UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

IN RE VOLKSWAGEN TIMING CHAIN PRODUCT LIABILITY LITIGATION	Civil Action No. 16-2765 (JLL)(JAD) **FINAL APPROVAL ORDER AND JUDGMENT**

THIS MATTER having come before the Court for consideration of the parties' application for Final Approval of Class Action Settlement and Award of Attorneys' Fees, Reimbursement of Expenses and Plaintiffs' Service Awards in accordance with the parties' Settlement Agreement;

WHEREAS, unless otherwise defined in this Final Approval Order and Judgment, the terms used in this Order that are defined in the Settlement Agreement shall have the same meaning as set forth in the Settlement Agreement;

WHEREAS, Defendants Volkswagen Group of America, Inc. ("VWGoA"), Volkswagen AG ("VWAG") and Audi AG ("Audi") (collectively "Defendants" or "VW/Audi") and plaintiffs Lloyd Artola, Dawn Stanton Blanchard, Katrina Calihan, Hamza Deib, Umar Ellahie, Angel Esquijarosa, Allison Fleck, William Fleck, Allan Gaudet, Zachariah Gossman, Jason Hosier, Demetrie Hylick, Garrett Johnson, Pamela K. Kane, Hannah LeMoine, Shimelesse Mekbeb, Neel Mody, Karl Molwitz, Anoushirvan Nadiri, Suzanne Noyes, Debra J. Oles, Jeffrey Pipe,

Jennifer Piumarta, John Schaffranek, Erika Sensnovis, Robby Smith, Michael Spencer, Dena Stockalper, William R. Swihart, David Zhao, Bartosz Zielezinski, and David Zimand ("Named Plaintiffs") reached a Class settlement (the "Settlement");

WHEREAS, the parties submitted the Settlement Agreement together with their motion for preliminary approval of the proposed settlement to the Court;

WHEREAS, the Court gave its preliminary approval of the Settlement on June 14, 2018 (the "Preliminary Approval Order") and directed the parties to provide notice to the Class of the proposed Settlement and the Final Approval Hearing by regular mail and via the internet;

WHEREAS, the Court-appointed Claims Administrator Epiq Global effectuated due and adequate notice to the Settlement Class in accordance with the Preliminary Approval Order and also pursuant to the notice requirements set forth in 28 U.S.C. § 1715;

WHEREAS, Named Plaintiffs submitted their Motion for Final Approval of Class Action Settlement and Award of Attorneys' Fees, Reimbursement of Expenses and Plaintiffs' Service Awards on September 27, 2018;

WHEREAS, on December 12, 2018, the Court conducted the Final Approval Hearing to determine whether the proposed Settlement is fair, reasonable, and adequate, whether the Settlement should be granted final approved by this Court,

whether Class Counsel's request for attorneys' fees and reimbursement of expenses in the amount of $8,650,000.00 should be awarded; and whether the request for an incentive award to each of the Named Plaintiffs in the amount of $2,500.00 should be approved;

WHEREAS, the parties having appeared at the Final Approval Hearing; and

WHEREAS, the Court having reviewed and considered the Settlement Agreement, all papers filed and proceedings held herein in connection with the Settlement, all oral and written comments received regarding the Settlement, and the record in the Action, and good cause appearing therefor;

IT IS ON THIS 14th day of December, 2018, ORDERED and, ADJUDGED as follows:

1. The Court finds, upon review of the Settlement and consideration of the nine factors enunciated in *Girsh v. Jepson*, 521 F.2d 153, 157 (3d Cir. 1975), that the Settlement is fair reasonable and adequate. Accordingly, the Settlement is hereby finally approved by the Court.

2. The Settlement is in the best interests of all Class Members and Defendants.

3. This Final Approval Order and Judgment incorporates and makes part hereof the Settlement Agreement and all Exhibits thereto and incorporates by

reference the definitions in the Settlement Agreement and all terms used in this Order shall have the same meanings as set forth in the Settlement Agreement.

4. The Court has personal jurisdiction over all Class Members and Defendants, and the Court has subject matter jurisdiction to approve the Settlement Agreement and all Exhibits thereto.

5. The Court finds that the notice requirements set forth in the Class Action Fairness Act of 2005, 28 U.S.C. § 1715, to the extent applicable to the Action, have been satisfied.

6. Based upon the record before the Court, including all submissions in support of the Settlement, the objections and opt-out requests, as well as the Settlement Agreement itself, the Court hereby certifies the following Class: All persons and entities who purchased or leased a Settlement Class Vehicle, defined as certain 2008 through 2014 model and model year VW and Audi vehicles, as more particularly designated by the Vehicle Identification Numbers ("VIN") listed on Exhibit 4 of the Settlement Agreement, imported and distributed by Defendant Volkswagen Group of America, Inc. for sale or lease in the United States and Puerto Rico (the "Settlement Class"). Excluded from the Class are: (a) anyone claiming personal injury, property damage, and/or subrogation; (b) all Judges who have presided over the Action and their spouses; (c) all current employees, officers, directors, agents and representatives of Defendants, and their family members; (d)

any affiliate, parent or subsidiary of Defendants and any entity in which Defendants have a controlling interest; (e) anyone acting as a used car dealer; (f) anyone who purchased a Settlement Class Vehicle for the purpose of commercial resale; (g) anyone who purchased a Settlement Class Vehicle with salvaged title and/or any insurance company who acquired a Settlement Class Vehicle as a result of a total loss; (h) any insurer of a Settlement Class Vehicle; (i) issuers of extended vehicle warranties and service contracts; (j) any Settlement Class Member who, prior to the date of this Agreement, settled with and released Defendants or any Released Parties from any Released Claims; and (k) any Settlement Class Member that files a timely and proper Request for Exclusion from the Settlement Class.

In so holding, the Court finds that the requirements of Federal Rule of Civil Procedure 23(a) and (b)(3) have been satisfied for certification of the Class for settlement purposes because: Class members, numbering in the thousands, are so numerous that joinder of all members is impracticable; there are questions of law and fact common to the Class; the claims and defenses of the Named Plaintiffs are typical of the claims and defenses of the Class Members they represent; the Named Plaintiffs have fairly and adequately protected the interests of the Class with regard to the claims of the Class they represent; common questions of law and fact predominate over questions affecting only individual Class Members, rendering the Class sufficiently cohesive to warrant a Class Settlement; and the certification

of the Class is superior to individual litigation and/or settlement as a method for the fair and efficient resolution of this matter. In making all of the foregoing findings, the Court has exercised its discretion in certifying the Class based, *inter alia*, upon the Court's familiarity with the claims and parties in this case.

7. The Settlement Agreement and the proposed Settlement were reached after lengthy and rigorous arm's-length negotiations between the parties. The Settlement Agreement and the proposed Settlement are fair, reasonable, and adequate, and consistent with and in compliance with all applicable requirements of the Federal Rules of Civil Procedure, the United States Code, and the United States Constitution (including the Due Process Clause), and any other applicable law.

8. The Settlement was the result of the parties' good faith negotiations and counsel has adequately assessed this case's strengths and weaknesses and structured the Settlement in a way that adequately accounts for those strengths and weaknesses.

9. The Court finds that in negotiating, entering into, and implementing the Settlement, the Named Plaintiffs and Class Counsel have fairly and adequately represented and protected the interests of all of the Class Members.

10. The forms and methods of the Notice approved by the Court meet all applicable requirements of the Federal Rules of Civil Procedure, the United States

Code, the United States Constitution (including the Due Process Clause), and any other applicable law. The Court further finds that Notice in the form approved by the Court was provided and that it constituted the best practicable notice under the circumstances. The Court further finds that the forms of Notice were concise, clear, and in plain, easily understood language, were reasonable and constituted due, adequate, and sufficient notice to all persons entitled to receive notice, and were reasonably calculated, under the circumstances, to apprise Class Members of (i) the pendency of the Action; (ii) the claims, issues, and defenses of the Class; (iii) the definition of the Class certified; (iv) their right to be excluded from the Class; (v) their right to object to the proposed Settlement, (vi) their right to appear at the Final Approval Hearing, through counsel if desired; and (vii) the binding effect of a judgment on Class Members.

11. The Court has considered the forty-three pending objections to the Settlement submitted pursuant to Rule 23(e)(5) of the Federal Rules of Civil Procedure, and the parties responses to the objections. The Court finds and concludes that the objections are without merit, and are hereby overruled.

12. The terms of the Settlement Agreement and the Final Approval Order are binding on the Named Plaintiffs and all other Class Members, as well as their heirs, executors and administrators, successors and assigns. The persons listed on Exhibit 1 hereto are excluded from the Settlement Class pursuant to request and are

not bound by the terms of the Settlement Agreement or this Judgment.

13. The Court hereby appoints the following Plaintiffs as Class Representatives for the Settlement Class: Lloyd Artola, Dawn Stanton Blanchard, Katrina Calihan, Hamza Deib, Umar Ellahie, Angel Esquijarosa, Allison Fleck, William Fleck, Allan Gaudet, Zachariah Gossman, Jason Hosier, Demetrie Hylick, Garrett Johnson, Pamela K. Kane, Hannah LeMoine, Shimelesse Mekbeb, Neel Mody, Karl Molwitz, Anoushirvan Nadiri, Suzanne Noyes, Debra J. Oles, Jeffrey Pipe, Jennifer Piumarta, John Schaffranek, Erika Sensnovis, Robby Smith, Michael Spencer, Dena Stockalper, William R. Swihart, David Zhao, Bartosz Zielezinski, and David Zimand (the "Class Representatives").

14. The Court finds that the Class Representatives will fairly and adequately protect and represent the interests of all members of the Settlement Class and the interests of the Class Representatives are not antagonistic to those of the Settlement Class. The Class Representatives are represented by counsel who are experienced and competent in the prosecution of complex class action litigation.

15. The Court finds that the following counsel fairly and adequately represent the interests of the Settlement Class and hereby appoints Carella, Byrne, Cecchi, Olstein, Brody & Agnello. P.C., Kantrowitz, Goldhamer & Graifman, P.C., and Kessler Topaz Meltzer & Check, LLP as Lead Settlement Class Counsel.

16. As set forth in the Settlement Agreement and by operation of law, and incorporated by reference hereto, the terms of the Settlement Agreement and the Final Approval Order shall have *res judicata*, collateral estoppel, and all other preclusive effect, in any and all claims for relief, causes of action, suits, petitions, demands in law or equity, or any allegations of liability, damages, debts, contracts, agreements, obligations, promises, attorneys' fees, costs, interests, or expenses which are based on or in any way related to any and all claims for relief, causes of actions, suits, petitions, demands in law or equity, or any allegations of liability, damages, debts, contracts, agreements, obligations, promises, attorneys' fees, costs, interests, or expenses which were or could have been asserted in the Action or any other claims under state or federal law, which arise from, are based on, or in any way related to Defendants' sale of certain 2008 through 2014 model and model year VW and Audi vehicles, as more particularly designated by the Vehicle Identification Numbers ("VIN") listed on Exhibit 4 of the Settlement Agreement.

17. The parties and their counsel are ordered to implement and to consummate the Settlement Agreement according to its terms and provisions.

18. All claims against Defendants in this Action are hereby dismissed on the merits and with prejudice, without fees or costs to any party except as provided below.

19. The Release set forth in the Settlement Agreement is incorporated by reference and provides, *inter alia*, that for and in consideration of the cash benefits, and the mutual promises contained in the Settlement Agreement, Named Plaintiffs and the Class Members (on behalf of themselves and each of their past, present, or future officers, directors, shareholders, owners, parents, employees, representatives, agents, principals, consultants, contractors, insurers, accountants, attorneys, partners, subsidiaries, members, administrators, legatees, executors, heirs, estates, predecessors, successors, or assigns, and any other Person with which any of them is affiliated or for which any of them is responsible at law, in equity, or otherwise) fully, finally, and forever release, relinquish and discharge, as of the date Final Approval Order becomes final, Defendants and Released Parties and each of their past, present, or future officers, directors, shareholders, owners, parents, employees, representatives, agents, principals, consultants, contractors, insurers, accountants, attorneys, partners, subsidiaries, members, administrators, legatees, executors, heirs, estates, predecessors, successors, or assigns, and any other Person with which any of them is affiliated or for which any of them is responsible at law, in equity, or otherwise, from any and all of the Class Released Claims or Settled Claims.

20. The Court hereby grants Class Counsel's request for an award of reasonable attorneys' fees, in the amount of $8,500,000.00, and reimbursement of

costs and expenses in the amount of $150,000.00, in the total amount of $8,650,000.00. The payment shall be made by wire transfer to Carella, Byrne, Cecchi, Olstein, Brody & Agnello, P.C. within 30 days of the entry of this Order and either the expiration of the period within which to file an appeal has occurred without the filing of any appeal or in the event an appeal is filed, disposition of the appeal or a final order fully disposing of the appeal. Class Counsel shall, in their sole discretion, allocate all fees awarded by this Court to other participating Plaintiffs' counsel. All other payments shall be made in accordance with the terms of the Settlement Agreement.

21. The Court approves the agreement to pay an incentive award to each Named Plaintiff in the amount of $2,500.

22. Nothing in this Final Approval Order and Judgment, the Class Settlement, the Settlement Agreement, or any documents or statements related thereto, is or shall be deemed or construed to be an admission or evidence of any violation of any statute or law or of any liability or wrongdoing by Defendants.

23. No Class Member, either directly, representatively, or in any other capacity shall commence, continue, or prosecute any action or proceeding against Defendants in any court or tribunal asserting any of the Class Released Claims, as defined in the Settlement Agreement, and all Class Members are hereby permanently enjoined from so proceeding.

24. Without affecting the finality of the Final Approval Order and Judgment, the Court shall retain continuing jurisdiction over the Action, the parties and the Settlement Class, and the administration, enforcement, and interpretation of the Settlement. Any disputes or controversies arising with respect to the Settlement shall be presented by motion to this Court, provided, however, that nothing in this paragraph shall restrict the parties to exercise their rights under Paragraph 23 above.

25. There being no just reason to delay, the Clerk is directed to enter this Final Approval Order and Judgment forthwith.

Jose L. Linares, U.S.D.C.J.