

IN THE SUPREME COURT OF THE STATE OF MONTANA
No. OP 20-0171

VOLKSWAGEN AKTIENGESELLSCHAFT D/B/A VOLKSWAGEN GROUP
AND/OR VOLKSWAGEN AG, AUDI AG, VOLKSWAGEN GROUP OF
AMERICA, INC., VOLKSWAGEN GROUP OF AMERICA CHATTANOOGA
OPERATIONS, LLC, AUDI OF AMERICA, LLC, DR. ING. H.C. F.
PORSCHE D/B/A PORSCHE AG, AND PORSCHE CARS NORTH
AMERICA, INC.,

Petitioners,

v.

MONTANA FIRST JUDICIAL DISTRICT COURT, LEWIS AND CLARK
COUNTY, THE HONORABLE JAMES P. REYNOLDS, DISTRICT JUDGE,

Respondent,

NOTICE OF SUPPLEMENTAL AUTHORITY

*Original proceeding arising from Montana Department of Environmental
Quality v. Volkswagen Aktiengesellschaft, et al., Cause No.
DDV-2016-1045, Montana First Judicial District, Lewis and Clark
County, Hon. James P. Reynolds, District Judge*

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Pursuant to Montana Rule of Appellate Procedure 12(6), Volkswagen¹ respectfully submits this Notice of Supplemental Authority to notify the Court of a development that occurred after Volkswagen filed its Petition for Writ of Supervisory Control. On March 31, 2020, the Ohio Supreme Court granted discretionary review of the Ohio Court of Appeals decision in *State ex rel. Yost v. Volkswagen Aktiengesellschaft*. (Exhibit A.) The Ohio Court of Appeals' decision is the only reasoned opinion, besides the District Court's decision below, that did not dismiss Post-Sale Tampering claims as preempted by the Clean Air Act. (Volkswagen Petition at 6.) The Ohio Supreme Court's order means that decision, on which the District Court relied, is now under appellate review.

Respectfully submitted this 1st day of April, 2020.

¹ "Volkswagen" refers to all petitioners here.



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with permission

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CERTIFICATE OF COMPLIANCE

Pursuant to Montana Rule of Appellate Procedure 11, I certify that this Notice of Supplemental Authority is printed with a proportionately spaced Times New Roman text typeface of 14 point; is double spaced; and the word count is 131 words excluding the Certificates of Compliance and Service.

Dated this 1st day of April, 2020.



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CERTIFICATE OF SERVICE

I, Ben D. Kappelman, hereby certify that on April 1, 2020, I served copies of the foregoing Notice of Supplemental Authority by causing them to be sent as set forth below:

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*Via email and the Court's
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I, Ben Desmond Kappelman, hereby certify that I have served true and accurate copies of the foregoing Notice - Supplemental Authority to the following on 04-01-2020:

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