

Thursday, December 9, 2021 at 7:53:13 AM Pacific Standard Time

Subject: Audi A-8 1999 Vin WAUBG34D7XN [REDACTED] destruction of vehicle recall complaint

Date: Thursday, December 9, 2021 at 7:45:13 AM Pacific Standard Time

From: [REDACTED]

To: [REDACTED] CL-11446879-8000

CR0:HEP 129 NATL

Subject: Audi A-8 1999 Vin WAUBG34D7XN [REDACTED] destruction of vehicle recall complaint

INFORMATION REDACTED PURSUANT TO THE FREEDOM OF INFORMATION ACT (FOIA), 5 U.S.C. 552(B)(6)

Attached is correspondence related to the total destruction of my car while in the care of Audi of Marin for a mandatory recall. After twenty years, Audi noticed the recall for a faulty airbag. It was in connection with their implied warranty of the car. I delivered the car to them for repairs and they left it outside during the recent large rainstorm which had been forecast for 7-10 days in advance. They took no action to protect the car. They have CCTV cameras but it is unclear whether they are monitored on the premises of the dealership. Flooding ensued and they made no effort to move the car. The water rose to the window level and above the engine producing a total loss. We agree that it cannot be repaired.

The attached documents record my discussions with Volkswagen, Audi and the dealership. The car was in mint condition as you can see from the attached photos. Materials are also attached on replacement costs for the car. They are estimated between seven and fifteen thousand dollars. I have not been able to reach agreement with the dealership on adequate compensation.

I respectfully request your assistance in a solution which puts me back in the position I was in before the car went into Audi of Marin for repairs. The dealership is now owned by a foreign Netherlands based company in Europe, Pon Holdings, intimately associated with Volkswagen since 1947.

Sincerely,

[REDACTED]  
San Francisco  
[REDACTED]

Page 1 of 14

From: [REDACTED]  
Date: 10/26/2021 08:54 AM  
To: [herbert.diess@volkswagen.de](mailto:herbert.diess@volkswagen.de),  
[janus.smalbraak@pon-cat.com](mailto:janus.smalbraak@pon-cat.com),  
[markus.duesmann@audi.de](mailto:markus.duesmann@audi.de)  
Subject: Audi A-8 dealership total loss

Lieber Herr Diess,

I have written you before about my historical relationship with the Volkswagen group. This includes purchase of three Volkswagens, three Audis and one Porche. Unfortunately, my iconic, mint condition 1999 Audi A-8 was destroyed while in Audi Marin's lot while awaiting return to me after service and minor repairs.

Unexpectedly, the dealership is denying financial responsibility, with the exception of any insurance deductible. They also collected approximately \$1300 from me for the repairs promising to deliver the vehicle that day, only to inform me two hours later that there was a problem due to water damage which they were "evaluating". I asked how much water damage and they said the water came up to the door. They did not specify where on the door. Four hours later they called to say the water had come up to the window outside, and the seats inside. There was also a short circuit caused by the water suggesting fire damage.

For the week prior to the weekend storm, the media had been forecasting a major weather event. This should have put the dealership on notice that flooding was a possibility and they needed to take preventive action for their customers.

They did not and in my opinion this was grossly negligent resulting in the loss of my car. They seem to be trying to put responsibility for the loss back to the owners' insurance companies rather than taking responsibility themselves. They clearly want to avoid making a claim on their own insurance to avoid increased premiums or loss of coverage due to flooding risk. The dealership is in a low lying area in San Rafael near San Francisco Bay. They should have known, and may have had water damage issues in the past.

They claim the loss was due to a natural disaster so they have no responsibility. Whether the storm rises to that level is a matter of dispute. It clearly did not cause the degree of flooding you had in Germany recently. In any case, since there was a week of prior warning they had the obligation to act and prevent. Failure to do so was willful, conscious, disregard as seen by any reasonable person.

They kindly picked up the car at my home in San Francisco. The goods were delivered to them for a specific purpose without transferring ownership. The A-8 was in their possession on a verbal agreement for service and was at their premises and within their control. They were responsible for it and consequently should repair or replace. It costs them much less to do this than me. They refused.

As I am sure you know, the auto industry is highly regulated in California. There are various avenues for a complaint including our Bureau of Automotive repairs, California Consumer Bureau or our Governor and future US President Gavin Newsom. The dealership is very protective of its public image and since there are other affected parties this could show up in the court of public opinion. California is a big market for your products, as is the United States.

My own preference is to amicably resolve this matter, but the dealership's actions have been finely calibrated suggesting a scheme to shift financial responsibility to its customers rather than accepting it themselves. This would seem inconsistent with the high ethics and standards of the Volkswagen Group. That is why I am writing you.

Without Volkswagen Group participation the dealership will likely allow this matter to spiral out of control. I respectfully request that the VW Group is involved with the dealership to responsibly resolve this matter.

Vielen dank noch einmal,

[REDACTED]  
San Francisco

**From:** "AudiTalk@audi.com"

[[auditalk@audi.com](mailto:auditalk@audi.com)]

**Date:** 10/27/2021 09:28 AM

**To:** [REDACTED]

**Subject:** [REDACTED]

Good morning,

Thank you for your email to Mr. Markus Duesmann and Mr. Diess. After review of your contact, it was noted your contact was in regards to a vehicle of United States specifications and have forwarded to Audi of America for reply. My role at Audi of America reports directly to our Executive Leadership offices, and I personally research and respond on behalf of the majority of the correspondence that our executives read. I am well connected within the organization, and knowledgeable on a variety of topics. As such, I hope that you will accept my response on behalf of my leadership team.

We sincerely regret to hear for the continued frustrations stemming from

outside influence with your vehicle while at the dealership. We do hope that working through a dealership (as well as with an insurance company) would not provide any feelings of this nature.

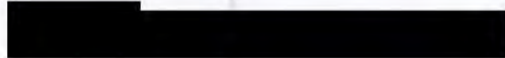
As the manufacturer, we are able to assist with items that fall under the manufactured supplied warranties. Each dealership is a separate, independent entity from Audi of America and would be solely responsible for concerns relating to an insurance claim. Our role in this situation would be to reach out to the dealership management team with your contact and request they continue to handle your concerns through their appropriate channels. We have alerted our area field team to your contact and requested they discuss with the dealership directly. Any further discussion regarding this concern would need to be had between yourself and either the dealership or the insurance company involved.

While we regret the circumstances that have prompted your contact, we do appreciate you allowing our executives this opportunity to review your contact, engage the proper parties and provide the supported outcome.

**Meghan Nagel**  
Executive Case Specialist

*To provide you with the best service possible, it's important that you respond to us by replying to this email. Replying outside of this email will result in a delayed response. Thank you for contacting the Audi Customer Experience Center.*

Audi of America, Inc.  
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Auburn Hills, MI 48326  
United States of America  
Tel. +1 248 754 3408  
mailto: [AudiTalk@audi.com](mailto:AudiTalk@audi.com)  
<http://www.audiusa.com>



**From:** [REDACTED]  
**Sent:** 10/27/2021 12:38 PM  
**To:** [auditalk@audi.com](mailto:auditalk@audi.com)  
**Subject:** [From: External] [REDACTED]

Hi Meghan,

Tried to call you. I believe we spoke before about this dealership. They are very difficult to deal with. Do you have a copy of my letter to your senior management so you understand the outrageous circumstances of all this?

Maybe you can help. Please give me a call on [REDACTED]

**From:** "AudiTalk@audi.com"  
[[auditalk@audi.com](mailto:auditalk@audi.com)]  
**Date:** 11/01/2021 04:00 AM  
**To:** [REDACTED]  
**Subject:** RE: [From: External] Re: [REDACTED]

Good morning,

Thank you for your follow up.

Our executives were able to review your full contact letter and requested we reach out to the proper entities to handle this concern. Our role in situations of this nature is to ensure the proper parties are engaged with your concern.

We were able to connect with the General Manager with the dealership and

they have indicated this was a matter of outside influence and would be handled through insurance. However, they also did indicate they would be happy to discuss any other options you may be seeking. Since as the manufacture we are able to assist with items that fall under your manufacturers applied warranties and this concern does fall into outside influence, please reach out to Mike Christian (General manager) at 415-460-4148 with any further discussions, he has indicated he would be happy to provide any further review of this concerns.

We thank you for allowing our Audi executives the opportunity to review your contact and engage the correct departments towards assistance with your outlines concerns.

**Meghan Nagel**  
Executive Case Specialist

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Audi of America, Inc.  
Customer Experience Center  
3800 Hamlin Road  
Auburn Hills, MI 48326  
United States of America  
Tel. +1 248 754 3408  
mailto: [AudiTalk@audi.com](mailto:AudiTalk@audi.com)  
<http://www.audiusa.com>

**From** [REDACTED]  
**Sent:** 11/1/2021 12:50 PM  
**To:** [auditalk@audi.com](mailto:auditalk@audi.com)  
**Cc:** [herbert.diess@volkswagen.de](mailto:herbert.diess@volkswagen.de);  
[markus.duesmann@audi.de](mailto:markus.duesmann@audi.de);  
[janus.smalbraak@pon.com](mailto:janus.smalbraak@pon.com)  
**Subject:** Re: [From: External] Re: [REDACTED]

Thank you Meghan,

It is clear from your correspondence, and not returning my call, that Audi and Volkswagen have backed away from their previously more assertive role in assuring that customers are treated fairly by dealerships. I have experience with Mr. Christian and do not expect reasonable treatment from him, Audi of Marin's owner, the Texas based Indigo auto group founded by Todd Blue, was sold to a large Dutch group Pon Holdings doing business in the United States and California. Kelley Wolf represents them here. Janus Smalbraak is the CEO of Pon in Holland.

To the extent that they deal with American citizens, they are subject to our laws. Unfortunately, the situation here suggests the possibility of intentional deception of the forty or fifty Marin County customers affected by vehicle flooding in Audi of Marin's storage lot. There seems to be an attempt by the dealership to shift the financial loss to their customers' insurance by claiming that due to a "natural disaster" Audi of Marin are not financially responsible. Make your own insurance claim and pay us for the repairs. There was no natural disaster declared. They had ample warning of the approaching rainstorm and took no action to protect the cars in their care for repairs.

While the dealership's insurance may or may not cover them, their responsibility for their customers' property is well established. They took possession of these vehicles for the purpose of repairs without transfer of title. They are obligated to pay for any damage. In addition there is an unjust enrichment element since they will profit from their gross negligence in not protecting the vehicles from the highly publicized approaching rainstorm by moving them to higher ground or inside, and want to be paid for the necessary repairs or replacement of water damaged cars. This is outrageous and may give rise to other

damages. There is an open question of whether any severely water damaged vehicle can be safely repaired. I would like to know Audi's position on this.

There is now a question of whether the dealership intentionally deceived their customers about who was responsible and will now benefit from this. This could be a matter for the local law enforcement authorities.

For myself, I am unclear whether my car can be safely repaired. I was told the water came up to the the door window, so most of the moving parts of the vehicle were submerged. Is Audi prepared to accept liability for putting such a car back in the road? The resale value is clearly limited since the safety of the car is questionable. My demand is repair with warranty or replace to my satisfaction. The mint condition of the car and low mileage is already documented by pictures in the possession of David Kanyak at your own offices in Auburn Hills , MI; who previously assisted me with conspicuous success. He wanted to show them to his team.

This matter is about to escalate. I respectfully require a response and path to resolution within the next 48 hours.

Kind regards,

[REDACTED]

**From:** "[AudiTalk@audi.com](mailto:AudiTalk@audi.com)"  
[[auditalk@audi.com](mailto:auditalk@audi.com)]

**Date:** 11/01/2021 11:09 AM

**To:** [REDACTED]

**Subject:** Re: [From: External] Re:  
[REDACTED]

Good Afternoon,

We do thank you for your follow up.

Your best path towards resolution would be to discuss directly with Mike Christian (General manager) at 415-460-4148. Mr. Christian has indicated he would be happy to discuss the concerns that happened on the dealership's lot while in their possession. Any further discussion regarding these concerns would best be had with the dealership directly as they are in the best position to assist further with matters of outside influence.

**Meghan Nagel**  
Executive Case Specialist

*To provide you with the best service possible, it's important that you respond to us by replying to this email. Replying outside of this email will result in a delayed response. Thank you for contacting the Audi Customer Experience Center.*

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Customer Experience Center  
3800 Hamlin Road  
Auburn Hills, MI 48326  
United States of America  
Tel. +1 248 754 3408  
mailto: [AudiTalk@audi.com](mailto:AudiTalk@audi.com)  
<http://www.audiusa.com>

**From:** [REDACTED]  
**Date:** 11/01/2021 10:47 AM  
**To:** [auditalk@audi.com](mailto:auditalk@audi.com)  
**CC:** [herbert.diess@volkswagen.de](mailto:herbert.diess@volkswagen.de),  
[markus.duesmann@audi.de](mailto:markus.duesmann@audi.de),  
[janus.smalbraak@pon.com](mailto:janus.smalbraak@pon.com)  
**Subject:** Re: [From: External] Re:  
[REDACTED]

Thank you for your email.

For the reasons outlined in my previous correspondence, that is not an acceptable response.

Sincerely,

[REDACTED]

**From:** "Michael Christian"  
[mchristian@indigoautogroup.com]  
**Date:** 11/08/2021 09:29 AM  
**To:** [REDACTED]  
**Subject:** update on offer

Mr. [REDACTED]  
I apologize for the delay in getting back to you. It has taken me a bit longer to research the car values for what is currently in market. I certainly have not forgotten about you and will get back to you no later than tomorrow.

Hope you had a good weekend  
**Mike Christian** | General Manager  
Phone 415-460-4148 | Cell phone: 415-720-4819  
| [mchristian@indiGOautogroup.com](mailto:mchristian@indiGOautogroup.com) |  
[www.indiGOautogroup.com](http://www.indiGOautogroup.com)

[REDACTED]

**From:** [REDACTED]  
**Date:** 11/08/2021 07:01 PM  
**To:** "Michael Christian"  
<[mchristian@indigoautogroup.com](mailto:mchristian@indigoautogroup.com)>  
**Subject:** Re: update on offer

Thanks for the email.

Just so you understand where I am coming from: I need to be made whole for the loss. My A-8 was garaged for its life, never had a night on the street, and was not beaten around. It was also maintained by your people at Audi of Marin.

The situation I want to avoid is where I end up with a lesser product. A 150,000 mile twenty year old car could be seen as an invitation to disaster and expense. I need something to prevent this and get back to the risk profile I had with my own car before the Audi recall, which led to a total loss. There is precedent for this in similar situations.

While I appreciate your efforts to find a solution, in about a week, I will need to continue my process in multiple jurisdictions: here, Germany, and Holland.

I look forward to hearing from you at your convenience.

Sincerely,

A solid black rectangular redaction box covering the signature area.