assistant Attorney General
MARK L. SHURTLEFF (4666)
Utah Attorney General
UTAH ATTORNEY GENERAL'S OFFICE
Attorneys for Petitioner
Commercial Enforcement Division
P. O. Box 140872
160 East 300 South, Fifth Floor
Salt Lake City, Utah 84114-0872
Telephone: (801) 366-0310
Facsimile: (801) 366-0315

*Ku Miguel
11/26/94
W 1087*

THIRD JUDICIAL DISTRICT COURT

SALT LAKE COUNTY, STATE OF UTAH

██████████	by and through the	:	SUMMONS
	Division of Consumer Protection of the	:	
	Department of Commerce, and on behalf of	:	
	Jeremy Andersen,	:	
		:	
	Petitioner,	:	Case No. 070916146
		:	
	vs.	:	
		:	
	VOLKSWAGEN OF AMERICA, INC.,	:	
		:	
	Respondents.	:	Judge Sandra N. Peuler

██████████ TO THE ABOVE NAMED RESPONDENT

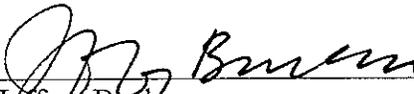
VOLKSWAGEN OF AMERICA, INC.,

You are hereby summoned and required to file an answer in writing to the attached Complaint with the clerk of the above-entitled court, located at 450 S. State Street, Salt Lake City, Utah, 84111, telephone number (801) 238-7480 and to serve upon, or mail to: Jeffrey

Buckner, Petitioner's Attorney, at 160 East 300 South 5th Floor, PO Box 140872, Salt Lake City, Utah 84114-0872, telephone number (801)366-0310, a copy of said answer within TWENTY (20) days after service of this summons upon you. If you fail so to do, judgment by default will be taken against you for the relief demanded in said complaint which has been filed with the clerk of said court and a copy of which is hereto annexed and herewith served upon you.

Dated this 19th day of November 2007.

MARK L. SHURTLEFF
Utah Attorney General



Jeffrey Buckner
Assistant Attorney General

Process to be Served Upon:

VOLKSWAGEN OF AMERICA, INC
Registered Agent for Process
C/O CT Corporation System
50 W. Broadway, 8th Floor
Salt Lake City, Utah 84101-2006

FILED
THIRD JUDICIAL DISTRICT COURT
07 NOV 14 AM 11:40
SALT LAKE DEPARTMENT
BY _____
DEPUTY CLERK

Jeffrey Buckner (4546)
Assistant Attorney General
Mark L. Shurtleff (4666)
Utah Attorney General
Commercial Enforcement Division
160 East 300 South, Fifth Floor
P. O. Box 140872
Salt Lake City, Utah 84114-0872
Telephone: (801) 366-0310
Facsimile: (801) 366-0315

Attorneys for Plaintiff

THIRD JUDICIAL DISTRICT COURT
SALT LAKE COUNTY, STATE OF UTAH

██████████ by and through
the Division of Consumer Protection of the
Department of Commerce, and on behalf
of Jeremy Andersen,

Plaintiff,

v.

VOLKSWAGEN OF AMERICA, INC.,

Defendant.

COMPLAINT

Case No. 070916146

Judge Sandra N. Peuler

The Plaintiff, ██████████ by and through its attorneys, Mark Shurtleff, Utah Attorney General, and Jeffrey Buckner, Assistant Attorney General, alleges and complains against Volkswagen of America, Inc. as follows:

PARTIES

1. Plaintiff, ██████████ Division of Consumer Protection, is a division of the Department

of Commerce of the [REDACTED] organized and existing under Utah Code Ann. § 13-2-1 et seq., and is charged, among other things, with enforcement of the New Motor Vehicles Warranties Act, Utah Code Ann. § 13-20-1 et seq.

2. Plaintiff brings this action for and on behalf of Jeremy Andersen (Andersen), who resides at 495 Mary Rose Drive, Salt Lake City, Utah 84107.
3. Defendant Volkswagen of America, Inc. (Volkswagen), is a Delaware corporation, with a principal office at 3800 Hamlin Rd., Auburn Hills, Michigan 48363. Volkswagen is registered in the State of Utah as a foreign corporation and lists C T Corporation System, 50 W. Broadway 8th Floor, Salt Lake City, Utah 84101-2006 as its registered agent and office for service of process.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction over this claim pursuant to Utah Code Ann. § 13-20-6.
5. Venue is proper in the Third Judicial District Court. Utah Code Ann. § 78-13-7.

GENERAL ALLEGATIONS

6. Volkswagen is in the business of manufacturing, distributing, and selling motor vehicles, some of which are distributed and sold to Utah consumers. Utah Code Ann. § 16-10a-1501(e).
7. Volkswagen does business in Utah through Ken Garff Motors, 195 East University Parkway, Orem, UT 84058. Ken Garff Motors is a Volkswagen dealer and is an expired assumed business name of Garff-UC, LLC. Strong Volkswagen, Inc. (Strong

Volkswagen), and Volkswagen Southtowne, Inc. (Volkswagen Southtowne), are authorized service and repair centers for Volkswagen. Strong Volkswagen is a Utah corporation with a principal office at 1070 S. Main Street, Salt Lake City, UT.

Volkswagen Southtowne is a Utah corporation with its principal office at 11000 South Frontage Rd., South Jordan, UT.

8. On September 8, 2006, Andersen bought a new 2007 Volkswagen GTI from Ken Garff Motors for \$28,616.49 including all applicable taxes, licensing, and other fees. The vehicle identification number of the GTI Andersen bought is WVWFV71K67W [REDACTED] (Vehicle).
9. Volkswagen manufactures the GTI and markets it as a race vehicle. Volkswagen's website gives specific information about the top track speed, drag coefficient, fuel efficiency and 0-60 mph time for the GTI. The website also features a video of GTI doing "burnouts" and shows tires spinning on a pavement and leaving a patch of tire rubber on the ground.
10. The Vehicle was covered by express warranties, wherein Volkswagen warranted, among other things, to repair, without charge, anything that went wrong with the Vehicle during the warranty period caused by a defect in materials or workmanship.
11. Andersen began to experience problems with the Vehicle soon after possession. These defects were covered by the express warranties on the motor Vehicle.
12. During the first year of ownership, Andersen took the Vehicle for repair a total of five times. Andersen reported problems with the transmission each time. Due to repairs, the

Vehicle has been out of service for a total of more than thirty business days during the first year of ownership as described below:

<u>Number & Mileage</u>	<u>Date Taken In</u>	<u>Attempted Repair Location</u>	<u>Customer's Complaint and Nature of Attempted Repair</u>	<u>Days Vehicle Out of Service</u>
1. 7,345	01-11-07	Volkswagen Southtowne	Customer says car will not move in reverse. Southtowne ran diagnosis, found faulty motronic unit. Replaced unit and gaskets.	7
2. 10,450	03-23-07	Strong Volkswagen	Customer says DSG trans seems to act like it's stuck in third gear. Strong test drove car, could not duplicate, ran GFF had sporadic faults tested and cleared system.	1
3. 10,518	03-30-07	Strong Volkswagen	Customer says car has no power when engine is warm. Strong inspected trans and module, after checking with Volkswagen and getting approval, authorized to replace transmission.	19
4. 11,263	05-02-07	Strong Volkswagen	Customer says that the trans has a grinding sound. Strong's tech and service advisor could hear a sound (click) coming from under car.	10

5. 12,721	06-06-07	Strong Volkswagen	Customer says the car has shifting problems. Strong found the car has signs of abuse, found rubber, tire debris under car, front tires nearly bald. No repairs made. Customer picked up car.	3
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13. On or about May 23, 2007, Andersen applied for arbitration through the Better Business Bureau as required by Volkswagen. Although more than four repair attempts had been made and the Vehicle had been out of service for more than thirty days, the arbiter ruled that the Vehicle had been repaired.
14. Despite efforts to repair the Vehicle, the nonconformities continued to exist. Volkswagen was unable to conform the Vehicle to applicable express warranties within a reasonable number of attempts. The nonconformities substantially impaired the safety, use and market value of the Vehicle.
15. On June 6, 2007, as stated above, Andersen again returned the Vehicle to Strong Volkswagen for repair. Anderson complained the car had a problem shifting. Volkswagen voided the warranty, claiming the Vehicle showed "signs of abuse," specifically, "rubber tire debris all under car. Front tires nearly bald."
16. Shortly after picking up the Vehicle from Strong Volkswagen, Andersen took the Vehicle to Southtowne Volkswagen for further inspection and diagnosis.
17. On July 11, 2007, Andersen filed a complaint with the Division.
18. On August 15, 2007, Volkswagen conceded, through its agent, that it could not be determined whether the transmission problems were from abuse, but the warranty was

voided because of worn tires and rubber residue under the Vehicle. Volkswagen agreed to tear down the transmission to determine the cause of the non-conformity.

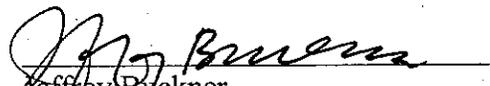
19. On August 24, 2007, Volkswagen agreed to repurchase the Vehicle after the Division discovered the Vehicle had been marketed for racing. Because of the agreement, no tear down was necessary.
20. Despite the agreement, Volkswagen did not repurchase the Vehicle, but instructed Volkswagen Southtowne to perform repairs on the Vehicle's transmission and told Andersen to pick up the Vehicle. Andersen did not authorize the repairs.
21. Because Andersen did not agree to additional repairs, and because he had agreed to a repurchase and Volkswagen voided the warranty, he did not pick up the Vehicle. The Vehicle has been parked at Volkswagen Southtowne since August 2007.
22. The Division contacted Volkswagen on Andersen's behalf. However, Volkswagen refused to repurchase the Vehicle, accept the return or refund Andersen the full purchase price of the Vehicle, including all collateral charges (less a reasonable allowance for the consumer's use of the vehicle).
23. Andersen complied with all warranty conditions and terms, as well as all the requirements of the New Motor Vehicles Warranties Act and is entitled to the replacement of the Vehicle with a comparable new vehicle, or, in the alternative, a refund of the full purchase price of the Vehicle, including all collateral charges (less a reasonable allowance for the consumer's use of the vehicle) upon the return of the Vehicle to Volkswagen.

WHEREFORE, Plaintiff prays for judgment of this Court against Volkswagen, and on behalf of Andersen, as follows:

- (1) For an order requiring Volkswagen to accept return of the motor Vehicle.
- (2) For a judgment against Volkswagen on behalf of the Andersen for the sum of \$28,616.49, the total purchase price of the Vehicle (including all collateral charges) less an allowance of 10 cents per mile for reasonable use of the Vehicle.
- (3) Reasonable attorneys fees. Utah Code Ann. § 13-20-6(4).
- (4) For such other and further relief as the Court may deem appropriate.

Respectfully submitted this November 14, 2007.

MARK L. SHURTLEFF
UTAH ATTORNEY GENERAL


Jeffrey Buckner
Assistant Attorney General