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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

No. 3:17-md-02777-EMC

**SECOND STIPULATION AND AGREEMENT
REGARDING NON-MATERIAL CHANGES TO
THE CONSENT DECREE**

Hon. Edward M. Chen

UNITED STATES,

3:17-cv-3446-EMC

Plaintiff,

v.

FCA US LLC,

FIAT CHRYSLER AUTOMOBILES N.V.,
V.M. MOTORI S.P.A., and

V.M. NORTH AMERICA, INC.,

Defendants.

PEOPLE OF THE STATE OF CALIFORNIA,

3:19-cv-00051

Plaintiff,

v.

FCA US LLC,

FIAT CHRYSLER AUTOMOBILES N.V.,
V.M. MOTORI S.P.A., and

V.M. NORTH AMERICA, INC.,

Defendants.

SECOND STIPULATION AND AGREEMENT
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WHEREAS, on May 3, 2019, the Court approved and entered a Consent Decree (Doc. No. 562) under which FCA US LLC (“FCA”), Fiat Chrysler Automobiles N.V., V.M. Motori S.P.A., and V.M. North America, Inc. (“Defendants”) were required, among other things, to establish an emissions modification recall program (“Recall Program”) for Ram 1500s and Jeep Grand Cherokees equipped with the 3.0 liter EcoDiesel engine and sold in model years 2014-2016 (“Subject Vehicles”);

WHEREAS, under the Recall Program, Defendants were required to offer and, if accepted, provide eligible owners and lessees of the Subject Vehicles with (1) an approved emissions modification (“AEM”) as defined in Paragraph 23 of the Consent Decree, (2) an extended warranty (“Extended Warranty”) as described in Paragraph 45.a of the Consent Decree, and (3) applicable disclosures as described in Paragraph 43.b of the Consent Decree;

WHEREAS, on November 4, 2019, FCA submitted an application to the U.S. Environmental Protection Agency (“EPA”) and the California Air Resources Board (“CARB”) to modify and replace the original AEM (“AEM-1”) with an update (“AEM-2”) designed to address a hesitation or lag in acceleration of the Subject Vehicles during approximately the initial five minutes of driving after engine start;

WHEREAS, on December 17, 2019, EPA, acting on behalf of itself and CARB, approved FCA’s application to update AEM-1 but specified that AEM-2 could not be installed in the Subject Vehicles unless and until Defendants entered into a stipulation and agreement with the United States and California (collectively, “Governmental Plaintiffs”) revising the applicable disclosures as described in Paragraph 43.b. of the Consent Decree;

WHEREAS, on December 17, 2019, Defendants and the Governmental Plaintiffs (collectively “the Parties”) entered into a stipulation and agreement (“First Stipulation and Agreement”) that revised the AEM Disclosure in Appendix D to the Consent Decree;

WHEREAS, the First Stipulation and Agreement (Doc. No. 643-1) required, among other things, that Defendants submit to EPA and CARB for review and approval a notice to be sent to eligible owners and eligible lessees whose Subject Vehicles received the original AEM (“AEM-1 Owners & Lessees”) for the purpose of informing them about the need to repair AEM-1 and about the availability of AEM-2;

WHEREAS, the Parties disagree as to whether the Extended Warranty provided under Paragraph 45.a of the Consent Decree must be expanded in light of the changes to the AEM;

WHEREAS, despite the disagreement of the Parties, Defendants have agreed to provide a further extension of the Extended Warranty, as described below, without resolving the question of whether such extension is required under the Consent Decree;

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WHEREAS, following further negotiations and discussion between the Parties, on April 10-14, 2020, FCA sent to AEM-1 Owners & Lessees an EPA- and CARB-approved customer satisfaction notice (“CSN”), attached as Exhibit 1, informing them, among other things, that they would receive a further extension of their vehicles’ Extended Warranties if they update their vehicles with AEM-2;

WHEREAS, FCA also provided to its authorized dealers in the United States a notice, attached as Exhibit 2, describing their obligations under the Recall Program as modified by this Stipulation and Agreement;

WHEREAS, the Parties recognize that this Second Stipulation and Agreement has been negotiated by the Parties in good faith and will avoid the need for dispute resolution under the Consent Decree, and that this agreement provides the full extension of the Extended Warranty that, according to the Governmental Plaintiffs, the Defendants are required under the Consent Decree to provide to AEM-1 Owners & Lessees;

WHEREAS, on April 2, 2020, Defendants submitted claims for relief under Section IX (Force Majeure) of the Consent Decree, asserting that, despite Defendants’ best efforts, the completion of certain required remedial activities has been delayed because of the Novel Coronavirus Disease (COVID-19) pandemic and other related events, including various orders issued by state governors for the closure of non-essential businesses and for citizens to shelter-in-place;

WHEREAS, the Government Plaintiffs are persuaded that certain three-month extensions proposed by Defendants are reasonable in the circumstances and do not find it necessary to reach Defendants’ force majeure claims as to these extensions, and

WHEREAS, the Parties also agree to modify the consent decree to create two deadlines for FCA to improve or establish procedures requiring salaried employees and bargaining unit employees respectively to certify compliance with FCA’s code of conduct.

NOW, THEREFORE, without the adjudication or admission of fact or law except as provided above, the Parties HEREBY STIPULATE AND AGREE as follows:

1. For AEM-1 Owners & Lessees whose Subject Vehicles receive AEM-2 from an FCA-authorized dealer in the United States, the Extended Warranty Period under Paragraph 45.c of the Consent Decree is modified to provide a further extension as follows: once AEM-2 is installed on a Subject Vehicle, FCA US will extend the 4-year or 48,000-mile warranty by an additional 12 months or 12,000 miles from the date and mileage that the vehicle received AEM-1. Accordingly, for those vehicles that first received AEM-1 and then receive AEM-2, the Extended Warranty period is the greater of: (i) 10 years from the date of initial sale or 120,000 actual miles on the vehicle odometer, whichever comes first; and (ii) 5 years or 60,000 miles from the date and mileage of installing the original AEM on the vehicle, whichever comes first.

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2. Nothing in this Second Stipulation and Agreement alters or otherwise modifies the Extended Warranty Period set forth under Paragraph 45.c(i), which remains 10 years from the date of initial sale of the Subject Vehicle or 120,000 actual miles on the vehicle odometer, whichever comes first.

3. The dealer notice required under Paragraph 43.c of the Consent Decree is amended to include the dealer instructions at Exhibit 2.

4. The deadline for the first year of in-use verification testing under Paragraph 30 (In-Use Verification and In-Use Confirmatory Testing) of the Consent Decree is extended from May 4, 2020 to June 17, 2020.

5. The deadline for all testing under Paragraph 33 (OBD Testing) of the Consent Decree and for the submittal to EPA and CARB of a summary report of such testing, together with all test results, is extended from August 25, 2020 to November 25, 2020.

6. The deadline for all portable emissions measurement system testing (“PEMS Testing”) under Paragraph 59.a of the Consent Decree for model year (“MY”) 2020 light-duty motor vehicles is extended from September 30, 2020 to December 31, 2020.

7. The deadline for submission of Defendants’ Summary Report for PEMS Testing under Paragraph 59.e for MY 2020 light-duty motor vehicles is extended from November 30, 2020 to March 1, 2021. Within 21 days following submission of Defendants’ Summary Report, Defendants shall publish their Summary Report on the public website in accordance with paragraph 59.e of the Consent Decree.

8. By August 3, 2020, FCA shall implement improvements to its process to require the Paragraph 50.b (Code of Conduct) required certifications of salaried employees and employees covered by project TC1 of the Improvement Plan. By December 31, 2020, FCA shall implement a process to require the Paragraph 50.b required certifications of new bargaining unit employees.

9. The training required under Paragraph 52.a (AECD and Defeat Device Training) of the Consent Decree shall be completed no later than August 31, 2020 with respect to the first annual refresher training.

10. Nothing in this Second Stipulation and Agreement constitutes a material change to the Consent Decree.

11. The Second Stipulation and Agreement shall be effective upon signature by all of the Parties. No action by the Court is required to effectuate this Second Stipulation and Agreement.

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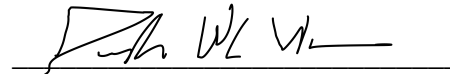
12. The Second Stipulation and Agreement may be signed in counterparts, and a signature page that is transmitted electronically (e.g., by facsimile or e-mailed "PDF") shall have the same effect as an original.

13. The United States will file a copy of the executed Second Stipulation and Agreement with the Court. Defendants shall post the filed version (with the ECF stamp) on the website required by Paragraph 78 of the Consent Decree. Each undersigned representative of the Parties certifies that he or she is fully authorized to enter into the terms and conditions of this Second Stipulation and Agreement and to execute and legally bind the party that he or she represents.

FOR THE UNITED STATES OF AMERICA:

KAREN S. DWORKIN
Deputy Chief, Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice

August 3, 2020
DATE



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DATE

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Deputy Chief, Environmental Enforcement Section
Environment and Natural Resources Division
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FOR THE PEOPLE OF THE STATE OF CALIFORNIA
BY AND THROUGH THE CALIFORNIA AIR
RESOURCES BOARD AND XAVIER BECERRA,
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SECOND STIPULATION AND AGREEMENT
REGARDING NON-MATERIAL CHANGES TO THE CONSENT DECREE

FOR THE PEOPLE OF THE STATE OF CALIFORNIA
BY AND THROUGH THE CALIFORNIA AIR
RESOURCES BOARD AND XAVIER BECERRA,
ATTORNEY GENERAL OF THE STATE OF
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7/22/2020
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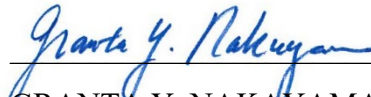
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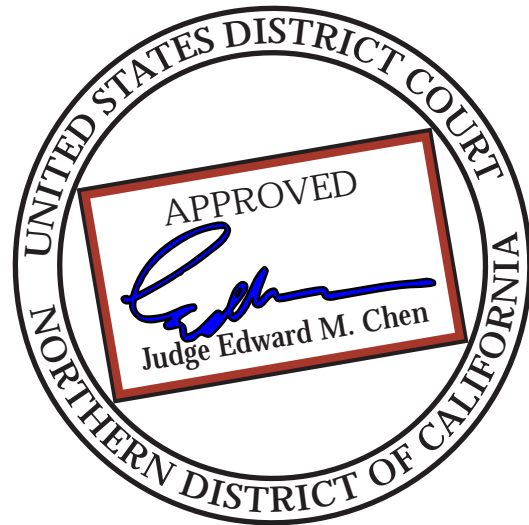
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Dated: 9/17/2020

SECOND STIPULATION AND AGREEMENT
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