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IN THE UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION

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

This matter relates to:
*People of the State of California v. Fiat
 Chrysler Automobiles N.V., et al.*
 3:19-cv-00151

No. 3:17-md-02777-EMC

**UNOPPOSED MOTION TO ENTER FIRST
 AND SECOND CALIFORNIA PARTIAL
 CONSENT DECREES**

Hearing: May 3, 2019
 Time: 10:00 a.m.
 Ct. Rm.: 5, 17th Floor

The Honorable Edward M. Chen

1 The People of the State of California, both by and through Xavier Becerra, Attorney
2 General of the State of California, and by and through the California Air Resources Board
3 (“CARB”), represented by the Office of the California Attorney General (together, “California”),
4 respectfully request that the Court enter the First and Second California Partial Consent Decrees,
5 lodged with the Court on January 10, 2019, Dkt. Nos. 485-1 and 486-1, respectively, in Case No.
6 17-md-2777, and attached to this motion as Exhibits 1 and 2. These Partial Consent Decrees
7 accompany the FCA/US/CA Consent Decree, also lodged with the Court on January 10, 2019.
8 *See* Dkt. No. 484-1 in Case No. 17-md-2777. Unlike the FCA/US/CA Consent Decree, the First
9 and Second Partial California Consent Decrees are not subject to any notice and comment
10 requirements.

11 On January 9, 2019, California filed a complaint against Defendants FCA US LLC, Fiat
12 Chrysler Automobiles N.V., V.M. Motori S.P.A., and V.M. North America, Inc., alleging that, in
13 connection with the certification, marketing, distribution, and sale of approximately 14,000
14 3.0 liter diesel Jeep Grand Cherokees and Ram 1500s (“Subject Vehicles”) in California,
15 Defendants violated environmental and consumer protection laws by, among other things,
16 incorporating undisclosed auxiliary emission control devices and defeat devices into the Subject
17 Vehicles.¹ California’s complaint seeks injunctive relief, mitigation, civil penalties, costs, and
18 other relief. If entered by this Court, the First and Second Partial Consent Decrees, together with
19 the FCA/US/CA Consent Decree, would collectively resolve all of California’s claims against
20 Defendants.

21 A court should enter a consent decree if it determines that “it is fair, reasonable and
22 equitable and does not violate the law or public policy.” *Sierra Club v. Elec. Controls Design,*
23 *Inc.*, 909 F.2d 1350, 1355 (9th Cir. 1990); *see also United States v. State of Or.*, 913 F.2d 576,
24 580 (9th Cir. 1990). If the consent decree “comes within the general scope of the case made by
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26 ¹ Specifically, California’s complaint alleges that Defendants violated 42 U.S.C.
27 § 7604(a)(1); California Health and Safety Code §§ 43016, 43017, 43151, 43152, 43153, 43154,
28 43205, 43211, and 43212; 13 C.C.R. §§ 1961, 1961.2, 1965, 1968.2, and 2037, and the 40 C.F.R.
sections incorporated therein by reference; and California Business and Professions Code §§
17200 et seq., 17500 et seq., and 17580.5. *See* Dkt. No. 1 in Case No. 3:19-cv-0151-EMC.

1 the pleadings, furthers the objectives upon which the law is based, and does not violate the statute
2 upon which the complaint was based, the agreement may be entered by the court.” *Sierra Club*,
3 909 F.2d at 1355 (internal quotations omitted).

4 Here, the First and Second California Partial Consent Decrees are fundamentally fair,
5 adequate, and reasonable. Defendants do not oppose this motion, and the parties to the Consent
6 Decrees have agreed to the terms, as evidenced by their signatures on the documents. As
7 recognized by the parties, they have “been negotiated by the Parties in good faith and will avoid
8 litigation among the Parties” regarding California’s claims, and they are “fair, reasonable, and in
9 the public interest.” First California Partial Consent Decree at 3; Second California Partial
10 Consent Decree at 3. California and the Defendants, along with the United States, were engaged
11 in complex settlement discussions for more than a year, involving lawyers and technical experts
12 for all parties. The First and Second California Partial Consent Decrees, along with the
13 FCA/US/CA Consent Decree, form an integrated resolution to remedy the violations alleged in
14 California’s complaint. The relief provided is substantial, and it directly addresses the violations
15 alleged by California:

- 16 • **FCA/US/CA Consent Decree:** As described in detail in the United States’ Motion
17 for Entry of Consent Decree, Dkt. No. 542, the FCA/US/CA Consent Decree
18 establishes a recall program offering consumers an approved emissions
19 modification to be applied to the Subject Vehicles and an extended warranty,
20 establishes a post-entry testing program to ensure continued compliance and
21 durability of modified Subject Vehicles, requires Defendants to implement
22 corporate compliance reforms, and requires Defendants to make a civil penalty
23 payment of \$42,700,000 to CARB and a separate penalty payment of \$3,175,200
24 to CARB for certain additional on-board diagnostic non-compliances.
- 25 • **First California Partial Consent Decree:** In combination with the FCA/US/CA
26 Consent Decree, entry of the First California Partial Consent Decree would fully
27 resolve claims brought by CARB on behalf of the People of the State of California
28 against Defendants. It requires Defendants to make a \$19,035,000 mitigation

1 payment to CARB, which, as with the other amounts paid to CARB, will be
2 deposited into the State of California’s Air Pollution Control Fund. This mitigation
3 payment is intended to fully mitigate the total lifetime excess NOx emissions from
4 Subject Vehicles in California, as alleged by California.

5 • **Second California Partial Consent Decree:** Entry of the Second California
6 Partial Consent Decree would fully resolve the consumer law claims alleged by the
7 California Attorney General on behalf of the People of the State of California. The
8 Second California Partial Consent Decree includes significant injunctive relief
9 designed to prevent and detect future misconduct related to the allegations in
10 California’s complaint. It also enables the California Attorney General to enforce
11 the Defendants’ obligations to provide consumer relief in the related Class Action
12 Settlement submitted by the Plaintiffs’ Steering Committee, subject to the Court’s
13 approval of the Class Action Settlement. Finally, the Second California Partial
14 Consent Decree requires Defendants to pay a total of \$13,500,000 to the California
15 Attorney General, consisting of (i) \$8,300,000 to resolve the Consumer Protection
16 Claims concerning the no fewer than 13,515 Subject Vehicles sold or leased in
17 California; and (ii) \$5,200,000 to defray the California Attorney General’s costs of
18 investigation, litigation, and ongoing compliance monitoring of the FCA/US/CA
19 Consent Decree, the First California Partial Consent Decree, and the Second
20 California Partial Consent Decree.

21 California respectfully submits that there is no just reason to delay entry of the First and
22 Second California Partial Consent Decrees, and therefore requests that the Court enter them as a
23 final judgment under Rules 54 and 58 of the Federal Rules of Civil Procedure.

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Dated: March 29, 2019

Respectfully submitted,

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JUDITH A. FIORENTINI
Supervising Deputy Attorney General

/s/ Jon F. Worm
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CERTIFICATE OF SERVICE

I hereby certify that, on March 29, 2019, I electronically filed the foregoing Unopposed Motion to Enter the First and Second California Partial Consent Decrees with the Clerk of the Court and all parties of record using the ECF system.

/s/ Jon F. Worm
JON F. WORM