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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE CHRYSLER-DODGE-JEEP
ECODIESEL® MARKETING, SALES
PRACTICES, AND PRODUCTS
LIABILITY LITIGATION

Case No. [17-md-02777-EMC](#)

**ORDER GRANTING FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT AND ATTORNEYS'
FEES AND COSTS**

The Honorable Edward M. Chen

Before the Court is Class Plaintiffs' Motion for Final Approval of Class Action Settlement and Attorneys' Fees and Costs under Fed. R. Civ. P. 23(e) and 23(h) and Pretrial Order Nos. 3 and 4. The background, procedural history, and Settlement terms were summarized in the Court's Order Granting Preliminary Approval of Class Settlement, familiarity with which is presumed. *See* Dkt. No. 526 ("Preliminary Approval Order"). In brief, the Settlement, along with the interrelated US-CA Consent Decree, provides an emissions repair for approximately 100,000 vehicles, offers an extended warranty covering all vehicles receiving that repair, and compensates class members with cash payments ranging from \$990 to \$3,075.

Following the Court's Preliminary Approval Order, notice has been sent to the Class via a Court-approved notice program, and the Class has had an opportunity to respond. Having considered the Parties' briefs and accompanying submissions, comments from the Class, and

1 presentations at the hearing on these matters, for the reasons stated in granting preliminary
2 approval and for the reasons stated at the hearing, the Court **GRANTS** the motion.

3 **I. CLASS CERTIFICATION AND SETTLEMENT APPROVAL**

4 When presented with a motion for final approval of a class action settlement, a court first
5 evaluates whether certification of a settlement class is appropriate under Federal Rule of Civil
6 Procedure 23(a) and (b). Rule 23(a) provides that a class action is proper only if four
7 requirements are met: (1) numerosity, (2) commonality, (3) typicality, and (4) adequacy of
8 representation. *See* Fed. R. Civ. 23(a)(1)-(4). As relevant here, settlement certification of a Rule
9 23(b)(3) class requires that (1) “the questions of law or fact common to class members
10 predominate over any questions affecting only individual members” and that (2) “a class action
11 [be] superior to any other available methods for fairly and efficiently adjudicating the
12 controversy.” *See* Fed. R. Civ. P. 23(b)(3).

13 The Court analyzed these factors in its Preliminary Approval Order and finds no reason to
14 disturb its earlier conclusions. The requirements of Rule 23(a) and Rule 23(b)(3) were satisfied
15 then and they remain so now. *See* Dkt. No. 526 at 8-12. As such, the Court determines that
16 certification of the Settlement Class is appropriate.

17 Assuming a proposed settlement satisfies Rules 23(a) and (b), the Court must then
18 determine whether the proposal is fundamentally fair, reasonable, and adequate. *See* Fed. R. Civ.
19 P. 23(e)(2). The Ninth Circuit has identified factors to consider when a court evaluates a
20 settlement:

21 (1) the strength of the plaintiff’s case; (2) the risk, expense,
22 complexity, and likely duration of further litigation; (3) the risk of
23 maintaining class action status throughout the trial; (4) the amount
24 offered in settlement; (5) the extent of discovery completed and the
25 stage of the proceedings; (6) the experience and views of counsel;
(7) the presence of a governmental participant; and (8) the reaction
of the class members of the proposed settlement.

26 *In re Bluetooth Headset Prods. Liab. Litig.*, 654 F.3d 935, 946 (9th Cir. 2011). In preliminarily
27 approving the Settlement, the Court analyzed the Rule 23(e)(2) and Ninth Circuit factors and
28

1 concluded that the Settlement was “fair, adequate, and reasonable.” Dkt. No. 526 at 15. Those
2 conclusions stand and counsel equally in favor of final approval now.

3 **II. THE REQUESTED ATTORNEYS’ FEES AND COSTS**

4 Class Counsel requests an award of \$59 million in attorneys’ fees and \$7 million in costs
5 for work arising from the claims resolved by the Settlement. Defendants have agreed to pay this
6 amount in addition to compensation to the Class. *See* Dkt. No. 508 ¶ 11.1.

7 The fees and costs are reasonable, whether a percentage method or lodestar method is
8 used. Class Counsel’s request for \$59 million in fees and \$7 million in costs is hereby

9 **GRANTED.**

10 Finally, Plaintiffs request a service award of \$5,000 to be paid by Defendants in addition
11 to the Settlement compensation. This is the presumptive service award in this District, and is
12 reasonable under the facts of this case, in which representative Plaintiffs participated actively in
13 the litigation, including sitting for depositions, completing detailed questionnaires, and searching
14 for and producing responsive documents. *See* Dkt. No. 526 at 15. The request for incentive
15 awards for each of the 60 settlement class representatives is therefore **GRANTED.**

16 **III. CONCLUSION**

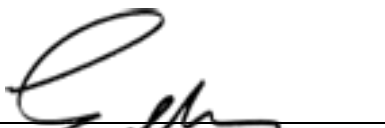
17 Accordingly, the Court hereby orders, adjudges, finds, and decrees as follows:

- 18 1. The Court hereby **CERTIFIES** the Settlement Class and **GRANTS** the Motion
19 for Final Approval of the Settlement. The Court fully and finally approves the
20 Settlement in the form contemplated by the Settlement Agreement (Dkt. No. 508)
21 and finds its terms to be fair, reasonable and adequate within the meaning of Fed.
22 R. Civ. P. 23. The Court directs the consummation of the Settlement pursuant to
23 the terms and conditions of the Settlement Agreement.
- 24 2. The Court **CONFIRMS** the appointment of Lead Plaintiffs’ Counsel and the
25 members of the PSC listed in Pretrial Order No. 3 as Settlement Class Counsel.
- 26 3. The Court **CONFIRMS** the appointment of the Settlement Class Representatives
27 listed in Exhibit A to Class Plaintiffs’ Motion for Preliminary Approval. Dkt. No.
28 491-6.

- 1 4. The Court **CONFIRMS** the appointment of the Angeion Group as Claims and
2 Notice Administrator.
- 3 5. The Court **GRANTS** Class Counsel's request for attorneys' fees and costs, and
4 **AWARDS** Class Counsel \$59 million in attorneys' fees and \$7 million in costs to
5 be paid by the Defendants in addition to the compensation available to the Class,
6 and to be allocated by Lead Counsel among the PSC firms and additional counsel
7 performing work under Pretrial Order Nos. 3 and 4.
- 8 6. The Court **AWARDS** the Settlement Class Representatives service awards of
9 \$5,000 each, also to be paid by the Defendants in addition to the compensation
10 available to the Class.
- 11 7. The Court hereby discharges and releases the Released Claims as to the Released
12 Parties, as those terms are used and defined in the Settlement Agreement.
- 13 8. The Court hereby permanently bars and enjoins the institution and prosecution by
14 Class Plaintiffs and any Class Member of any other action against the Released
15 Parties in any court or other forum asserting any of the Released Claims, as those
16 terms are used and defined in the Settlement Agreement.
- 17 9. The Court further reserves and retains exclusive and continuing jurisdiction over
18 the Settlement concerning the administration and enforcement of the Settlement
19 Agreement and to effectuate its terms. Dkt. No. 508 at ¶ 9.16.

20 A separate judgment consistent with this Order will issue pursuant to Fed. R. Civ. P. 58.

21
22 Dated: May 3, 2019

23 
24 HON. EDWARD M. CHEN
25 United States District Judge