UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

EMILY PINON, GARY C. KLEIN, KIM BROWN, JOSHUA FRANKUM, DINEZ WEBSTER, and TODD BRYAN, on behalf of themselves and all others similarly situated, **Plaintiffs,** **v.** **MERCEDES-BENZ USA, LLC, and DAIMLER AG,** **Defendants.**	**CASE NO: 1:18-CV-03984-MHC**

UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF PROPOSED CLASS ACTION SETTLEMENT AGREEMENT AND PRELIMINARY CERTIFICATION OF NATIONWIDE SETTLEMENT CLASS AND INCORPORATED MEMORANDUM OF LAW

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UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF PROPOSED CLASS ACTION SETTLEMENT AGREEMENT AND PRELIMINARY CERTIFICATION OF NATIONWIDE SETTLEMENT

Plaintiffs Emily Pinon, Gary Klein, Kim Brown, Joshua Frankum, Dinez Webster, and Todd Bryan (collectively, "*Pinon* Plaintiffs"), individually and on behalf of the proposed nationwide Settlement Class as defined in the executed proposed Class Action Settlement Agreement and Release, attached as Exhibit 1 (the "Settlement Agreement," "Settlement," "Proposed Settlement Agreement," or "PSA"), hereby give notice and move the Court for an Order (a) preliminarily approving the proposed Settlement Agreement; (b) preliminarily certifying a nationwide settlement class of all current and former owners and lessees of any Mercedes-Benz vehicle originally painted with 590 Mars Red paint and purchased or leased in the United States ("Class Members"); (c) directing Notice to the Class Members pursuant to Fed. R. Civ. P. 23(e)(1); (d) appointing Class Counsel for the Class Representatives and Class Members pursuant to Rule 23(g)(3); (e) preliminarily enjoining parallel proceedings[1]; and, (f) scheduling a Final Approval hearing pursuant to Rule 23(e)(2). Any term in this motion that is not specifically defined herein shall take on that meaning ascribed to it in the proposed Settlement

[1] To date, the Parties are aware of one other action asserting similar allegations regarding Mars Red Mercedes-Benz vehicles: *Ponzio, et al. v. Mercedes-Benz USA, LLC, et al.*, Case No. 1:18-CV-12544 (D.N.J.).

Agreement. This motion is not opposed by the Defendants, Daimler AG and Mercedes-Benz USA, LLC (collectively, "Defendants").

As shown below, the proposed Settlement Class satisfies the requirements of Rule 23(a) and Rule 23(b)(3), and the proposed Settlement Agreement is fair, reasonable and adequate. The Parties have negotiated a proposed Settlement that offers monetary reimbursement for Qualified Past Repairs and extended warranty coverage for Qualified Future Repairs and that provides direct benefits to current and former owners and lessees of over 72,500 Subject Vehicles sold and/or leased in the United States, which likely will include over one hundred thousand individuals. In short, the *Pinon* Plaintiffs allege that the Mars Red exterior paint, including the clear coat, on certain Mercedes-Benz vehicles is susceptible to the Symptoms Alleged, including peeling, flaking, bubbling, fading, discoloration, or poor adhesion (the "Alleged 590 Mars Red Paint Defect"). Pursuant to the specified terms, including without limitation that Subject Vehicles be, in most cases, fewer than 15 years from their original in-service date or fewer than 150,000 miles, whichever comes first, the proposed Settlement provides the proposed Class Members on a sliding scale based on the Subject Vehicle's age and mileage (i) reimbursement for past out-of-pocket costs for repair of issues related to the Alleged 590 Mars Red Paint Defect and (ii) a warranty extension to cover future costs related

to the Alleged 590 Mars Red Paint Defect. Additionally, the proposed Settlement provides a Qualified Future Repair for proposed Class Members whose Subject Vehicles, on the Notice Date of the Settlement, exceed the 15 years or 150,000 miles limitations if the *Pinon* Plaintiffs or proposed Class Members submit documentary evidence that they (i) presented the Subject Vehicle to an authorized Mercedes-Benz dealer or body repair facility for a qualifying repair or provided notice to Defendants at a time when the Subject Vehicle had fewer than 15 years and fewer than 150,000 miles and (ii) were denied warranty or goodwill coverage for such repair at that time. Further, the proposed Notice Plan, which includes direct mailing of postcard notification and the establishment of a website, fulfills the requirements of both Rule 23 and due process as the best notice practicable under the circumstances.

Accordingly, the *Pinon* Plaintiffs hereby respectfully move this Court for a preliminary determination on the fairness, reasonableness, and adequacy of the proposed Settlement and appointment of Lead Counsel so that notice may be given to the preliminary nationwide Settlement Class and a hearing may be scheduled to make a final determination regarding the fairness of the proposed Settlement. As the proposed Settlement will resolve the claims of all Class Members, the *Pinon* Plaintiffs further move this Court for an Order preliminary enjoining parallel

litigation, including without limitation *Ponzio*,[2] pursuant to the All Writs Act which authorizes federal courts to "issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law." 28 U.S.C. § 1651(a).

MEMORANDUM OF POINTS AND AUTHORITIES

This Court is familiar with the *Pinon* Plaintiffs' allegations in this case (hereinafter referred to as "*Pinon*"), as well as the related case styled *Ponzio, et al. v. Mercedes-Benz USA, LLC et al.*, Case No: 1:18-cv-12544 (D. N.J.) (hereinafter referred to as "*Ponzio*"), pending in the U.S. District Court for the District of New Jersey. The *Pinon* Plaintiffs allege a defect in the exterior paint of certain model and year Mercedes-Benz vehicles (identified below in "Table 1 – Subject Vehicles") (hereinafter, the "Subject Vehicles") that were manufactured and sold with 590 Mars Red paint. The *Pinon* Plaintiffs allege that some exterior surfaces of the Subject Vehicles, including the 590 Mars Red Paint and/or clearcoat, peels, flakes, bubbles, fades, discolors, or adheres poorly to the Subject Vehicle, and as a result the Class Members either paid out-of-pocket to repair or did not repair the Subject Vehicles

[2] The *Pinon* Plaintiffs' understand that Defendants, as parties to the *Ponzio* action, also will move separately for more limited relief in *Ponzio* seeking a stay of discovery in that action pending resolution of this Motion and certification of a Settlement Class.

because the repairs were not covered under warranty. The *Pinon* Plaintiffs contend the Alleged 590 Mars Red Paint Defect injured all proposed Class Members in the same way, regardless of whether they purchased or leased their Class Vehicles through authorized Mercedes-Benz dealerships or independent automobile dealerships and regardless of whether the Class Vehicles were new or used.

Throughout the pendency of the case, and beginning in February 2020, the *Pinon* Plaintiffs periodically broached with Defendants the topic of early resolution. In September 2020, Defendants agreed to explore potential early resolution, and the Parties initiated earnest settlement discussions. However, despite good faith efforts over several weeks, the Parties were unable to achieve an agreement. Having reached an impasse on a negotiated proposed settlement, the Parties agreed to engage former U.S. District Judge James F. Holderman (Ret.) to assist the parties in successful mediations, which took place on November 9, 2020 and November 12, 2020.

Following the first mediation with Judge Holderman, the Parties reached the proposed nationwide class action settlement ("Settlement") that, in accordance with the requirements and limitations of the Settlement Agreement, reimburses the proposed Class Members for certain past out-of-pocket costs ("Qualified Past Repairs," as defined in the Settlement) and establishes a warranty extension to cover

certain future costs ("Qualified Future Repairs" as defined in the Settlement) related to the Alleged 590 Mars Red Paint Defect. Essentially, the Settlement Agreement extends, pursuant to certain requirements and limitations, a warranty on Mars Red paint (on a sliding scale) for up to 15 years or 150,000 miles after each Class Vehicle was put in service. In the second mediation with Judge Holderman, the Parties reached a proposed agreement on Class Counsel's attorneys' fees, litigation costs and expenses, Class Representative incentive fees, and administrative costs, all of which are covered separately under the Settlement and will not reduce any of the benefits to the Class.

I. BACKGROUND AND PROCEDURAL HISTORY

This case involves alleged defects in the manufacture, process, materials, and workmanship of the Subject Vehicles, and it includes allegations regarding misleading marketing, advertising, warranting, selling, and servicing of the Mercedes-Benz vehicles with 590 Mars Red exterior paint. The *Pinon* Plaintiffs contend that Defendants knowingly concealed that the 590 Mars Red paint on the Subject Vehicles has a latent defect that causes the Symptoms Alleged. Class Members either paid out-of-pocket to repair the Symptoms Alleged in the Subject Vehicles or, if not covered by warranty, may be required to do so in the future.

Defendants deny the *Pinon* Plaintiffs' allegations in full and further deny that they acted improperly or are liable for the *Pinon* Plaintiffs' alleged damages.

Litigation related to 590 Mars Red exterior paint has proceeded in two federal courts but is most advanced in this Court with the *Pinon* Plaintiffs. On August 8, 2018, Plaintiff Robert Ponzio and others filed an initial class complaint against Defendants in the U.S. District Court for the District of New Jersey (the "*Ponzio* Action"). *See Ponzio*, Dkt. 1. On August 21, 2018, independently and without knowledge of *Ponzio*, Plaintiff Emily Pinon filed *Pinon* in this District on behalf of a Nationwide class and an Alabama subclass. Dkt. 1. The undersigned counsel were unaware of *Ponzio* and had not seen the *Ponzio* complaint prior to filing the original complaint in *Pinon*. Declaration of W. Lewis Garrison, Jr., at ¶ 13, filed herewith (the "Garrison Decl.").

The complaint in *Pinon* was amended and filed on October 24, 2018, to include Plaintiff Gary C. Klein and adding a putative Florida subclass. *See* Dkt. 7; Garrison Decl., at ¶ 14.[3] In *Pinon*, Plaintiffs amended their complaint a second time on January 31, 2019 to add Plaintiff Kim Brown (Arkansas), Plaintiff Joshua

[3] The undersigned counsel were aware of the *Ponzio* matter at the time the *Pinon* Plaintiffs' Amended Complaint was filed.

Frankum (Tennessee), Plaintiff Nancy Pearsall (Tennessee),[4] Plaintiff Lacresha Early (Louisiana), and Plaintiff Todd Bryan (North Carolina), and adding putative subclasses for Arkansas, Tennessee, Louisiana, and North Carolina. *See* Dkt. 16; Garrison Decl., at ¶ 15. The *Pinon* Plaintiffs filed a third amended complaint on June 22, 2020, substituting Plaintiff Dinez Webster (Louisiana) for Plaintiff Early (Louisiana), who dismissed her claim without prejudice. *See* Dkts. 53, 54 and 55; Garrison Decl., at ¶ 16. As such, the moving *Pinon* Plaintiffs and proposed Class Representatives are Emily Pinon, Gary C. Klein, Kim Brown, Joshua Frankum, Dinez Webster, and Todd Bryan. Garrison Decl., at ¶ 17.

As the Court is aware, *Pinon* has been intensely litigated from its inception, and it has outpaced the *Ponzio* litigation in both timing and substance. Garrison Decl., at ¶ 18. The *Pinon* Plaintiffs and their counsel engaged in extensive pre-filing factual investigation beginning in the summer of 2018, when the undersigned counsel began receiving communications from owners of Subject Vehicles complaining about issues related to 590 Mars Red paint and the Symptoms Alleged. Garrison Decl., at ¶ 6. A diligent investigation ensued and the undersigned counsel further researched the Alleged 590 Mars Red Paint Defect and the Defendants'

[4] Plaintiff Pearsall's claims were voluntarily dismissed on June 17, 2019. *See* Dkt. 20.

response to it through information provided by the National Highway Traffic Safety Administration ("NHTSA"). The undersigned counsel reviewed and researched consumer complaints and discussions of the Alleged 590 Mars Red Paint Defect in articles and forums online, and collected various operator manuals and Technical Service Bulletins discussing the defect. Garrison Decl., at ¶ 7.

The *Pinon* Plaintiffs' counsel also conducted detailed interviews with prospective class members regarding their pre-purchase research, their purchasing decisions, and their repair histories, ultimately interviewing and communicating with hundreds of prospective class members. Garrison Decl., at ¶ 8. After digesting all of the information garnered, the undersigned counsel conducted research into the various causes of action and analyzed similar automotive actions, developed a plan for litigation based on class members' reported experiences with their Subject Vehicles, and subsequently initiated the present action. Garrison Decl., at ¶ 9. Additionally, the undersigned counsel separately pursued warranty claims against Defendants on behalf of several individual owners of Mars Red vehicles who were denied warranty coverage. Significantly, the undersigned counsel notified Defendants that they would file imminently in the Northern District of Georgia a second class action on behalf of owners and lessees of Subject Vehicles in several additional states. Garrison Decl., at ¶ 11.

Further, the undersigned counsel also retained leading consulting experts in engineering and chemistry who inspected vehicles, investigated the alleged defect, and identified the alleged defect in the Subject Vehicles painted with 590 Mars Red. Garrison Decl., at ¶ 10. The undersigned counsel also engaged a damages expert to assess individual and Class-wide damages. *Id.* The undersigned counsel's efforts are reflected in and illustrated by the length and detail of the *Pinon* Plaintiffs' Complaints, as amended. Dkt. 1, 7, 16, and 55; Garrison Decl., at ¶ 11.

Defendants sought to dismiss the *Pinon* action in its entirety on multiple grounds [*see* Dkt. 18 and 24] but the *Pinon* Plaintiffs ultimately prevailed [*see* Dkt. 22 and 25] on several causes of actions, allowing the remaining claims to proceed to discovery. Garrison Decl., at ¶ 19. Prior to reaching the proposed Settlement Agreement, the Parties conducted extensive discovery. Garrison Decl., at ¶ 20. They negotiated and spent substantial time working out an electronic discovery protocol that incorporated specific search terms to effectively produce responsive and relevant documents. Garrison Decl., at ¶ 21. The *Pinon* Plaintiffs' counsel served three sets of requests for production and three sets of interrogatories to each Defendant. Garrison Decl., at ¶ 22. In total, they served 95 requests for production and 28 interrogatories on each Defendant. *Id.* In response, Defendants produced

over 56,000 pages of documents as well as extensive warranty, sales and repair data compiled from their databases. *Id.*

The *Pinon* Plaintiffs' counsel met and conferred with Defendants' counsel several times on their discovery responses, and the *Pinon* Plaintiffs were continuing to demand documents and information at the time they reached the settlement-in-principle.[5] Garrison Decl., at ¶ 23. The *Pinon* Plaintiffs' counsel then served a third set of discovery on Defendants that was focused on confirming certain representations made in settlement negotiations and expect responses shortly. *Id.* The *Pinon* Plaintiffs utilized an electronic discovery vendor to assist with the technical aspects of the production and have since reviewed each page of the produced documents, coding them for issues. Garrison Decl., at ¶ 24.

Defendants issued substantial discovery, including 12 requests for admission, 22 interrogatories, and 43 requests for production to each *Pinon* Plaintiff. Garrison Decl., at ¶ 25. The *Pinon* Plaintiffs responded to each discovery request and produced hundreds of pages of documents. Garrison Decl., at ¶ 25. Since discovery

[5] Notably, because *Pinon* Plaintiffs agreed to coordinate discovery with *Ponzio* to the extent practicable, discovery was slowed and made more difficult in this action as *Pinon* Plaintiffs awaited the *Ponzio* court's resolution of certain discovery disputes in that case (which the *Pinon* Plaintiffs believed were a waste of time and effort but the outcome of which could avoid multiple, overlapping document productions).

opened in this case, the undersigned have had many meet and confers with Defendants' counsel to address discovery issues, vehicle inspection protocols, electronic search terms and databases, and responses and objections to discovery served in the Litigation. Garrison Decl., at ¶ 26. The Parties resolved most of those issues after substantial time and effort and without resort to court intervention. *Id.*

Concurrently, the *Pinon* Plaintiffs researched potential expert witnesses and ultimately interviewed five experts. Garrison Decl., at ¶ 27. Two of these experts were automobile manufacturing process experts and three of these experts were chemical specialists with specific expertise in automobile coatings. *Id.* The *Pinon* Plaintiffs ultimately retained two testifying experts, one of whom spent substantial time preparing for and attending *Pinon* Plaintiff vehicle inspections. *Id.*

The *Pinon* Plaintiffs issued six subpoenas *duces tecum* to various third-parties, including a German supplier of the 590 Mars Red paint and multiple authorized Mercedes-Benz dealerships and dealership ownership groups. Garrison Decl., at ¶ 28. The *Pinon* Plaintiffs' counsel met and conferred with four of these third-parties, ultimately resolving their discovery disputes and receiving or expecting to receive soon additional documents from them. *Id.* Notably, the *Pinon* Plaintiffs secured service of a subpoena *duces tecum* on the German supplier of the 590 Mars Red

paint, a critical process to eventually obtaining supplier documents related to the 590 Mars Red paint. *Id.*

The *Pinon* Plaintiffs also negotiated two vehicle inspection protocols, one for non-destructive inspection and one for destructive testing. Garrison Decl., at ¶ 29. The Parties then scheduled vehicle inspections for each Plaintiff's vehicle in numerous states. *Id*. Prior to reaching the Proposed Settlement, the Parties' experts inspected two of the *Pinon* Plaintiffs' vehicles and exchanged photographs from the inspections. *Id*. One of the *Pinon* Plaintiffs' experts attended and participated in each inspection and, ultimately, provided the *Pinon* Plaintiffs with a report, photographs and paint samples demonstrating the Symptoms Alleged. *Id*.

The *Pinon* Plaintiffs first broached the topic of settlement in February 2020, but Defendants did not express a corresponding interest until September 2020, when settlement negotiations began in earnest. Garrison Decl., at ¶¶ 30-31. The Parties engaged in intensive discussions and exchanges of information, including proposing potential settlement frameworks, but falling short of reaching a final agreement. *Id*., at ¶ 31. Thereafter, the Parties agreed to mediate this case utilizing Judge Holderman (Ret.).[6] *Id*., at ¶ 32. The Parties mediated with Judge Holderman on November 9,

[6] Retired Judge Holderman is widely respected for his ethics, legal knowledge, and wealth of experience, particularly in class action and complex cases, and resolving disputes in the best interests of all concerned parties.

2020 and November 12, 2020. *Id.* During that mediation process, the Parties first reached an agreement-in-principle on the terms and conditions of the Class Member settlement, and later on attorney fees, litigation costs and expenses, class representative incentives and administrative costs, subject to approval by the Court. *Id.* Importantly, the Parties only mediated and negotiated issues regarding attorneys' fees, litigation costs and expenses, incentive awards and administrative costs *after* reaching an agreement-in-principle as to the terms and conditions of the settlement for Class Members. *Id*., at ¶ 33. The Parties finalized a written Term Sheet on November 19, 2020. *Id*., at ¶ 34. The Parties then worked on and executed the Settlement Agreement. *See, generally,* PSA.

The Proposed Settlement in this case will resolve the claims of all Class Members in the United States, including the *Ponzio* Plaintiffs. Garrison Decl., at ¶ 38. Accordingly, for purposes of effectuating this proposed Settlement in this action and in this District, the *Pinon* Plaintiffs seek an Order pursuant to the All Writs Act that preliminary enjoins parallel proceedings, including *Ponzio*.

II. SUMMARY OF SETTLEMENT TERMS

A. THE SETTLEMENT CLASS DEFINITION

The proposed Settlement Class[7] is defined as all current owners, former owners, current lessees, and former lessees of Subject Vehicles who purchased or leased in the United States. Subject Vehicles are defined as any Mercedes-Benz vehicle originally painted with 590 Mars Red paint and purchased or leased in the United States. Defendants offered 590 Mars Red paint as an original, exterior color option for the following vehicle types in the United States:

Table 1 –Vehicle Types Available With 590 Mars Red Paint

Year(s)	Model
2004-2015	C Class
2006-2007, 2009, 2014	CLS
2004-2009	CLK
2008, 2015, 2017	S Class
2004-2009, 2011-2017	SL Class
2010-2015	GLK Class
2005-2006, 2013-2014	CL
2014-2015	SLS
2005-2006, 2010-2017	E Class
2016-2018	GT
2005, 2011-2017	G Class
2017	SLC
2005-2016	SLK Class
2008	Maybach 57

The following persons are excluded from the proposed Settlement Class: (a) persons who have settled with, released, or otherwise had claims adjudicated on the

[7] *See* PSA, §1.30.

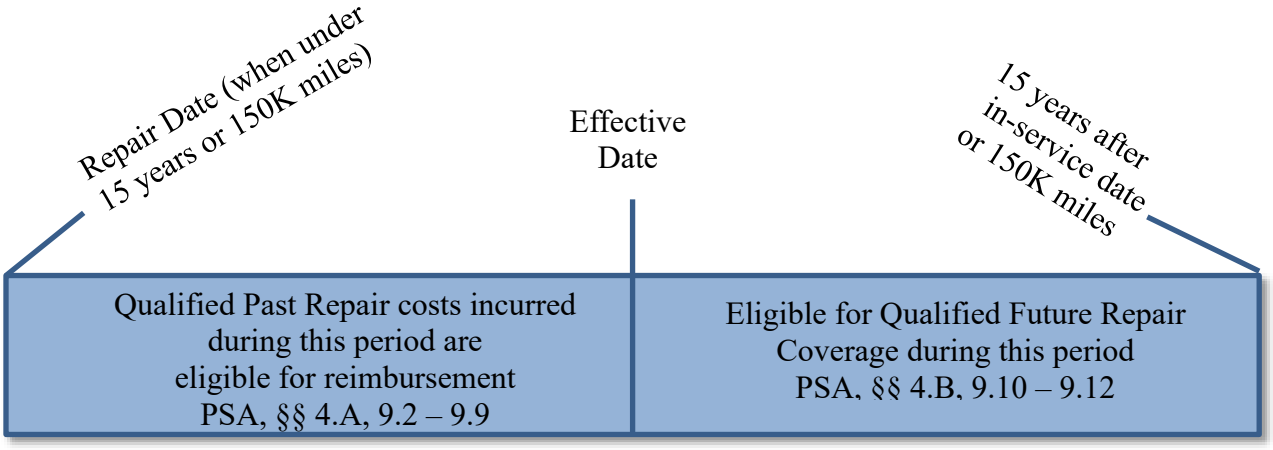
merits against Defendants that are substantially similar to the Litigation Claims (*i.e.*, alleging that 590 Mars Red paint is inadequate, of poor or insufficient quality or design, or defective, due to peeling, flaking, bubbling, fading, discoloration, or poor adhesion of the paint or clearcoat); (b) Defendants and their officers, directors and employees, as well as their corporate affiliates and the corporate affiliates' officers, directors and employees; (c) Counsel to any of the parties; and (d) The Honorable Mark H. Cohen, the Honorable James Holderman (Ret.), and members of their respective immediate families.

B. SETTLEMENT CLASS MEMBER BENEFITS

The Settlement provides exceptional benefits that directly address the harm to Class Members. These benefits include: (1) reimbursement for Qualified Past Repairs that addressed the Alleged 590 Mars Red Paint Defect and (2) a forward-looking, extended warranty to cover Qualified Future Repairs related to the Alleged 590 Mars Red Paint Defect through an Authorized Service Center.

More specifically, subject to the specific terms of the Settlement Agreement, the Settlement covers pre- and post-Settlement repairs to the exterior surface of a Class Vehicle due to peeling, flaking, or bubbling of the exterior clearcoat not caused by external influences such as automobile accidents, scratches, or road debris ("Qualified Repairs"). The Qualified Repairs are to be reimbursed on a sliding scale

depending on age and mileage of the vehicle at the time of the repair or at the time the issue was presented to Defendants. Pursuant to stated requirements and limitations, the Settlement covers repairs related to the Alleged 590 Mars Red Paint Defect that occur during the first fifteen years (180 months) or 150,000 miles, whichever occurs first, from the date that the vehicle was put into service. *See* PSA, § 4. Qualified Repairs that occur before the Effective Date are eligible for reimbursement as Qualified Past Repairs, but these past repair costs must be reasonable and shall not exceed 10% of what the same repair would have cost if it were performed at an Authorized Service Center. Qualified Repairs requested after the Effective Date are eligible for extended warranty coverage as Qualified Future Repairs and must be performed at an Authorized Service Center. *Id.* This structure ensures that every Class Vehicle is similarly eligible for coverage up to 15 years or 150,000 miles, whichever comes first.



1. Reimbursement for Qualified Past Repairs.

Subject to the specific terms of the Settlement Agreement, Qualified Past Repairs will be reimbursed on a sliding scale. PSA, § 4.A. The sliding scale applies as of the date the Qualified Past Repair was made and, generally, the percentage of reimbursement or coverage available for a particular repair is based on the Class Vehicle's age/mileage on the date of repair as follows:

Vehicle Age Time Period	Effective Warranty Extension From 4 Year, 50,000 Mile New Vehicle Limited Warranty	Reimbursement/ Coverage Amount
Category 1: Subject Vehicles that have been in service for less than 7 years (84 months) and have less than 105,000 miles.	3 years and 55,000 miles	100%
Category 2: Subject Vehicles that do not fall within Category 1 and have been in service for less than 10 years (120 months) and have 150,000 miles or less.	6 years and 100,000 miles	50%
Category 3: Subject Vehicles that do not fall within Categories 1 or 2 and have been in service for less than 15 years (180 months) and have 150,000 miles or less.	11 years and 100,000 miles	25%

See id., § 4.1. There is no limit to the number of Qualified Past Repairs that Defendants will reimburse. *See id*. However, the reimbursable repair costs must be reasonable and, if performed by an Independent Service Provider, shall not exceed 10% of what the same repair would have cost if performed at an Authorized Service Center. *See id*., § 4.2. Additionally, no double recovery is allowed. Thus, if the Class Member has been reimbursed previously by Defendants, insurance, or some other form of coverage, or if Defendants already covered the repair under the warranty or goodwill, the costs associated with that repair shall not be subject to reimbursement. *See id*., § 4.3.

2. <u>Reimbursement for Qualified Future Repairs.</u>

Qualified Future Repairs will be extended warranty coverage on a sliding scale based on the vehicle's age and mileage when the Subject Vehicle is presented to an Authorized Service Center for repair or, if the Class Member was denied warranty or goodwill coverage before the Notice Date, based on the vehicle's age and mileage when the Class Member first presented the Subject Vehicle to an Authorized Service Center or notified Defendants of the Symptoms Alleged. PSA, § 4.B. Generally, the percentage of warranty coverage available for a Qualified Future Repair is as follows:

Vehicle Age Time Period	Effective Warranty Extension	Reimbursement/ Coverage Amount
Category 1: Subject Vehicles that have been in service for less than 7 years (84 months) and have less than 105,000 miles.	3 years and 55,000 miles	100%
Category 2: Subject Vehicles that do not fall within Category 1 and have been in service for less than 10 years (120 months) and have 150,000 miles or less.	6 years and 100,000 miles	50%
Category 3: Subject Vehicles that do not fall within Categories 1 or 2 and have been in service for less than 15 years (180 months) and have 150,000 miles or less.	11 years and 100,000 miles	25%

See id., § 4.4. Until the Subject Vehicles exceed 15 years or 150,000 miles, whichever comes first, there is no limit to the number of Qualified Future Repairs that can be made. *See id.* All Qualified Future Repairs must be performed at an Authorized Service Center. *See id.*, § 4.5.

Class Members that need a Qualified Future Repair after Notice Date of the Settlement but before the Effective Date of the Settlement and whose vehicle has both fewer than 15 years from the original in-service date and has fewer than 150,000 miles at the time such repair is needed, should get their Subject Vehicle repaired, retain their payment receipts for any qualifying repair performed, and make a claim for reimbursement as a Qualified Past Repair within 60 days of the repair. *See* PSA,

§§ 1.27, 9.2-9.3. Subject to the specific terms of the Settlement Agreement, those Class Members will be reimbursed as a Qualified Past Repair. *See id.*, §§ 4.1- 4.3. Dispute resolution is available for Class Members who dispute their coverage for Qualified Future Repairs or believe coverage was wrongfully denied. *id.*, § 9.11.

3. The Claims Process Is Simple.

The Settlement provides for a streamlined and straightforward claim process. Class Members can submit reimbursement claims for Qualified Past Repairs by submitting a Reimbursement Claim Form and supporting documents online or by mail, which the Settlement Administrator will then review to determine eligibility. *See* PSA, §§ 8.6-8.11 and 9.A. Required supporting documents for Qualified Past Repairs include: (a) an itemized repair order or invoice or other documentation showing that the Subject Vehicle received a qualified repair (e.g., the repair invoice must show that part of the vehicle has been repainted) and the cost of the qualified repair; (b) proof of documentation of the Settlement Class Member's payment for the repair (e.g., credit card statement, invoice showing zero balance, receipt showing payment, etc.); and (c) proof of the Settlement Class Member's ownership or leasing of the Subject Vehicle at the time of the repair. A repair shall not qualify for reimbursement if the reason for the repair described in any related repair order is for repairs due to an automobile accident, scratches, road debris, or other external

influence that is unrelated to the alleged Mars Red paint defect (*e.g.*, chemical burn, tree sap, or bird droppings).

If the repair is determined by the Settlement Administrator to be an eligible Qualified Past Repair, payment shall be made to the Class Member. *See* PSA, § 9.A. Dispute resolution, paid for by Defendants, is available for Class Members who dispute their reimbursements or believe their claim was wrongfully denied. *Id.*

Class Members can receive Qualified Future Repairs by presenting their Vehicle to an Authorized Service Center, which will determine eligibility and perform the repairs. PSA, § 9.B. Class Members whose Subject Vehicles are already 15 years old or more or have 150,000 miles or more on the Notice Date can seek a Qualified Future Repair by submitting a Claim Form and documentary evidence showing that the Class Member (a) presented the Subject Vehicle to an authorized Mercedes-Benz dealer or body repair facility for a qualifying repair or provided notice to Defendants at a time when the vehicle had less than 15 years and 150,000 miles and (b) was denied warranty or goodwill coverage for such repair. If the future repair claim is approved by the Settlement Administrator, the Class Members can receive one Qualified Future Repair by bringing their Vehicle to an Authorized Service Center.

III. LAW AND ARGUMENT

The *Pinon* Plaintiffs aver that this proposed Settlement meets the standard for preliminary approval and that the appropriate factual and legal bases for class certification exist. A court must approve any class action settlement that releases the claims of absent class members. *See* Fed. R. Civ. P. 23(e). Review of a proposed settlement generally proceeds in two stages: first, a hearing on preliminary approval, followed by a second hearing, on final approval. *See* MANUAL FOR COMPLEX LITIG., § 21.632 (4th ed. 2004); Rule 23(e)(2).

At the preliminary approval stage, a court conducts a preliminary review to determine whether the proposed settlement is "within the range of possible approval." *Fresco v. Auto Data Direct, Inc.*, 2007 WL 2330895, *4 (S.D. Fla. May 11, 2007) (internal citations omitted). "[T]he court's primary objective at th[is] point is to establish whether to direct notice of the proposed settlement to the class, invite the class's reaction, and schedule a final fairness hearing." 4 W. Rubenstein, NEWBERG ON CLASS ACTIONS § 13:10 (5th ed. 2015); MANUAL FOR COMPLEX LITIG., § 21.632. After preliminary approval and notice to the class, the Court assesses the settlement's strengths and weaknesses at the final approval hearing and determines whether the settlement is fair, reasonable, and adequate to those who are affected. *See Fresco*, 2007 WL 2330895 at *4; MANUAL FOR COMPLEX LITIG., § 21.632.

The law generally encourages settlement. *See Bennett v. Behring Corp.*, 737 F.2d 982, 986 (11th Cir. 1984) ("[O]ur judgment is informed by the strong judicial policy favoring settlement as well as by the realization the compromise is the essence of settlement."); *see also Williams v. First Nat'l Bank of Pauls Valley*, 216 U.S. 582, 595 (1910) ("[C]ompromises of disputed claims are favored by the courts."). Furthermore, "settlements of class actions are highly favored in the law and will be upheld whenever possible because they are means of amicably resolving doubts and preventing lawsuits." *Carnegie v. Mut. Sav. Life Ins. Co.*, Civ-99-S-3292-NE, 2004 WL 3715446, *17 (N.D. Ala. Nov. 23, 2004) (citations omitted).

In determining whether preliminary approval is warranted, the issue before the Court is whether the settlement is within the range of what might be found fair, reasonable, and adequate, so that notice of the settlement should be given to the settlement class, and a hearing scheduled to consider final settlement approval. The Court is not required at this point to make a final determination as to the fairness of the Settlement Agreement—that decision is made only at the final approval stage, after notice of the settlement has been provided to the Settlement Class, and they have had an opportunity to voice their views of the settlement. *See* 3B J.W. Moore, *MOORE'S FEDERAL PRACTICE* (2d ed. 1996), ¶ 23.80[2.-1] at 23-479. Courts have noted that the standard for preliminary approval is less rigorous than the analysis at

final approval. *See Horton v. Merrill Lynch, Pierce, Fenner & Smith, Inc*., 855 F.Supp. 825, 827 (E.D. N.C. 1994) (explaining that the issue at preliminary approval stage is whether there is "probable cause" to justify notifying class members of proposed settlement); *In re: Bromine Antitrust Litig*, 203 F.R.D. 403, 416 (S.D. Ind. 2001) (the "bar [for obtaining preliminary approval] is low").

A. PRELIMINARY APPROVAL IN THE ELEVENTH CIRCUIT

Rule 23(e)(2) identifies criteria for determining whether to grant preliminary approval of a proposed class settlement and direct notice to the proposed class. The proposed Settlement here satisfies all of these conditions.

Rule 23(e)(2) states that a district court should approve a proposed settlement after considering whether:

> (A) the class representatives and proposed class counsel have adequately represented the class;
>
> (B) the proposal was negotiated at arm's length;
>
> (C) the relief provided for the proposed class is adequate, taking into account:
>
> (i) the costs, risks, and delay of trial and appeal;
>
> (ii) the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims;
>
> (iii) the terms of any proposed award of attorneys' fees, including timing of payment;
>
> (iv) any agreement required to be identified under Rule 23(e)(3); and,
>
> (D) the proposal treats Class members equitably relative to each other.

Fed. R. Civ. P. 23(e)(2).

Courts within the Eleventh Circuit use two different standards in considering whether to preliminarily approve a proposed settlement. Some courts find that preliminary approval is appropriate "where the proposed settlement is the result of the parties' good faith negotiations, there are no obvious deficiencies and the settlement falls within the range of reason." *In re: Checking Account Overdraft Litig.*, 275 F.R.D. 654, 661 (S.D. Fla. 2011). Other courts apply criteria known as the *Bennett* factors. *See Bennett*, 737 F.2d at 986. These factors largely overlap with those in Rule 23(e)(2) and include: (1) the likelihood of success at trial; (2) the range of possible recovery; (3) the range of possible recovery at which a settlement is fair, adequate, and reasonable; (4) the anticipated complexity, expense, and duration of litigation; (5) the opposition to the settlement; and (6) the stage of proceedings at which the settlement was achieved. *In re: Equifax Customer Data Sec. Breach Litig.*, 2020 U.S. Dist. LEXIS 118209, *174 (N.D. Ga. Mar. 17, 2020) (citing *Bennett*, 737 F.2d at 986 and *Faught v. Am. Home Shield Corp.*, 668 F.3d 1233, 1240 (11th Cir. 2011). The proposed settlement warrants preliminary approval under both standards.

B. THE SETTLEMENT MERITS APPROVAL

First, as explained in greater detail below, the *Pinon* Plaintiffs and Class Counsel have adequately represented the proposed Settlement Class. The *Pinon* Plaintiffs do not have any interests antagonistic to other Class Members and have retained lawyers with the necessary qualifications and experience to lead this litigation. Class Counsel vigorously pursued the claims alleged through successful opposition of Defendants' Motion to Dismiss and through discovery. *See, e.g.*, *Parsons v. Brighthouse Networks, LLC*, 2:09-CV-267-AKK, 2015 WL 13629647, *12 (N.D. Ala. Feb. 5, 2015) ("This is not a case in which a complaint has been filed and the parties have rushed to a settlement. Thus, all Parties had a keen grasp of the issues, the factual underpinnings of the claims and defenses herein, and the measure of the evidence supporting those claims and defenses.").

Second, the Parties negotiated the proposed settlement at arm's length and without collusion. *See* Declaration of James F. Holderman, ¶¶ 2-9, filed herewith (the "Holderman Decl."). Indeed, the Parties reached a settlement only after a hard-fought mediation over two separate days with a respected JAMS mediator and then subsequently finalized the proposed Settlement Terms through multiple rounds of discussions and drafting revisions. *See, e.g.*, *In re: Checking Account Overdraft Litig.*, 275 F.R.D. at 661 ("Settlement negotiations that involve arm's length,

informed bargaining with the aid of experienced counsel support a preliminary finding of fairness").

Third, as explained in greater detail below, the relief provided for the Settlement Class is fair, reasonable, and adequate, taking into account the costs, risks, and delay of trial and appeal, the effectiveness of any proposed method of distributing relief to the class, and the terms of the proposed award of attorney fees. Moreover, the proposal treats class members equitably relative to each other—Class Members are treated the same with respect to their eligibility for reimbursement for Qualified Past Repairs and to receive Qualified Future Repairs.

Moreover, pursuant to Fed. R. Civ. P. 23(e)(1), the *Pinon* Plaintiffs present sufficient information herein for the Court to determine whether to give notice to the class. For the reasons set forth above, the Court will likely be able to approve the settlement proposal under Fed. R. Civ. P. 23(e)(2), and certify the nationwide settlement class for purposes of judgment on the proposal. The Settlement Agreement satisfies all of the requirements for preliminary approval and preliminary certification of a nationwide settlement class under Rule 23 as it provides both significant benefits and clear notice to Class Members informing them of the Settlement, how to claim settlement benefits, and the procedures for opting out or objecting to the settlement.

1. The Settlement Was The Result Of A Thorough, Informed, Fair Negotiation Process.

Rule 23(e)(2) asks whether "the class representatives and class counsel have adequately represented the class" and "the proposal was negotiated at arm's length." Fed. R. Civ. P. 23(e)(2)(A) and . It "identif[ies] matters that might be described as 'procedural' concerns, looking to the conduct of the litigation and of the negotiations leading up to the proposed settlement." Adv. Cmte. Note.

Procedurally, the *Pinon* Plaintiffs' counsel (proposed Class Counsel) and the *Pinon* Plaintiffs (proposed Class Representatives) have conducted themselves in the Class's best interests.[8] As previously set forth herein, proposed Class Counsel has prosecuted this action on behalf of the proposed Class with vigor and dedication for over two years. The proposed Class Representatives likewise were engaged actively, providing Counsel with information about their Subject Vehicles, submitting to vehicle inspections, conducting extensive discovery, and providing records about their Subject Vehicle's ownership, service, and maintenance. Class Rep. Decls. ¶¶ 3-4. They were informed about the strengths and weaknesses of their case(s) via discovery and expert consultation, and all have been consulted on, and

[8] *See* Declarations of Emily Pinon, Gary C. Klein, Kim Brown, Joshua Frankum, Dinez Webster, and Todd Bryan, filed herewith (collectively, "Class Rep. Decls.").

support, the Proposed Settlement, illustrating their continued willingness to protect the Class going forward. Class Rep. Decls. ¶¶ 4-5.

In addition, as previously set forth herein, the Proposed Settlement arises out of weeks of serious, informed, and non-collusive negotiations facilitated by mediation conducted on November 9th and November 12th before an experienced and sophisticated mediator. *See* Holderman Decl., ¶¶ 2-9. A settlement process facilitated by a mediator weighs heavily in favor of approval. *See, e.g., Wilson v. EverBank*, 2016 WL 457011, *6 (S.D. Fla. Feb. 3, 2016) ("The very fact of [mediator's] involvement—let alone his sworn declaration—weights in favor of approval."); *In re: Checking Account Overdraft Litig.*, 275 F.R.D. at 661; Adv. Cmte. Note ("involvement of a neutral…mediator…in those negotiations may bear on whether they were conducted in a manner that would protect and further the class interests."). Thus, the procedurally fair manner in which this Proposed Settlement was reached weighs strongly in favor of granting preliminary approval.

2. <u>The Settlement Provides Significant Benefits In Exchange For The Compromise Of Strong Claims.</u>

Rules 23(e)(2)(C) and (D) require a "'substantive'" review of a proposed settlement. Adv. Cmte. Note. Specifically, Fed. R. Civ. P. 23(e)(2)(C) requires a court to consider whether "the relief provided for the class is adequate, taking into account … the effectiveness of any proposed method of distributing relief to the

class, including the method of processing class member claims" and "the terms of any proposed award of attorneys' fees, including timing of payment." And amended Fed. R. Civ. P. 23(e)(2)(D) considers whether "the proposal treats Class members equitably relative to each other."

Each of these substantive considerations are satisfied here. This comprehensive resolution provides much-needed relief to Class members, addresses what the *Pinon* Plaintiffs contend is a long-running problem in the Subject Vehicles, and reimburses Class members for incurred costs. *See David v. Am. Suzuki Motor Corp.*, 2010 WL 1628362, *2 (S.D. Fla. Apr. 15, 2010) (approving settlement providing for extended car warranty); *Turner v. Gen. Elec. Co.*, 2006 WL 2620275, *8 (M.D. Fla. Sep. 13, 2006) (approving settlement providing for extended warranty for moisture-related problems in refrigerators).

In essence, the Settlement (i) pays for Qualified Past Repairs (subject to the sliding scale and as long as they were reasonable and performed within 15 years and 150,000 miles from the date the vehicle was put in service) and (ii) covers Qualified Future Repairs that are requested within 15 years and 150,000 miles from the date the vehicle was put into service (subject to a sliding scale). That means that the Settlement effectively extends the warranty on the Subject Vehicles from 4 years and 50,000 miles (the coverage for exterior paint under the standard New Vehicle

Limited Warranty or "NVLW") to 15 years and 150,000 miles. And it more than doubles the mileage that qualifies for 100% coverage (105,000 versus the NVLW's 50,000) and extends that same 100% coverage out to 7 years instead of 4 years. This is significant and represents an outstanding result for the Class.

All proposed Class Members are treated equally. Each Settlement Class Member who submits appropriate documentation for Qualified Past Repairs will be reimbursed for those; all those Settlement Class Members that make a claim for Qualified Future Repairs will get those, subject to the year and mileage limitations and confirmation that the Symptoms Alleged are present. Moreover, proposed Class Counsel are experienced class action litigators, consumer advocates, trial lawyers, and litigation veterans, and they support this Settlement, acknowledging the uncertainty in whether the Class could achieve a better outcome through further litigation. *See* Garrison Decl., ¶¶ 2-5.

a. The Settlement Mitigates the Risks, Expenses, and Delays of Continued Litigation.

The Proposed Settlement secures significant benefits, even in the face of the inherent uncertainties of litigation. Compromise in exchange for certain and timely relief is unquestionably a reasonable outcome. *See George v. Academy Mort'g Corp. (UT)*, 369 F.Supp.3d 1356, 1371 (N.D. Ga. 2019) (settlement a "fair compromise" given risks and "certainty of substantial delay").

Pursuing this case was not without risk, and Defendants fought vigorously, challenging the *Pinon* Plaintiffs' legal and damages theories. Even after two years of demanding litigation, the *Pinon* Plaintiffs would still need to get their proposed class certified, establish Defendants' liability, and prove damages on behalf of the class. Further, even if this Proposed Class were certified and upheld on appeal, it would face the risk, expense, and delay of trial and potentially lengthy appellate process, further delaying any recovery for years to come. Avoiding years of additional litigation in exchange for the immediate certainty of this Proposed Settlement is even more compelling because it allows the *Pinon* Plaintiffs and Proposed Class Members in need of a Qualified Repair to immediately obtain one rather than paying for it themselves or going either wholly unreimbursed or without a repair.

b. The Claims Process Is Straightforward.

This proposed Settlement provides benefits to Class Members via a simple claims process. Each Class Member will receive information about the Settlement via the proposed Notice Plan; specifically, postcard notice sent directly to all Class Members who shall be located *via* Vehicle Identification Numbers ("VINs") and establishment of a settlement website. *See, supra,* Section II.B.3. To obtain reimbursement for Qualified Past Repairs and for certain Qualified Future Repairs,

Class Members will submit a Claim Form and supporting documents online or by mail. PSA, § 9.A. After reviewing a past repair claim for completeness and eligibility, the Settlement Administrator will mail a check or send money electronically. *Id*. The Notice Plan will also inform Class Members of their eligibility for Qualified Future Repairs and how to get them. *See, supra,* Section II.B.3; PSA, § 9.A. Defendants will be responsible for all costs related to the Notice Plan, including payment to the Settlement Administrator, which provides additional value to the Class that would normally be deducted from any settlement fund. Class Members also are provided an avenue to challenge the Settlement Administrator's determination of their claims through a Third Party Neutral, which provides for safeguards to the Class Members during the claims process. *See, supra,* Section II.B.2. Class Counsel also will be available for the duration of the extended warranty to assist Class Members as needed with any issues that arise in securing settlement benefits and providing a safeguard to the Class to ensure that the claims process for Qualified Future Repairs are managed appropriately.

c. Counsel Will Seek Reasonable Fees and Costs.

As set forth above, the *Pinon* Plaintiffs' counsel conducted an extensive investigation into the facts and circumstances of this case, and they put in significant time and resources into prosecuting the claims on behalf of the Class. *See, supra,*

Section I. Notably, none of the Settlement benefits will be reduced to pay any Court-awarded attorneys' fees or costs to Class Counsel. Defendants will pay attorneys' fees and costs separate and apart from the monies that will be paid to qualified Class Members. Of course, this is a tremendous benefit to the Class Members, as it otherwise would reduce their Settlement recovery.

Again, Class Counsel separately negotiated fees and costs only *after* all material terms of the Settlement were agreed upon in principle, which further supports approving this motion and the Settlement. *See Ingram v. The Coca-Cola Co.*, 200 F.R.D. 685, 693 (N.D. Ga. 2001) (finding that settlement not collusive where "the fee was negotiated separately from the rest of the settlement, and only after substantial components of the class settlement had been resolved"); *see also, In re: Progressive Ins. Corp. Underwriting & Rating Practices Litig.*, 2008 WL 11348505, *2 (N.D. Fla. Oct. 1, 2008). The *Pinon* Plaintiffs' counsel will file a motion for fees and costs within thirty (30) days following the Preliminary Approval Order, so it is available to all potential Class Members before the deadline to object or opt-out of the Settlement.

3. <u>The Settlement Treats Class Members Equitably.</u>

Finally, Fed. R. Civ. P. 23(e)(2)(D) states that a court should consider whether "the proposal treats Class members equitably relative to each other." This proposed

Settlement fairly and reasonably allocates benefits among Class Members, both those who have already paid out-of-pocket costs *and* those who are eligible for future repairs, without any preferential treatment being given to the Plaintiff Class Representatives or any separate or distinct segment of the Settlement Class. The Settlement provides the same durational period of warranty coverage for every Class Vehicle (15 years or 150,000 miles) and the same sliding scale of reimbursement or coverage percentage based on the age/mileage of the Class Vehicle. Courts have approved similar structured settlements concerning automobile defects. *See, e.g.*, *Sadowska v. Volkswagen Grp. of Am., Inc.*, 2013 WL 9600948, *6 (C.D. Cal. Sep. 25, 2013) (approving settlement with different eligibility requirements for an extended warranty depending on age of car); *see also Alin v. Honda Motor Co., Ltd.*, 2012 WL 8751045, *3 (D. N.J. Apr. 13, 2012) (approving settlement with different coverage for air condition defect depending on time period/mileage of vehicle).

Class Counsel intends to request service awards for the *Pinon* Plaintiff Class Representatives, to be paid by Defendants in addition to the compensation they are otherwise entitled to as a member of the Proposed Class. Class Counsel is aware of and sensitive to the Eleventh Circuit's recent opinion in *Johnson v. NPAS Solutions, Inc*, which rejected class representative incentive awards. 975 F.3d 1244 (11th Cir. 2020). However, the plaintiff in that case filed a petition for rehearing *en banc* on

October 22, 2020, which has not yet been decided. Also, some six (6) *amici* have been filed, to-date. As noted by the dissent in *Johnson*, the holding "will have the practical effect of requiring named plaintiffs to incur costs well beyond any benefits they receive from their role in leading the class." *Id.*, at 1264.

Whether the initial holding will ultimately stand is unknown, and there is a reasonable likelihood that the case will continue to be challenged even if the Eleventh Circuit upholds the initial ruling. The *Johnson* opinion represents a fundamental change in the law that is absent from any other Circuit in the country. The categorical prohibition on class representative incentive awards is an issue of exceptional importance, particularly given they have been approved in every other Circuit and the U.S. Supreme Court has acknowledged the practice of incentive awards. *See e.g., China Agritech, Inc. v. Resh*, 584 U.S. __, 138 S.Ct. 1800, 1811 n.7, 201 L.Ed.2d 123 (2018).

In support of the request for service awards to the proposed Class Representatives, the undersigned notes that each spent significant time making their vehicles available for inspection, providing information to Class Counsel, responding to discovery requests, and considering and blessing this Proposed Settlement. Class Rep. Decls. ¶¶ 4-5. Given this significant commitment, service awards are appropriate here. Should the Court deny the service awards request in

light of *Johnson v. NPAS Sols.*, the *Pinon* Plaintiffs would request the Court deny the request without prejudice and retain jurisdiction for the limited purpose of revisiting the denial of service awards if *Johnson* is reversed. *See Hawkins v. JPMorgan Chase Bank, N.A.*,2 020 U.S. Dist. LEXIS 213064, *3 (M.D. Fla. Nov. 15, 2020) (denying service award request "without prejudice"); *Metzler v. Med. Mgmt. Int'l*, 2020 U.S. Dist. LEXIS 187478, *8 (M.D. Fla. Oct. 9, 2020) (denying service award "at this juncture")

4. <u>There Are No Undisclosed Side Agreements.</u>

Rule 23(e)(3) requires the parties to "file a statement identifying any agreement made in connection with the proposal." No such agreements exist here.

5. <u>The *Bennett* Factors Support Preliminary Approval.</u>

In addition to the factors set forth in Rule 23(e)(2), courts in the Eleventh Circuit often consider the *Bennett* factors during preliminary approval. *Adams v. Sentinel Offender Servs., LLC,* No. 1:17-cv-2813-WSD, 2018 U.S. Dist. LEXIS 78841, *20-*23 (N.D. Ga. May 10, 2018) (discussing *Bennett*, 737 F.2d at 986).

a. The Benefits of Settlement Outweigh the Risks at Trial.

The first *Bennett* factor weighs in favor of approval, where there was "no guarantee that the plaintiffs would prevail at trial on their [] claims." *Camp v. City of Pelham*, 2:10-CV-01270-MHH, 2014 WL 1764919, *3 (N.D. Ala. May 1, 2014);

see also Burrows v. Purchasing Power, LLC, No. 1:12-cv-22800, 2013 WL 10167232, *6 (S.D. Fla. Oct. 7, 2013) (granting approval where "success at trial is not certain for Plaintiff[s]."). Although the *Pinon* Plaintiffs are confident about their case, the risks involved cannot be disregarded, and success cannot be guaranteed. *See generally, In re: Motorsports Merchandise Antitrust Litig.*, 112 F.Supp.2d 1329, 1334 (N.D. Ga. 2000) ("[T]he trial process is always fraught with uncertainty."). This is particularly true where, as here, the case "involves complex legal and factual issues that have been hotly contested, and would almost certainly continue to be hotly contested throughout the remaining litigation" and "the ultimate outcome on the merits were uncertain for both Parties." *See Parsons*, 2015 WL 13629647 at *3. The proposed Settlement Agreement avoids these uncertainties and provides the Settlement Class with meaningful and certain relief.

b. *The Settlement Is Within the Range of Possible Recoveries and Is Fair, Adequate, and Reasonable.*

The second and third *Bennett* factors—whether the settlement is within the range of possible recoveries and is fair, adequate, and reasonable—are "easily combined and normally considered in concert." *Camp*, 2014 WL 1764919 at *3. "The Court's role is not to engage in a claim-by-claim, dollar-by-dollar evaluation, but to evaluate the proposed settlement in its totality." *Lipuma v. Am. Express Co.*, 406 F.Supp.2d 1298, 1323 (S.D. Fla. 2005). The range of outcomes extends from

no liability to total victory and must be considered in light of the attendant risks. *See, e.g.*, *Beaty v. Contl. Auto. Sys. U.S., Inc.*, CV-10-S-2440-NE, 2012 WL 12895014, *8 (N.D. Ala. Feb. 6, 2012). Thus, even a minimal settlement can be approved. *See, e.g.*, *Burrows*, 2013 WL 10167232 at *6; *Bennett*, 737 F.2d at 986; *Behrens v. Wometco Enters., Inc*., 118 F.R.D. 534, 542 (S.D. Fla. 1988) ("A settlement can be satisfying even if it amounts to a hundredth or even a thousandth of a single percent of the potential recovery.")

The Settlement reached here is outstanding—it is in the upper range of possible recoveries, considering the risks. *See* Garrison Decl., ¶ 35. The Settlement avoids the risks of prolonged litigation, and provides class members with certain, immediate relief. Indeed, it provides Class Members with reimbursement for Qualified Past Repairs and a forward-looking, extended and enhanced warranty to cover Qualified Future Repairs through Authorized Service Centers. *See, supra*, Section II.B. Thus, the Settlement is fair, adequate, and reasonable, based on the range of possible recovery.

c. *Continued Litigation Would Be Expensive and Lengthy.*

A settlement that "will alleviate the need for judicial exploration of . . . complex subjects, reduce litigation costs, and eliminate the significant risk that individual claimants might recover nothing" merits approval. *Lipuma*, 406

F.Supp.2d at 1324. Such is the case here. Approval will avoid complex, expensive, and lengthy litigation, saving resources of the parties and the Court. *See, e.g.*, *Parsons*, 2015 WL 13629647 at *4. A national class action such as this one involves seemingly endless discovery; extensive expert involvement; argument and voluminous briefing over certification, summary judgment, and *Daubert* challenges; a lengthy trial; and appeals. The Settlement resolves the case without any further delay and will, if finally approved, offer Class Members an immediate and certain recovery. Thus, this factor also strongly favors of preliminary approval of the Settlement.

d. *The Degree of Opposition to the Settlement.*

Courts do not consider this factor until notice has been provided to settlement class members. *See* C*olumbus Drywall & Insulation, Inc. v. Masco Corp*., 258 F.R.D. 545, 560 (N.D. Ga. 2007).

e. *The Stage of Proceedings.*

Courts look at the last *Bennett* factor "to ensure that the *Pinon* Plaintiffs had access to sufficient information to adequately evaluate the merits of the case and weigh the benefits of settlement against further litigation." *Lipuma*, 406 F.Supp.2d at 1324. Courts have approved settlements at much earlier stages of litigation. *See Mashburn v. Nat'l Healthcare, Inc.*, 684 F.Supp. 660, 669 (M.D. Ala. 1988) (holding

that early settlements are to be encouraged, and accordingly, only some reasonable amount of discovery is required to determine the fairness of the settlement). Plaintiff and Class Counsel have litigated this case at the pleadings stage, thoroughly investigated the facts and law, briefed the relevant legal issues, and reviewed substantive evidence relating to the claims and defenses. *See Parsons*, 2015 WL 13629647 at *12 ("This is not a case in which a complaint has been filed and the parties have rushed to a settlement. Thus, all Parties had a keen grasp of the issues, the factual underpinnings of the claims and defenses herein, and the measure of the evidence supporting those claims and defenses."). Additionally, in *Pinon*, substantial discovery has occurred, documents have been produced on both sides, and inspections of Subject Vehicles were scheduled and occurred, including with the use of experts to conduct those inspections. Moreover, the *Pinon* Plaintiffs requested and received from the Defendants an affidavit confirming the completeness and accuracy of the warranty, sales and repair data produced by them related to the Alleged 590 Mars Red Paint Defect, including the total universe of Subject Vehicles sold or leased, the costs of repair under warranty related to the Alleged 590 Mars Red Paint Defect, dates of repair, and claims covered by goodwill, among other information. *See* Garrison Decl., ¶ 26. Moreover, the *Pinon* Plaintiffs have issued confirmatory discovery to confirm the details in that declaration and to confirm other

relevant details related to complaints regarding 590 Mars Red paint, among other information. Settlement here is not premature. Therefore, the *Bennett* factors, like the Rule 23 factors, strongly support approval of the settlement.

C. THE COURT WILL BE ABLE TO CERTIFY THE CLASS

Where a class has not been certified prior to settlement, the Court must also consider the prospect of class certification in determining whether to direct notice to the class. *See, e.g., Columbus Drywall & Insulation, Inc.*, 258 F.R.D. at 553 (citing *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 620 (1997) ("In order to certify the settlement class, the Court must examine whether the settlement class complies with Rule 23…[and] engage in an independent analysis to determine whether plaintiffs' proposed settlement class complies with Rule 23(a) and (b).")). While the ultimate decision on certification is not made until the final approval hearing, at the preliminary approval stage the parties must nevertheless "ensure that the court has a basis for concluding that it likely will be able, after the final hearing, to certify the class." Adv. Cmte. Note. To be certified, a class must meet all of Rule 23(a)'s requirements and the requirements of one subsection of 23(b).

The Class readily satisfies these requirements and class certification for settlement purposes is due to be granted. *See Sanchez-Knutson v. Ford Motor Co.*,

310 F.R.D. 529, 542 (S.D. Fla. 2015) (certifying class based on uniform auto defect with exhaust from vehicles).

1. <u>The Class Satisfies Rule 23(a).</u>

a. The Class is Sufficiently Numerous.

Rule 23(a)(1) is satisfied where, as here, "the class is so numerous that joinder of all class members is impracticable." Fed. R. Civ. P. 23(a)(1). Numerosity is generally satisfied when the class exceeds 40 members. *See, e.g.*, *Cox v. Am. Cast Iron Pipe Co.*, 784 F.2d 1546, 1553 (11th Cir. 1986). Over 72,500 Subject Vehicles were sold and/or leased in the United States and the proposed Class, which includes likely over one hundred thousand current and former owners and lessees of Subject Vehicles. *See* Garrison Decl., ¶ 26. Thus, the numerosity requirement of Rule 23(a)(1) is satisfied.

b. Common Questions of Law and Fact Exist.

"To satisfy the commonality requirement, Plaintiffs must show that questions of law or fact are common to the entire class." *Melanie K. v. Horton*, 2015 WL 1308368, *4 (N.D. Ga. Mar. 23, 2015). "Commonality requires that there be at least one issue whose resolution will affect all or a significant number of the putative class members." *Williams v. Mohawk Indus., Inc.*, 568 F.3d 1350, 1354 (11th Cir. 2009). The "commonality element is generally satisfied when a plaintiff alleges that

Defendants have engaged in a standardized course of conduct that affects all class members." *In re: Checking Account Overdraft Litig.*, 307 F.R.D. 656, 668 (S.D. Fla. 2015).

Here, the *Pinon* Plaintiffs contend that the Class claims are rooted in common questions of fact as to the Alleged 590 Mars Red Paint Defect in Subject Vehicles and Defendants' alleged representations and omissions regarding the alleged defective nature of Mars Red paint. Dkt. 1, 7, 16, and 55. They further contend that the Symptoms Alleged are experienced consistently by Class Members. *See* Garrison Decl., ¶ 35. These common questions will, in turn, generate common answers "apt to drive the resolution of the litigation" for the Class as a whole. *See Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 350 (2011); *see also Rosen v. J.M. Auto Inc.*, 270 F.R.D. 675, 681 (S.D. Fla. 2009) ("critical issue of whether the [airbag occupant classification system] in [class vehicles] was defective is common to all putative class members").

c. The Class Representatives' Claims are Typical.

Fed. R. Civ. P. 23(a)(3) requires that "the claims or defenses of the representative parties are typical of the claims or defense of the class." *Williams v. Wells Fargo Bank*, 280 F.R.D. 665, 672-73 (S.D. Fla. 2012). A "representative plaintiff's claim is typical if it arises from the same event or practice or course of

conduct that gives rise to the claims of the other class members, and his or her claims are based on the same legal theory." *In re: Tri-State Crematory Litig.*, 215 F.R.D. 660, 690 (N.D. Ga. 2003).

Here, the same alleged course of conduct injured the proposed Class Representatives in the same manner it has injured all other Class Members. The proposed Class Representatives, like other proposed Class Members, contend they purchased or leased their Subject Vehicles without knowing about the alleged defective nature of the 590 Mars Red exterior paint. Dkt. 1, 7, 16, and 55; *see also Rosen*, 270 F.R.D. at 682 (holding the plaintiff typical because he alleged same car defect as rest of class). Like all proposed Class Members, the proposed Class Representatives further contend their Subject Vehicles should have been free from any paint defects and free from the Symptoms Alleged. Dkt. 1, 7, 16, and 55. Finally, the proposed Class Representatives and proposed Class Members will similarly, and equitably, benefit from the Settlement. As such, the typicality requirement of Fed. R. Civ. P. 23(a)(3) is satisfied.

d. The Class Representatives and Class Counsel are Adequate.

Where "the representative parties will fairly and adequately protect the interests of the class," the adequacy requirement of Fed. R. Civ. P. 23(a)(4) is met. "To adequately represent a class, a named plaintiff must show that she possesses the integrity and

personal characteristics necessary to act in a fiduciary role representing the interests of the class, and has no interest antagonistic to the interests of the class." *Sanchez-Knutson*, 310 F.R.D. at 540.

Here, the Class Representatives have demonstrated that they are familiar with the facts of this case and understand their duties and fiduciary obligations. *See, supra,* Section IV.B.1. In addition, the Class Representatives have no interests antagonistic to Class Members and will continue to vigorously protect the Class, as they have throughout this litigation.

Under Fed. R. Civ. P. 23(g), "a court that certifies a class must appoint class counsel." I n appointing class counsel, the court must consider the following factors: (i) the work counsel has done in identifying or investigating potential claims in the action; (ii) counsel's experience in handling class actions, other complex litigation, and the types of claims asserted in the action; (iii) counsel's knowledge of the applicable law; and (iv) the resources that counsel will commit to representing the class. Fed. R. Civ. P. 23(g)(1)(A).

The proposed Class Counsel regularly engage in consumer class action litigation and other complex litigation similar to the present action, and they have dedicated substantial resources to the prosecution of this action. *See* Garrison Decl., ¶¶ 2-34; Declaration of K. Stephen Jackson, ¶¶ 2-12, filed herewith (the "Jackson Decl."). Moreover, counsel have vigorously and competently represented the *Pinon* Plaintiffs' and Settlement Class

Members' interests in this action and will continue to fulfill their duties to the class. *See* Garrison Decl., ¶ 36; Jackson Decl., ¶ 12. A firm resume for Class Counsel is attached, and it describes their experience in class actions and complex civil litigation. *See* Garrison Decl., at Ex. A; Jackson Decl. ¶¶ 5-7.

2. The Class Satisfies Rule 23(b)(3).

Here, not only do "questions of law [and] fact common to class members predominate over any questions affecting only individual members", class treatment is also "superior to other available methods for fairly and efficiently adjudicating the controversy." Fed. R. Civ. P. 23(b)(3).

a. Common Issues of Law and Fact Predominate.

"The predominance inquiry 'asks whether the common, aggregation-enabling, issues in the case are more prevalent or important than the non-common, aggregation-defeating, individual issues.'" *Tyson Foods, Inc. v. Bouaphakeo*, 577 U.S. __, 136 S.Ct. 1036, 1045, 194 L.Ed.2d 124 (2016) (citation omitted). The predominance requirement is satisfied if common issues have a "direct impact on every class member's effort to establish liability that is more substantial than the impact of individualized issues in resolving the claim or claims of each class member." *Carriuolo v. Gen. Motors Co.*, 823 F.3d 977, 985 (11th Cir. 2016) (quoting *Babineau v. Fed. Express Corp.*, 576 F.3d 1183, 1191 (11th Cir. 2009)). At all times, "efficiency is the overriding, textually-mandated

concern" and class treatment of claims stemming from a "common course" of conduct is favored. *In re: Checking Account Overdraft Litig.*, 307 F.R.D. at 673. "Predominance is 'a test readily met in certain cases alleging consumer fraud,' particularly where…uniform practices and misrepresentations give rise to the controversy." *Id.* (quoting *Amchem*, 521 U.S. at 625).

In this case, questions of law and fact common to the claims of Class Members predominate over any questions affecting only individual members. Specifically, the *Pinon* Plaintiffs contend that that the Alleged 590 Mars Red Paint Defect is common across Subject Vehicles. The *Pinon* Plaintiffs also contend the Defendants' paint, paint processes, and marketing were consistent across the Subject Vehicles. Predominance is therefore satisfied.

b. Class Treatment Is Superior.

Superiority looks to the "relative advantages of a class action suit over whatever other forms of litigation might be realistically available to the plaintiffs." *Klay v. Humana, Inc.*, 382 F.3d 1241, 1269 (11th Cir. 2004). Under Rule 23(b)(3), the Court considers a "non-exhaustive list of four factors" in making its superiority determination: "(1) the interests of members of the class in individually controlling the prosecution or defense of separate actions; (2) the extent and nature of any litigation concerning the controversy already commenced by or against the class; (3) the desirability or

undesirability of concentrating the litigation of the claims in the particular forum; and (4) the difficulties likely to be encountered in the management of a class action." *Id.*

Here, each factor falls in favor of class certification: (1) there is no evidence implicating the first factor; (2) there is only one other case addressing the Alleged 590 Mars Red Paint Defect at issue here, and that is the *Ponzio* action, in which discovery is at a far less advanced stage; (3) this Court has handled this litigation ably and is fully capable of continuing to do so; and, (4) the final factor, manageability, does not apply here. *Amchem Prods., Inc.*, 521 U.S. at 620 ("a district court need not inquire whether the case, if tried, would present intractable management problems … for the proposal is that there will be no trial.").

The damages sought by each Class Member are quite small relative to the cost of prosecuting an individual claim, especially given the expert-intensive nature of the scientific evidence necessary to prevail. *See Monroe Cnty. Empls.' Ret. Sys. v. S. Co.*, 2019 WL 3956139, *27 (N.D. Ga. Aug. 22, 2019) (superiority met where "amount of individual damages is likely to be relatively small). Likewise, Class treatment is superior from an efficiency and resource perspective. *See Mohamed v. Am. Motor Co., LLC*, 320 F.R.D. 301, 317 (S.D. Fla. 2017) ("issues involved in Plaintiff's claim and the allegations he uses to support same would be, for all intents and purposes, identical to those raised in individual suits brought by any of the

members of the modified class."). Therefore, the superiority requirements of Rule 23(b)(3) are satisfied.

D. THE PROPOSED CLASS NOTICE IS THE BEST PRACTICABLE

Rule 23(e)(1) requires that the Court "must direct notice in a reasonable manner to all class members who would be bound by the proposal" before a settlement may be approved, To satisfy due process, notice must "reach the parties affected" and "convey the required information." *Adams v. S. Farm Bureau Life Ins. Co.*, 493 F.3d 1276, 1285-86 (11th Cir. 2007). For a Rule 23(b)(3) settlement class, the Court must "direct to class members the best notice that is practicable under the circumstances…." Fed. R. Civ. P. 23(c)(2)(B).

The Notice Plan proposed meets these standards. The Parties created and agreed on the proposed Notice Plan, including the content and the distribution plan for the notice with the Settlement Administrator—JND Class Action Administration ("JND"), which is an experienced firm specializing in comprehensive noticed settlement management in complex class litigation—who will administer the Notice Plan and claims process. *See* Declaration of Jennifer M. Keough Regarding Proposed Notice Plan, ¶¶ 1-9, filed herewith (the "Keough Decl."). The principal methods of reaching Class Members will be through individual postcard notices by U.S. first class mail to all readily identifiable Class Members, and establishment of

a comprehensive Settlement website designed to explain Class Members' rights and obligations [www.settlementwebsite].com including, but not strictly limited to: (i) an overview of the litigation; (ii) an explanation of the Settlement benefits and how to claim them; (iii) contact information for Class Counsel; (iv) the address of the comprehensive Settlement Website that will house links to key filings; and, (v) instructions on how to object or opt out. Keough Decl. ¶¶ 10-25. The Notice Plan includes a Post Card Notice, a Long Form a Notice, Reimbursement Claim Form, and a Qualified Future Repair Claim Form, which are attached as Exhibits B-E of the Keough Decl. This Notice Plan comports with accepted standards and with this District's Procedural Guidance regarding notice and opt-outs.

E. THE PROPOSED SCHEDULE FOR NOTICE AND APPROVAL

In connection with preliminary approval, the *Pinon* Plaintiffs request that the Court set a schedule for disseminating notice and a Final Approval Hearing. As set forth in their Notice Plan, the *Pinon* Plaintiffs propose the following:

Event	**Deadline**
Notice mailed to Class Members ("Notice Date")	35 days after Court enters the Preliminary Approval Order
Settlement website available to Class Members	35 days after Court enters the Preliminary Approval Order
Deadline to file Motion for Attorneys' Fees, Costs, and Class Incentive Awards	30 days after Court enters the Preliminary Approval Order
Deadline to Submit a Claim or Object to or Opt Out of Settlement	60 days after Notice Date

Last day to file Motion for Final Approval of Settlement	30 calendar days before the Final Approval Hearing
Final Approval Hearing	At least 140 days after entry of Preliminary Approval Order

This schedule is similar to those used in other class settlements and provides due process to Class Members.

IV. THE COURT SHOULD PRELIMINARILY ENJOIN PARALLEL PROCEEDINGS.

Finally, the *Pinon* Plaintiffs seek entry of an Order preliminarily enjoining all Class Members who do not timely opt out from the Settlement Class from filing, prosecuting, maintaining or continuing litigation in federal or state court based on or related to the claims or facts alleged in *Pinon*. This type of injunctive relief is commonly granted in preliminary approvals of class action settlements pursuant to the All Writs Act.

The All Writs Act authorizes federal courts to "issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law." 28 U.S.C. § 1651(a). The Act empowers the Court to enjoin "conduct which, left unchecked, would have had the practical effect of diminishing the court's power to bring the litigation to its natural conclusion." *In re: Am. Online Spin-Off Accounts Litig.*, No. CV 03-6971-RSWL, 2005 U.S. Dist. LEXIS 45625,

*14 (C.D. Cal. May 9, 2005) (quoting *ITT Cmty. Dev. Corp. v. Barton*, 569 F.2d 1351, 1359 (5th Cir. 1978)).

In the class action context, the All Writs Act has been invoked by federal courts to enjoin persons not within the court's jurisdiction from frustrating a court order or court-supervised settlement. *See, e.g.*, *In re: Baldwin-United Corp.*, 770 F.2d 328, 335-38 (2d Cir. 1985); *see also, In re: Bridgestone/Firestone, Tires Prods. Liab. Litig.*, 333 F.3d 763, 769 (7th Cir. 2003) (approving a district court's "issu[ance of] an injunction [under the All Writs Act] that prevent[ed] all members of the putative national classes, and their lawyers," having "classes certified over defendants' opposition with respect to the same claims"). The All Writs Act extends a court's authority "to persons who, though not parties to the original action or engaged in wrongdoing, are in a position to frustrate the implementation of a court order or the proper administration of justice, and encompass those who have not taken any affirmative action to hinder justice." *United States v. N.Y. Tel. Co.*, 434 U.S. 159, 174 (1977).

In cases such as this, where parties to complex, class action litigation have reached a settlement agreement after lengthy, protracted and difficult negotiations, parallel proceedings can "'seriously impair the federal court's flexibility and authority' to approve settlements." *In re: Baldwin-United Corp.*, 770 F.2d at 337

(citation omitted); *see also In re: Diet Drugs Prods. Liab. Litig.*, 282 F.3d 220, 236 (3d Cir. 2002) (finding threats to court's jurisdiction "particularly significant where there are conditional class certifications and impending settlements in federal actions"). Under these circumstances, the Court has the power and authority to enjoin current or future federal proceedings and future state court proceedings. *See In re: Joint E. & S, Dist. Asbestos Litig.*, 134 F.R.D. 32, 37 (E.D.N.Y. & S.D.N.Y. 1990) ("Whether viewed as an affirmative grant of power to the courts or an exception to the Anti-Injunction Act, the All Writs Act permits courts to certify a national class action and to stay pending federal and state cases brought on behalf of class members."); *Newby v. Enron Corp.*, 302 F.3d 295, 301 (5th Cir. 2002) (concluding that district court has authority to enjoin prospective state court actions).

All individual or putative class actions brought by Settlement Class Members who do not opt out should therefore be enjoined pending the Court's determination whether to finally approve the proposed Settlement. The only class action (known to date) that would be affected by the requested injunction is the *Ponzio* action in the District of New Jersey which , although filed two weeks before *Pinon*, did not begin discovery until months *after* this action due to a later-resolved Motion to Dismiss and, as such, is still at an incipient stage. According to the *Ponzio* plaintiffs,

> ***There has been very little discovery taken to date*** since the parties are working to respond to recent Court decisions resolving certain

> discovery disputes. The Court has ruled that discovery will not be limited to only those jurisdictions represented by Plaintiffs (ECF. No. 103, ¶ 2), so amending to include additional jurisdictions will not affect the forward progress of discovery.

Ponzio, Dkt. 109, p. 3 (emphasis added). Additionally, none of the *Ponzio* Plaintiffs will be unduly prejudiced by a temporary injunction pending the final fairness hearing. Moreover, if the Settlement is approved, the *Ponzio* case would become moot as the claims of all named *Ponzio* Plaintiffs who do not opt out timely would be resolved and released by the Settlement.

Accordingly, pursuant to its authority under the All Writs Act, the Court should include in its Order a preliminary injunction against parallel proceedings pending the settlement approval process. *See, e.g.*, *Grogan v. Aaron's Inc.*, No. 1:18-cv-02821-JPB, Slip Op. at p. 14 (N.D. Ga. May 1, 2020), attached hereto as Exhibit 2 ("Pending the final determination of whether the Settlement should be approved, . . . all Settlement Class Members are hereby enjoined from commencing, pursuing, maintaining, enforcing, or prosecuting . . . Released Claims in any judicial, administrative, arbitral, or other forum, against any of the Released Parties. . . . This injunction is necessary to protect and effectuate the Settlement Agreement, this Preliminary Approval Order, and the Court's flexibility and authority to effectuate the Settlement Agreement and to enter Judgment when appropriate and is ordered in aid of this Court's jurisdiction and to protect its judgments."); *Feller v.*

Transamerica Life Ins. Co., No. 16-cv-01378 CAS (GJSx), 2018 U.S. Dist. LEXIS 196062, *5 (C.D. Cal. Nov. 16, 2018) ("As part of [the preliminary approval] order, the Court issued a stay, which enjoins all settlement class members from pursuing or participating in cases with claims or causes of action (1) related to those in the consolidated Feller action or (2) released by the Settlement Agreement."); *In re: Mexico Money Transfer Litig.*, 98 C 2407, 98 C 2408, 1999 U.S. Dist. LEXIS 17268, *13 (N.D. Ill. Oct. 13, 1999) (enjoining "all parallel and overlapping litigation in other forums" and holding that "injunctions are needed to prevent relitigation of similar matters and to enforce this court's jurisdiction over the nationwide class action.") .

V. CONCLUSION

For all the reasons set forth herein, the *Pinon* Plaintiffs respectfully request the Court (1) grant preliminary approval of the proposed Settlement Agreement; (2) preliminarily certify the proposed nationwide Settlement Class; (3) direct Notice to the Class; (4) appoint Class Counsel; (5) schedule a Final Approval hearing; and (6) preliminarily enjoin all parallel proceedings under the All Writs Act.

Respectfully submitted this the 21st day of December, 2020.

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Counsel for the Pinon Plaintiffs and Proposed Class Counsel

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I caused the foregoing document to be electronically-filed with the Clerk of Court using this Court's CM/ECF system, which caused it to be served this day on all counsel of record who have consented to receive electronic service.

Respectfully submitted this the 21st day of December, 2020.

/s/ James F. McDonough, III
James F. McDonough, III
(GA Bar No. 117088)

LOCAL RULE 7.1(D) COMPLIANCE CERTIFICATE

Pursuant to L.R. 7.1(D), this certifies that the foregoing document complies with the font and point selections approved by L.R. 5.1(C). The foregoing document was prepared using Times New Roman font in 14 point.

Respectfully submitted this the 21st day of December, 2020.

/s/ James F. McDonough, III
James F. McDonough, III
(GA Bar No. 117088)

EXHIBIT 1

TO MOTION FOR PRELIMINARY APPROVAL

CLASS ACTION SETTLEMENT AGREEMENT AND RELEASE

TABLE OF CONTENTS

This Agreement is made and entered into by and between Emily Pinon, Gary C. Klein, Kim Brown, Joshua Frankum, Dinez Webster, and Todd Bryan ("Plaintiffs"), on the one hand, and Defendants Daimler AG and Mercedes-Benz USA, LLC ("MBUSA") (collectively, "Defendants"), on the other hand, to settle, compromise, release, and discharge the claims on behalf of Plaintiffs and all those similarly situated according to the terms and conditions herein.

1. DEFINITIONS

As used in this Agreement (which, as defined below, includes the accompanying Exhibits), the following terms have the meanings set forth below. The plural of any defined term includes the singular, and the singular of any defined term includes the plural, as the case may be.

1.1 "590 Mars Red" means the exterior paint color marketed by Defendants as "Mars Red" or "Fire Opal," which is referenced by paint codes 590 or 3590.

1.2 "Administrative Costs" means all of the costs of the Notice Plan relating to this Settlement and the costs of administering and processing claims, disbursements of consideration, and other necessary and reasonable costs associated with administering this Settlement, including the compensation of the Settlement Administrator and the Third-Party Neutral. Administrative Costs shall be paid by Defendants.

1.3 "Agreement" means this Class Action Settlement Agreement and Release, including the notices and other documents contemplated by this Class Action Settlement Agreement and Release, and any amendments thereto. The Agreement may alternatively be referred to as the "Settlement" or "Settlement Agreement."

1.4 "Attorneys' Fees, Costs, and All Other Expenses" means the settlement amounts approved by the Court for payment to Class Counsel to cover attorneys' fees, costs, and any other expenses incurred by Class Counsel in this Litigation. Defendants are not responsible for any

other expenses, including but not limited to any costs and expenses of addressing objections and appeals, any claims by other plaintiffs' counsel for attorneys' fees or costs, and any other expenses incurred by or on behalf of any Plaintiffs, Plaintiffs' counsel, Class Members, or Class Counsel.

1.5 "Authorized Service Center" means any service center specifically authorized at the time of repair or presentment to provide warranty services for Mercedes-Benz vehicles, including authorized Mercedes-Benz dealerships and authorized Mercedes-Benz Service Centers, which are identifiable by ZIP code at https://www.mbusa.com/mercedes/dealers/schedule_service.

1.6 "Claims Period" means the time during which Settlement Class Members may submit a Reimbursement Claim Form under the Settlement, and which is set forth in Section 9.4 of this Agreement.

1.7 "Class Counsel" means Heninger Garrison Davis, LLC, including W. Lewis Garrison, Jr., James F. McDonough, III, Taylor C. Bartlett, K. Stephen Jackson, and Travis E. Lynch.

1.8 "Class Notice" means the notice to the Settlement Class approved by the Court. The Settling Parties will cooperate to develop a proposed plain-English and user-friendly Class Notice to submit to the Court, for its approval with the motion for preliminary approval.

1.9 "Class Representatives" means the Plaintiffs in their representative capacity for the Settlement Class, as approved by the Court.

1.10 "Class Representative Service Award" means a payment, to be approved by the Court, to Plaintiffs in their capacity as Class Representatives to compensate them for their work on behalf of the Settlement Class, including participating in the Litigation, performing work in support of the Litigation, and undertaking the risks of Litigation.

1.11 "Court" means the Honorable Mark H. Cohen of the United States District Court for the Northern District of Georgia, or the Judge of the Northern District of Georgia assigned to preside over the above-captioned action if not Judge Cohen.

1.12 "Defense Counsel" means Defendants' counsel of record in the Litigation, Troy M. Yoshino, Eric J. Knapp, Dara D. Mann and Scott J. Carr of Squire Patton Boggs (US) LLP, and Stephen B. Devereaux and Madison H. Kitchens of King & Spalding LLP.

1.13 "Effective Date" means 14 days after the date on which any Final Order and Judgment entered pursuant to the Agreement becomes "final." The Final Order and Judgment entered pursuant to this Agreement becomes "final" on the day after all appellate rights with respect to that Final Order and Judgment have expired or have been exhausted in a manner that conclusively affirms the Final Order and Judgment. Thus, if there are no appeals filed, the Effective Date of this Settlement is seventy-five (75) days after the date when the Final Order and Judgment in this Litigation is entered. If there are appeals, the Effective Date is 14 days after the date on which any appeals of the approval of the Settlement have been resolved in favor of the Settlement.

1.14 "Final Order and Judgment" means the order and judgment of the Court dismissing this matter with prejudice as to Defendants and approving this Agreement.

1.15 "Independent Service Center" means any vehicle repair service provider other than an Authorized Service Center.

1.16 "In-Service Date" means the date that the Subject Vehicle was first purchased or leased by any customer from an authorized Mercedes-Benz dealership.

1.17 "LI98.00-P-058914" means the Defendants' Technical Service Bulletin, LI98.00-P-058914, attached hereto as Exhibit A.

1.18 "Litigation" means *Pinon et al. v. Mercedes-Benz USA, LLC et al.*, Case No. 18-CV-03984-MHC (N.D. Ga.), pending in the United States District Court for the Northern District of Georgia.

1.19 "Litigation Claims" means the claims asserted by Plaintiffs in this Litigation alleging that 590 Mars Red paint is inadequate, of poor or insufficient quality or design, or defective, due to peeling, flaking, bubbling, fading, discoloration, or poor adhesion of the paint or clearcoat.

1.20 "Mediator" means the Honorable James Holderman (Ret.).

1.21 "Notice Date" means the date on which Class Notice is sent to the Settlement Class.

1.22 "Notice Plan" means the plan for disseminating Class Notice to the Settlement Class as required by this Court, Fed. R. Civ. P. 23(c)(2)(B), and the Class Action Fairness Act (28 U.S.C. § 1715), as described in Section 8 below.

1.23 "Person" means an individual, corporation, partnership, limited partnership, limited liability company, association, joint stock company, estate, legal representative, trust, unincorporated association, government or any political subdivision or agency thereof, any business or legal entity, and such individual's or entity's spouse, heirs, predecessors, successors, representatives, and assignees.

1.24 "Plaintiffs" means Emily Pinon, Gary C. Klein, Kim Brown, Joshua Frankum, Dinez Webster, and Todd Bryan.

1.25 "Preliminary Approval Order" means the order to be entered by the Court preliminarily approving the settlement and directing that Class Notice be provided to the Settlement Class. The Settling Parties will submit an agreed-upon proposed Preliminary Approval Order to the Court along with the motion for preliminary approval.

1.26 "Qualified Future Repair" means a repair performed in accordance with LI98.00-P-058914, at an Authorized Service Center on or after the Effective Date, after the requirements of Sections 4.B and 9.B have been met and upon confirmation that bubbling, peeling or flaking of the exterior clear coat is present and that such conditions are not caused by external influences such as automobile accidents, scratches, or road debris. Qualified Future Repairs shall be limited to refinishing of affected areas only, in accordance with LI98.00-P-058914.

1.27 "Qualified Past Repair" means a repair that occurred before the Effective Date related to repainting any non-plastic exterior surface of a Subject Vehicle because of bubbling, peeling or flaking of the exterior clear coat and not caused by external influences such as automobile accidents, scratches, or road debris. Qualified Past Repairs shall be limited to refinishing of affected areas only, in accordance with LI98.00-P-058914.

1.28 "Reimbursement Claim Form" means the Court-approved claim form that must be timely completed and submitted for a Settlement Class Member to be eligible for reimbursement for Qualified Past Repair(s) as set forth in Section 9.A of this Agreement. A copy of the Reimbursement Claim Form that Class Members can download will be available on the settlement website, and there will also be an electronic version of the Reimbursement Claim Form that can be completed online and that allows for uploading of any required documentation to support a Claim. Together with the Settlement Administrator, the Settling Parties will cooperate to develop a proposed plain-English and user-friendly Reimbursement Claim Form to submit to the Court for its approval with the motion for preliminary approval.

1.29 "Settlement Administrator" means the qualified third-party appointed by the Court to administer the settlement, including implementation of the Notice Plan and claims administration.

1.30 "Settlement Class" means all current owners, former owners, current lessees, and former lessees of Subject Vehicles who purchased or leased their Subject Vehicle in the United States. Excluded from the Settlement Class are:

a) Persons who have settled with, released, or otherwise had claims adjudicated on the merits against Defendants that are substantially similar to the Litigation Claims related to the Symptoms Alleged (*i.e.*, alleging that 590 Mars Red paint is inadequate, of poor or insufficient quality or design, or defective, due to peeling, flaking, bubbling, fading, discoloration, or poor adhesion of the paint or clearcoat);

b) Defendants and their officers, directors and employees, as well as their corporate affiliates and the corporate affiliates' officers, directors and employees;

c) Counsel to any of the parties; and

d) The Honorable Mark H. Cohen, the Honorable James Holderman (Ret.), and members of their respective immediate families.

1.31 "Settlement Class Member" means any Person who falls within the definition of the Settlement Class who has not timely and properly elected to opt out pursuant to Section 8.12 below.

1.32 "Settling Parties" means, collectively, Plaintiffs, all Settlement Class Members, and Defendants but excludes those Class Members that timely opt out of the Settlement.

1.33 "Symptoms Alleged" means what has been alleged and described as peeling, flaking, bubbling, fading, discoloration, and/or poor adhesion of a Subject Vehicle's original 590 Mars Red paint or original clearcoat.

1.34 "Third-Party Neutral" means the mutually acceptable neutral who shall be responsible for adjudicating disputes over Settlement claims, as described in Section 9.7 below.

1.35 "Subject Vehicle" means any Mercedes-Benz originally painted with 590 Mars Red paint and purchased or leased in the United States. 590 Mars Red paint was offered as an option for the following Mercedes-Benz vehicle types in the United States: C-Class (model years 2004-2015); GLK-Class (model years 2010-2015); CLS-Class (model years 2006-2007, 2009, 2014); CLK-Class (model years 2004-2009); S-Class (model years 2008, 2015, 2017); SL-Class (model years 2004-2009, 2011-2017); CL-Class (model years 2005-2006, 2013-2014); SLS-Class (model years 2014-2015); E-Class (model years 2005-2006, 2010-2017); G-Class (model years 2005, 2011-2017); GT-Class (model years 2016-2018); SLC-Class (model years 2017); SLK-Class (model years 2005-2016); and Maybach 57 (model year 2008).

2. DENIAL OF ANY WRONGDOING AND LIABILITY

2.1 Defendants deny the material factual allegations and legal claims asserted by the Plaintiffs and Settlement Class Members in the Litigation, including, but not limited to, any and all charges of wrongdoing or liability, or allegations of defect, arising out of any of the conduct, statements, acts or omissions alleged, or that could have been alleged, in the Litigation.

3. BACKGROUND

3.1 A class action complaint, *Pinon, et al. v. Mercedes-Benz USA, LLC et al.*, was filed by plaintiff, Emily Pinon against Daimler AG and MBUSA on August 21, 2018, in the United States District Court for the Northern District of Georgia alleging, on behalf of a putative nationwide class (and a proposed putative state subclass) that certain models of Mercedes-Benz vehicles contain defective 590 Mars Red paint in that they cause the Symptoms Alleged.

3.2 On October 24, 2018, Plaintiffs filed a First Amended Complaint adding plaintiff

Gary C. Klein and an additional proposed putative state subclass and related claims.

3.3 On January 31, 2019, Plaintiffs filed a Second Amended Complaint that, among other things, added Plaintiffs Kim Brown, Joshua Frankum, Nancy Pearsall, LaCresha Earley, and Todd Bryan, and claims arising under the laws of four additional states and additional proposed putative state subclasses.

3.4 On June 16, 2019, plaintiff Pearsall voluntarily dismissed her claims without prejudice.

3.5 On May 1, 2019, Defendants filed a motion to dismiss the Second Amended Complaint. Plaintiffs opposed the motion on June 17, 2019. Defendants filed a reply brief on July 17, 2019.

3.6 On November 4, 2019, the Court issued an order denying-in-part and granting-in-part Defendants' motion to dismiss. In that order, the Court dismissed Plaintiffs' claims for breach of express warranty, breach of implied warranty, except for plaintiff Lacresha Earley's claim; equitable and injunctive relief; violation of the Magnuson-Moss Warranty Act, except for plaintiff Lacresha Earley's implied warranty claim; unjust enrichment; fraud and suppression as to plaintiff Gary C. Klein and the fraudulent concealment claims of Plaintiffs Emily Pinon, Kim Brown, Todd Bryan, and Joshua Frankum; and the Arkansas Deceptive Trade Practices Act claim) with respect to fraudulent concealment. The Defendants' motion to dismiss as to all other Litigation Claims was denied.

3.7 On June 5, 2020, Plaintiffs filed an unopposed motion to substitute Plaintiff Dinez Webster in place of Plaintiff LaCresha Earley to represent the putative Louisiana Class. The court granted Plaintiffs' motion on June 22, 2020. That same day, Plaintiffs filed the Third Amended Complaint, which was the same as the Second Amended Complaint except for the new allegations

related to Plaintiff Webster.

3.8 During the course of the Litigation, the Settling Parties and their counsel have litigated dispositive motions and conducted discovery, including written discovery, document productions, and vehicle inspections. The parties have litigated their respective positions in connection with all aspects of the Litigation.

3.9 As a result of the Litigation, the Settling Parties and their counsel are thoroughly familiar with the factual and legal issues presented by their respective claims and defenses and recognize the uncertainties as to the ultimate outcome of the Litigation, and that any final result would require years of further complex litigation and substantial expense.

3.10 The Settling Parties agreed to mediate the case with the Honorable James Holderman (Ret.). After mediation, the parties reached agreement on the material terms of a class action settlement, other than attorneys' fees, costs, and class representative service awards. After a separate, further mediation session, the parties reached an agreement on attorneys' fees, costs and other expenses and class representative service awards, all subject to Court approval. After further negotiations, these agreements were reduced to this writing.

3.11 This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended to or will be construed as an admission by Defendants that the Litigation Claims have merit or that Defendants bear any liability to Plaintiffs or the Settlement Class on those claims or any other claims, or as an admission by Plaintiffs that Defendants' defenses in the Litigation have merit.

4. CONSIDERATION TO THE CLASS

A. Reimbursement for Qualified Past Repairs

4.1 Settlement Class Members shall be entitled to submit claims for reimbursement of

out-of-pocket costs paid by them for Qualified Past Repairs to their Subject Vehicles, subject to the applicable requirements of Section 9.A below and the following limitations:

a) For a Subject Vehicle that received a Qualified Past Repair fewer than 7 years (84 months) or 105,000 miles from the Subject Vehicle's original In-Service Date, whichever occurred first, a Settlement Class Member making a qualifying claim shall, subject to the additional limitations governing repairs performed by Independent Service Centers set forth in Section 4.2, receive reimbursement of 100% of the cost incurred to perform the Qualified Past Repair;

b) For a Subject Vehicle that received a Qualified Past Repair that does not fall within category 4.1(a) and that is fewer than 10 years (120 months) or 150,000 miles from the Subject Vehicle's original In-Service Date, whichever occurred first, a Settlement Class Member making a qualifying claim shall, subject to the additional limitations governing repairs performed by Independent Service Centers set forth in Section 4.2, receive reimbursement of 50% of the cost incurred to perform the Qualified Past Repair;

c) For a Subject Vehicle that received a Qualified Past Repair that does not fall within category 4.1(a) or 4.1(b) and that is fewer than 15 years (180 months) or 150,000 miles from the Subject Vehicle's original In-Service Date, whichever occurred first, a Settlement Class Member making a qualifying claim shall, subject to the additional limitations governing repairs performed by Independent Service Centers set forth in Section 4.2, receive

reimbursement of 25% of the cost incurred to perform the Qualified Past Repair; and

d) For a Subject Vehicle that received a Qualified Past Repair more than 15 years (180 months) or 150,000 miles from the Subject Vehicle's original In-Service Date, whichever occurred first, Defendants shall not be required to offer any reimbursement.

4.2 Claims for reimbursement of Qualified Past Repairs performed by Independent Service Centers shall be subject to Sections 4.1 above and 9.A below and the reasonable repair cost to be reimbursed shall not exceed 10% of what the same repair would have cost if it were performed at an Authorized Service Center; provided that, if there is any dispute concerning reimbursement related to an Independent Service Center repair, such dispute shall be resolved per Section 9.7.

4.3 There shall be no double recovery under the settlement. Thus, if a Settlement Class Member is eligible for, or previously received, goodwill, extended warranty coverage, insurance, indemnity, or any other form of coverage for the repair, the total amount of any reimbursement due to the Settlement Class Member shall be offset against prior amounts given, and shall not exceed the limits set forth in this Section 4.A (*e.g.*, if the repair occurred at 8 years and 110,000 miles and was performed at an Authorized Service Center, but 30% of the repair was previously covered by goodwill or something else, the claiming Settlement Class Member may recover only up to 20% of the repair cost assuming other qualifications are met).

B. Coverage for Qualified Future Repairs

4.4 For current owners and lessees, commencing on the Effective Date, Defendants will provide coverage of all or part of the cost of Qualified Future Repairs, subject to the requirements

of Section 9.B below and the following limitations:

a) For a Subject Vehicle needing a Qualified Future Repair fewer than 7 years (84 months) or 105,000 miles from the Subject Vehicle's original In-Service Date, whichever occurs first, a Settlement Class Member presenting his or her Subject Vehicle at an Authorized Service Center with a qualifying claim will be covered for 100% of the cost to perform the repair defined in LI98.00-P058914;

b) For a Subject Vehicle needing a Qualified Future Repair that does not fall within Section 4.4(a) and that is fewer than 10 years (120 months) or 150,000 miles after the Subject Vehicle's original In-Service Date, whichever occurs first, a Settlement Class Member presenting his or her vehicle at an Authorized Service Center with a qualifying claim will be covered for 50% of the cost to perform the repair defined in LI98.00-P058914;

c) For a Subject Vehicle needing a Qualified Future Repair that does not fall within Sections 4.4(a) or 4.4(b) and that is fewer than 15 years (180 months) or 150,000 miles after the Subject Vehicle's original In-Service Date, whichever occurs first, a Settlement Class Member presenting his or her vehicle at an Authorized Service Center with a qualifying claim will be covered for 25% of the cost to perform the repair defined in LI98.00-P058914;

d) For a Subject Vehicle needing a Qualified Future Repair that, at the time of the Settlement Notice Date, is more than 15 years (180 months) or 150,000 miles after the Subject Vehicle's original In-Service Date, whichever occurs

first, a Settlement Class Member may submit documentary evidence showing that (i) he or she presented the Subject Vehicle to an Authorized Service Center for a qualifying repair or provided notice to Defendants at a time when the vehicle had less than 15 years (180 months) and 150,000 or fewer miles (the "Presentment Date"), and (ii) that he or she was denied warranty or goodwill coverage for such repair at the time. Such Settlement Class Member shall be entitled to submit to the Settlement Administrator by mail or through electronic version on the settlement website a completed and signed Qualified Future Repair Claim Form with supporting documentation to determine future coverage eligibility within the Claims Period set forth in Section 9.4, using the mileage and years in service (from the In-Service Date) the Subject Vehicle had on the Presentment Date. In the event such claim is approved, the Settlement Class Member shall arrange for a Qualified Future Repair to be performed within 90 days of said approval, subject to the Requirements of Section 9.B. The percentage of coverage provided by Defendants shall be determined by the age and mileage of the Subject Vehicle at the time it was originally presented for the qualifying repair or notice was given to Defendants as shown by the documentary evidence submitted by the Settlement Class Member, using the sliding scale set forth in Section 4.4(a), 4.4(b) and 4.4(c).

e) For a Subject Vehicle needing a Qualified Future Repair that does not fall within Section 4.4(d) and that is more than 15 years (180 months) or 150,000 miles after the Subject Vehicle's original In-Service Date,

whichever occurs first, Defendants shall not be required to offer any coverage.

4.5 All repairs described in Section 4.B must be performed by an Authorized Service Center, and shall be limited to refinishing of affected areas only, in accordance with LI98.00-P-058914.

4.6 All claims covered by Section 4.B. will be processed through MBUSA's standard payment processes with its dealers.

5. PAYMENTS BY DEFENDANTS

5.1 **To Settlement Class Members Submitting Claims:** Defendants agree to reimburse Settlement Class Members for their out-of-pocket costs paid for Qualified Past Repairs as detailed in Section 4.A above—and pursuant to the claims procedures set out in Section 9. Settlement Class Members may elect to receive payment by check or by electronic payment (*e.g.*, Venmo or Paypal) in a form agreed to by the Settling Parties.

5.2 **To Plaintiffs:** Plaintiffs, through Class Counsel, will request Class Representative Service Awards totaling no more than $30,000 (or a maximum of $5,000 per class representative). Payments made pursuant to this Section shall be made within twenty (20) business days of the Effective Date, care of Class Counsel. Plaintiffs, Class Counsel, and Defendants negotiated and agreed to the amount of Class Representative Service Award, by and through the Mediator, only after reaching agreement in principle on the material terms of consideration for the Settlement Class.

5.3 **To Class Counsel:** Plaintiffs, through Class Counsel, will request, and Defendants agree not to object to, and, if Class Counsel's request is granted by the Court, to pay up to $4,750,000 in reasonable Attorneys' Fees for work performed by Class Counsel in connection with

this Litigation. In addition, Plaintiffs will also request, and Defendants agree not to object to, and, if Class Counsel's request is granted by the Court, to pay an amount for reimbursement of reasonable costs and other expenses incurred in connection with the Litigation of up to $100,000. Class Counsel shall file their motion requesting an award of Attorneys' Fees, Costs and All Other Expenses no later than thirty (30) days after the Court enters an order granting preliminary approval of this Settlement. Plaintiffs, Class Counsel, and Defendants negotiated and agreed to the issue of Attorneys' Fees, Costs, and All Other Expenses, by and through the Mediator, only after reaching agreement in principle on the material terms of consideration for the Settlement Class.

5.4 Plaintiffs and Class Counsel will not seek in excess of the sums specified in Sections 5.1, 5.2 and 5.3, and in any event, Plaintiffs and Class Counsel agree that Defendants shall not pay, nor be obligated to pay, any sum in excess of the cap amounts specified in Sections 5.1, 5.2 and 5.3. Plaintiffs, Class Counsel, and Defendants agreed to the amount of Attorneys' Fees, Costs, and All Other Expenses with assistance of the Mediator and only after reaching agreement upon all other material terms of this Agreement.

5.5 The Settling Parties agree the amounts in Sections 5.1, 5.2, and 5.3 represent Defendants' all-inclusive, full payment for all fees, costs, and all other expenses, including but not limited to fees, costs, and any other expenses incurred by any counsel in any related class action or any other related cases, whether known or unknown to Defendants, as well as any objectors, intervenors, or later-appearing counsel. The amounts described in Sections 5.1, 5.2, and 5.3 shall constitute full satisfaction of Defendants' obligation to pay any person, attorney or law firm for attorneys' fees, costs, and all other expenses.

5.6 At the election of Class Counsel, Attorneys' Fees, Costs, and All Other Expenses

awarded by the Court to Class Counsel shall be paid by Defendants prior to the Effective Date if the terms and conditions set forth in Paragraphs 5.7 and 5.8 are met.

5.7 Class Counsel may, at any time within sixty (60) days after the entry of the Final Order and Judgment by the Court approving the Settlement, notify Defense Counsel that Class Counsel elects to receive payment of Attorneys' Fees, Costs, and All Other Expenses prior to the Effective Date (and, if so, the amount sought to be paid under that Paragraph). If Class Counsel elect to receive payment of Attorneys' Fees, Costs, and All Other Expenses (in full or in part) prior to the Effective Date, and provided they comply with the security requirements set forth in Paragraph 5.7, Defendants shall make the payment via electronic wire within seven (7) business days of receipt of Class Counsel's notice. If, and to the extent, Class Counsel (i) do not timely elect to receive full payment of Attorneys' Fees, Costs, and All Other Expenses prior to the Effective Date, or (ii) do not otherwise meet the requirements of Paragraph 5.7, Attorneys' Fees, Costs, and All Other Expenses shall be paid no later than seven (7) business days from the Effective Date of the Settlement.

5.8 Payment of Attorneys' Fees, Costs, and All Other Expenses to Class Counsel prior to the Effective Date is expressly conditioned upon Class Counsel agreeing to a stipulated undertaking that, in the event that Final Order and Judgment is reversed or modified on appeal, or in the event that any award of attorneys' fees and expenses is modified or vacated on appeal, Class Counsel shall remit to Defendants all attorneys' fees and expenses paid by Defendants under the Settlement Agreement, as set forth in the Stipulated Undertaking between the Parties, the form of which is attached hereto as Exhibit B. This provision will survive this Agreement and may be enforced regardless whether the Settlement becomes effective or is otherwise terminated.

5.9 In furtherance of the Agreement in Section 5, in the event of any objections to the

Settlement or appeal from any order of the Court granting final approval, Class Counsel agree that they will be solely responsible for responding to objectors and intervenors, and defending the Court's Final Order and Judgment on appeal, if any, at their own cost. Defendants reserve the right to respond to objectors and intervenors, and to join in the defense of the Final Order and Judgment. Defendants agree not to appeal, or otherwise support any appeal, of an order or judgment entered by the Court that is consistent with this provision and the terms of the Settlement. Any costs incurred by Class Counsel in such appeals, including costs incurred to settle any claims by objectors or intervenors, are the sole responsibility of Class Counsel.

6. RELEASE

6.1 Upon the entry of the Final Order and Judgment, Plaintiffs and each Settlement Class Member, on behalf of themselves and their current and former/predecessor agents, heirs, executors and administrators, successors, assigns, insurers, attorneys, representatives, shareholders, and any and all persons who in the future seek to claim through or in the name or right of any of them (the "Releasing Parties"), release and forever discharge (as by an instrument under seal without further act by any person, and upon good and sufficient consideration), Defendants and each of their current or former administrators, insurers, reinsurers, agents, firms, parent companies/corporations, sister companies/corporations, subsidiaries and affiliates (including without limitation Mercedes-Benz US International), and all other entities, including without limitation manufacturers, suppliers, and distributors (including wholesale and retail distributors), and affiliated dealerships, and all of the foregoing persons' or entities' respective predecessors, successors, assigns and present and former officers, directors, shareholders, employees, agents, attorneys, representatives, as well as their insurers (collectively, the "Released Parties") from each and every claim of liability, on any legal or equitable ground whatsoever,

whether known or unknown, including relief under federal law or the laws of any state, that was or could have been made relating to, connected with, or resulting from the Litigation Claims and the Symptoms Alleged, including any claim that 590 Mars Red paint is inadequate, of poor or insufficient quality or design, or defective, due to peeling, flaking, bubbling, fading, discoloration, or poor adhesion of the paint or clearcoat (the "Released Claims").

6.2 The releases provided for herein are as a result of membership as a Settlement Class Member or status as a Person with a legal right to assert claims of a Settlement Class Member, the Court's approval process herein, and occurrence of the Effective Date, and are not conditional on receipt of payment by any particular Settlement Class Member. Persons who, after the date of the Preliminary Approval Order, acquire legal rights to assert claims within the scope of this Agreement that belong initially to a Settlement Class Member shall take such rights subject to all of the terms, time periods, releases, caps, prohibitions against overlapping or double recoveries, and other provisions contained herein.

6.3 The release provided by this Agreement shall include the release of all damages, burdens, obligations of liability of any sort, including, without limitation, penalties, punitive damages, exemplary damages, statutory damages, damages based upon a multiplication of compensatory damages, court costs, or attorneys' fees or expenses, which might otherwise have been made in connection with any Released Claims.

6.4 The release includes all claims that the Releasing Parties have or may hereafter discover including, without limitation, claims, injuries, damages, or facts in addition to or different from those now known or believed to be true with respect to any matter disposed of by this Settlement. The Releasing Parties have fully, finally, and forever settled and released any and all such claims, injuries, damages, or facts, whether known or unknown, suspected or unsuspected,

contingent or non-contingent, past or future, whether or not concealed or hidden, which exist, could exist in the future, or heretofore have existed upon any theory of law or equity now existing or coming into existence in the future related to matters arising from or in any way related to, connected with, or resulting from the Litigation Claims and the Symptoms Alleged (*i.e.*, alleging that 590 Mars Red paint is inadequate, of poor or insufficient quality or design, or defective, due to peeling, flaking, bubbling, fading, discoloration, or poor adhesion of the paint or clearcoat), including, but not limited to, conduct which is negligent, reckless, willful, intentional, with or without malice, or a breach of any duty, law, or rule, without regard to the subsequent discovery or existence of such different or additional facts.

6.5 The Releasing Parties shall be deemed by operation of the Final Order and Judgment in the Litigation to have acknowledged that the foregoing release was separately bargained for and a key element of this Settlement of which the releases herein are a part. The Releasing Parties expressly and intentionally release any and all rights and benefits which they now have or in the future may have under the terms of the law (whether statutory, common law, regulation, or otherwise) of any other state or territory of the United States within the scope of the Released Claims.

6.6 Class Counsel shall cooperate with Released Parties to ensure that the releases set forth in the Final Approval Order are given their full force and effect (including by seeking the inclusion of the releases in the Final Order and Judgment and the Reimbursement Claims Forms) and to ensure that Releasing Parties comply with their obligations set forth in this Agreement.

6.7 In the event that any Releasing Party seeks to invoke California Civil Code § 1542, which provides that:

> A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF

EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

(or any other like provision or principle of law of any jurisdiction) in connection with claims related to the Litigation Claims and the Symptoms Alleged *(i.e.*, alleging that 590 Mars Red paint is inadequate, of poor or insufficient quality or design, or defective, due to peeling, flaking, bubbling, fading, discoloration, or poor adhesion of the paint or clearcoat), the Releasing Parties and each of them expressly waive the provision of California Civil Code § 1542 (or any other like provision or principle of law of any jurisdiction) to the full extent that these provisions may be applicable to this release. Each of the Releasing Parties hereby does, and shall be deemed to, have considered the possibility that the number or magnitude of all claims may not currently be known; nevertheless, each of the Releasing Parties assumes the risk that claims and facts additional, different, or contrary to the claims and facts that each believes or understands to exist may now exist or may be discovered after the settlement becomes effective. Each of the Releasing Parties agrees that any such additional, different, or contrary claims and facts shall in no way limit, waive, or reduce the foregoing release, which shall remain in full force and effect. Nothing in this paragraph shall be construed as modifying or limiting the other provisions of the settlement concerning the potential availability of claims.

6.8 No Releasing Party shall recover, directly or indirectly, any sums for Released Claims from the Released Parties, other than consideration and sums received under this Agreement and that the Released Parties shall have no obligation to make any payments to any non-parties for liability arising out of the Released Claims, other than as set forth in this Settlement.

7. APPROVAL OF THE SETTLEMENT; JUDGMENT AS TO DEFENDANTS

7.1 Plaintiffs will file, and Defendants will not oppose, a motion consistent with the terms of this Agreement seeking an order conditionally certifying the Settlement Class, granting

preliminary approval of this Settlement, approving the notice to be provided the Settlement Class and the procedures for providing such notice, setting a briefing schedule and hearing for final approval and a briefing schedule for a motion for an award of Attorneys' Fees, Costs and All Other Expenses, and otherwise staying, pursuant to the All Writs Act, this Litigation and all current or future parallel proceedings addressing the same subject matter.

7.2 Should the Court decline to conditionally certify the Settlement Class or to approve any material aspect of the Settlement (including but not limited to the scope of the release or the binding effect of the Settlement), and the Settling Parties, despite their best efforts, are unable to agree upon revisions to the Agreement that alleviate the Court's concerns, or the Agreement is otherwise terminated or fails to become effective in accordance with the terms of this Agreement, the Settling Parties will be restored to their respective positions in the Litigation as of November 9, 2020. In such event, the terms and provisions of this Agreement will have no further force and effect and shall not be used in this Litigation or in any other proceeding for any purpose, and any judgment or order entered by the Court in accordance with the terms of this Agreement will be treated as vacated, *nunc pro tunc*.

7.3 No order of the Court or modification or reversal on appeal of any order of the Court concerning any award of Attorneys' Fees, Costs, and All Other Expenses to Class Counsel will constitute grounds for cancellation or termination of this Agreement, unless the order substantially changes a material term of the settlement.

8. SETTLEMENT ADMINISTRATION AND NOTICE

8.1 **Appointment of Settlement Administrator.** The Parties will ask the Court to appoint a qualified administrator, to serve as the Settlement Administrator, subject to the Court's approval. As a condition of appointment, the Settlement Administrator will agree to be bound by

this Agreement with respect to the performance of its duties and its compensation.

8.2 **Duties of the Settlement Administrator.** The Settlement Administrator's duties will include sending the Class Notice to all Members of the Settlement Class; sending CAFA notice; creating, maintaining, and monitoring a settlement website; receiving and administering claims for Qualified Past Repair reimbursements; receiving and determining validity of opt-out notices and objections; providing the Settling Parties with periodic status reports about the delivery of the notices, claims administration status, and receipt of objections to and requests to opt out; and otherwise administering the Settlement pursuant to this Agreement. Along with the motion for preliminary approval, the proposed Settlement Administrator shall file a declaration describing in detail the Notice Plan.

8.3 As a condition of its retention, the Settlement Administrator must agree that (a) it will fulfill all responsibilities and duties assigned to the Settlement Administrator under the terms of this Agreement, and (b) the Settling Parties and their Counsel, as well as the Released Parties, reserve all claims and rights for any failure by the Settlement Administrator to fulfill its responsibilities and duties. In no event shall the Settling Parties or their Counsel have any liability for claims of wrongful or negligent conduct on the part of the Settlement Administrator, the Third-Party Neutral, or their agents.

8.4 **Protection of Personal Information.** The Settlement Administrator shall:

a) Use personal information acquired as a result of this Agreement solely for purposes of evaluating and paying claims under this Agreement; and

b) Assign a manager to oversee the protection and appropriate management of personal information and review its internal system to manage the protection of personal information to ensure consistent performance and

constant improvement; and

c) Take security countermeasures to prevent unauthorized access to personal information, and loss, destruction, falsification, and leakage of personal information; and

d) If outsourcing the handling of personal information, determine that outsourced companies take steps to ensure appropriate management of the information to prevent leaks of personal or confidential information, and prohibit re-use of information for other purposes; and

e) Respond immediately with appropriate measures then necessary to disclose, correct, stop using, or eliminate contents of information; and

f) Once all timely, valid claims have been paid, and in compliance with applicable retention law, destroy all personal information obtained in connection with this Settlement in a manner most likely to guarantee that such information not be obtained by unauthorized persons.

8.5 **CAFA Notice.** Within ten (10) days after this Agreement is filed in Court, the Settlement Administrator will cause a notice of the proposed settlement consisting of the materials required by the Class Action Fairness Act (28 U.S.C. § 1715) ("CAFA") to be served upon the appropriate state official in each state of the United States as well as the appropriate federal officials. Within fifteen (15) days after the Notice Date, the Settlement Administrator shall provide declarations to the Court, with a copy to Class Counsel and Defense Counsel, attesting to the measures undertaken to provide notice as directed by CAFA.

8.6 **Notice to Settlement Class Members.** The Settlement Administrator shall send the Court-approved Class Notice via postcard to all Settlement Class Members who have addresses

identified through the sources specified in the Notice Plan within thirty five (35) days of the entry of the Preliminary Approval Order. The Settlement Administrator shall also provide a copy of the Class Notice to any Settlement Class Member who requests the Class Notice.

8.7 **Information to Settlement Administrator.** As soon as possible, and in no event later than five (5) court days after Plaintiffs have filed the motion for preliminary approval of this Settlement, Defendants shall provide a list of applicable Vehicle Identification Numbers ("VINs") to the Settlement Administrator, so that it may obtain contact information of owners and lessees associated with each VIN.

8.8 **Settlement Website.** As part of its duties, the Settlement Administrator shall reserve, create, maintain, and monitor a website on which the Class Notice and this Agreement shall be posted. The website shall also include a link to download a copy of the Reimbursement Claim Form and will have an electronic version of the Reimbursement Claim Form online that allows Claims to be submitted electronically and any required documentation to be uploaded electronically to the settlement website. Claims shall be submitted by mail or online through the electronic Reimbursement Claim Form on the settlement website. The settlement website will be made available ("go live") no later than the date the Notice is mailed to Settlement Class Members as set forth in Section 8.6. The settlement website shall be active until all valid claims submitted under the claims process set forth in Section 9 have been paid. Thereafter, Class Counsel shall have the option of maintaining the website live through December 31, 2034 as an informational website at Class Counsel's expense, provided that Class Counsel and Defendants mutually agree on the content of the website and any future changes thereto. The settlement website shall list contact information (telephone number and email address) of the Settlement Administrator up until the time all valid claims submitted under the claims process have been paid.

8.9 **Weekly Report.** As part of its duties, the Settlement Administrator shall provide Class Counsel and Defense Counsel with a weekly status report that tracks the notices that have been mailed and requests to opt out that the Settlement Administrator receives.

8.10 **Returned Notices.** Unless the Settlement Administrator receives a Notice returned from the United States Postal Service for reasons discussed below in this paragraph, the Notice shall be deemed mailed and received by the Settlement Class Member to whom it was sent three (3) days after mailing. In the event that subsequent to the first mailing of the Notice, the Notice is returned to the Settlement Administrator by the United States Postal Service within twenty-eight (28) days of the original mailing of the Notice, with a forwarding address for the recipient, the Settlement Administrator shall re-mail the Notice to that address, and the forwarding address shall be deemed the updated address for that Settlement Class Member. In the event that subsequent to the first mailing of the Notice, the Notice is returned to the Settlement Administrator by the United States Postal Service within twenty-eight (28) days of the original mailing of the Notice because the address of the recipient is no longer valid, and the name of the Settlement Class member is known, the Settlement Administrator shall perform a standard skip trace in an effort to attempt to ascertain the current address of the Settlement Class Member in question and, if such an address is ascertained, the Settlement Administrator will promptly re-send the Notice. If no updated address is obtained for that Settlement Class Member, the Notice shall be sent again to the last known address.

8.11 **Final Report.** Not later than ten (10) court days after the deadline for submission of requests to opt out, the Settlement Administrator shall provide the Parties a declaration of due diligence setting forth its compliance with its obligations under this Agreement to be filed in conjunction with a motion for final approval. The declaration shall identify those individuals who

have submitted a valid and timely request to opt out. Prior to the hearing on the motion for final approval, the Settlement Administrator will supplement its declaration of due diligence if any material changes occur from the date of the filing of its prior declaration.

8.12 **Request to Opt Out.** Persons falling within the definition of the Settlement Class may exclude themselves from the Settlement by notifying the Settlement Administrator of their intent to opt out not later than sixty (60) days after the Notice Date. Such notice must be made in writing and contain (1) the Person's name, (2) his or her current address and telephone number, (3) his or her Subject Vehicle Identification Number and the dates of ownership or lease for such Subject Vehicle; (4) a dated, handwritten signature; and (5) a written statement that such Person has reviewed the Class Notice and wishes to be excluded from the Settlement. If a question is raised about the authenticity of a request to opt out, the Settlement Administrator will have the right to demand additional proof of the individual's identity and intent. Anyone who has submitted a valid request to opt out will not participate in or be bound by the Settlement or the Final Order and Judgment and may not file an Objection. Any Person falling within the definition of the Settlement Class who does not complete and submit a valid request to opt out in the manner and by the deadline specified above will automatically become a Settlement Class Member and be bound by all terms and conditions of the Settlement and the Final Order and Judgment entered by the Court, including the release of claims set forth in Section 6.

8.13 **Objections to the Settlement.** Any Settlement Class Member who intends to object to the Settlement must do so by filing the objection with the Court (and serving it on Class Counsel and Defense Counsel) not later than sixty (60) days after the Notice Date. The objection must be in writing and include (1) the Settlement Class Member's full name, current address, and telephone number; (2) the Subject Vehicle Identification Number associated with the vehicle

giving rise to standing to make an Objection, and the dates of ownership or leasing of said vehicle; (3) a statement that the objector has reviewed the Settlement Class definition and understands that he/she is a Settlement Class Member, and has not opted out and does not plan to opt out of the Settlement Class; (4) a complete statement of all legal and factual bases for any Objection that the objector wishes to assert; (5) a statement of whether the Settlement Class Member intends to appear at the final approval hearing, (6) copies of any documents or witnesses that support the Objection, and (7) a dated, handwritten signature. Only Settlement Class Members may object to the Settlement. A Settlement Class Member who does not submit a written Objection in the manner and by the deadline specified in this Section will be deemed to have waived any objections and will be foreclosed from making any objections (whether by appeal or otherwise) to the Settlement. A Settlement Class Member who does not timely submit a notice of intent to appear at the final approval hearing in accordance with all of the requirements of this Section shall not be allowed to appear at the hearing (whether individually or through separate counsel).

9. CLAIMS ADMINISTRATION AND CLAIMS PROCEDURE

9.1 Only Settlement Class Members shall be eligible to make a claim for reimbursement of Qualified Past Repair(s) or coverage of Qualified Future Repair(s).

A. Reimbursement Claims for Qualified Past Repairs.

9.2 Any Settlement Class Member who wishes to make a reimbursement claim for a Qualified Past Repair(s) must submit a completed and signed Reimbursement Claim Form and the following items of proof within the deadlines set forth in Paragraph 9.4:

a) Itemized repair order or invoice or other documentation showing that the Subject Vehicle received a qualified repair (e.g., the repair invoice must show that part of the vehicle has been repainted) and the cost of the qualified

repair. A repair shall not qualify for reimbursement if the reason for the repair described in any related repair order is for repairs due to an automobile accident, scratches, road debris, or other external influence that is clearly unrelated to the alleged 590 Mars Red Paint defect (e.g., chemical burn, tree sap, or bird droppings);

b) Proof of documentation of the Settlement Class Member's payment for the repair (e.g., credit card statement, invoice showing zero balance, receipt showing payment, etc.); and

c) Proof of the Settlement Class Member's ownership or leasing of the Subject Vehicle at the time of the repair.

9.3 Any Settlement Class Member who wishes to make a claim must timely submit a properly completed Reimbursement Claim Form attesting that s/he is a Settlement Class Member and that the information in the completed Reimbursement Claim Form is true and correct under penalty of perjury. Claims must include the information required by this Settlement and be mailed to the Settlement Administrator or submitted online through the electronic version of Reimbursement Claim Form on the settlement website within the Claims Period specified in Section 9.4 of this Agreement.

9.4 **Reimbursement Claims Submission Deadlines.** For a Qualified Past Repair that occurred prior to the Notice Date, a Reimbursement Claim Form must be submitted to the Settlement Administrator postmarked or submitted electronically within sixty (60) days of the Notice Date. For a Qualified Past Repair that occurred after the Notice Date, but before the Effective Date, the Reimbursement Claim Form must be submitted to the Settlement Administrator postmarked or submitted electronically within sixty (60) days of the date of repair. No

Reimbursement Claim Forms can be submitted for repairs occurring on or after the Effective Date; rather, in such circumstances, Settlement Class Members must seek to have those repairs covered as Qualified Future Repairs pursuant to Section 4.B and Section 9.B.

9.5 Upon receipt, the Settlement Administrator shall review all claims on a uniform and non-arbitrary basis. The Settlement Administrator will notify Settlement Class Members who submit deficient claims by first-class mail and or email (to the extent such email address is provided at the time any Class Member submits a claim through the electronic version of the Reimbursement Claim Form on the settlement website). A Settlement Class Member receiving such notice will be allowed thirty (30) days from the postmarked date on the notice to submit materials to cure the deficiencies.

9.6 For completed claims timely submitted within the Claims Period before the Effective Date, the Settlement Administrator shall perform any review of the claim within ninety (90) days of the Effective Date; otherwise, such review shall be made within ninety (90) days of receipt of the completed claim.

9.7 In the event the Settlement Administrator reviews and evaluates a Reimbursement Claim Form and determines the claim is ineligible for reimbursement or is not entitled to the full amount being sought, the Settlement Administrator will inform the Settlement Class Member via first-class mail and will also inform Defense Counsel and Class Counsel by email. The Settlement Class Member shall have thirty (30) days to dispute the Settlement Administrator's evaluation that the Settlement Class Member is ineligible or is not entitled to the full amount being sought, measured from the date the notice of ineligibility to the Settlement Class Member was postmarked. If the Settlement Class Member does not timely dispute the Settlement Administrator's determination, the Settlement Administrator's determination shall stand. If the Settlement Class

Member timely disputes the Settlement Administrator's evaluation—including where the claim is rejected because the alleged bubbling, peeling or flaking was determined to have been caused by external influences such as automobile accidents, scratches, or road debris—the dispute will be adjudicated by the Third-Party Neutral who shall independently determine the validity of the claim. The Settlement Class Member, Class Counsel, Defense Counsel, and Defendants will have a reasonable opportunity to present two-page statements to the Third-Party Neutral setting forth their positions about the eligibility of the claim for reimbursement and the proper reimbursement amount, if any, but there shall be no formal hearing or trial. The Settlement Class Member must submit its position statement with its notice that it is disputing the Settlement Administrator's determination. The Settlement Administrator shall provide that statement to Class Counsel, Defense Counsel, and Defendants, which shall each have thirty (30) days to submit their responsive position statements. The Third-Party neutral shall review the position papers submitted and make a final determination of eligibility and reimbursement amount. The decisions of the Third-Party Neutral pursuant to this Agreement shall be final and binding on the Settlement Class Member and all the Settling Parties.

9.8 Settlement Class Members may elect to receive payment of their claims via electronic payment (*e.g.* Venmo or PayPal) in a form agreed to by the Settling Parties, or by written check. In the event a Settlement Class Member elects to receive payment by written check, the check will be valid for 180 days from the date of issue, and will be sent via first-class United States mail to the address shown on the Settlement Class Member's Reimbursement Claim Form, which check shall be mailed to each such Settlement Class Member with an approved claim within thirty (30) days of the final decision regarding the claim. If the check issued to a Settlement Class Member under the terms of this Agreement is not cashed within the 180 day period, there shall be

no further obligation to make payment to such Settlement Class Member.

B. Coverage Claims for Qualified Future Repairs.

9.9 Any Settlement Class Member who wishes to receive a Qualified Future Repair pursuant to Sections 4.4(a), 4.4(b) or 4.4(c) or who has an approved claim for a Qualified Future Repair pursuant to Section 4.4(d) must bring their Subject Vehicle to an Authorized Service Center.

9.10 In order to determine that a Subject Vehicle needs a Qualified Future Repair, a service technician at the Authorized Service Center where coverage is requested must confirm that the exterior clearcoat on a panel is bubbling, peeling or flaking and that such conditions are not caused by external influences such as automobile accidents, scratches, road debris, chemical burn, tree sap, or bird droppings.

9.11 In the event a Settlement Class Member informs Defendants that he or she brought his or her Subject Vehicle to an Authorized Service Center to request coverage for a Qualified Future Repair and was, in the opinion of the Settlement Class Member, wrongfully denied coverage by the Authorized Service Center, Defendants will inform the Settlement Class Member that Class Counsel will contact him or her regarding the concern. Defendants will then provide Class Counsel with the name and contact information of such Settlement Class Member so that Class Counsel may contact him or her. Class Counsel, Defendants, and Defense Counsel shall make good faith efforts to resolve the alleged wrongful denial, and if Class Counsel, Defendants, and Defense Counsel cannot resolve the concern, they may submit the dispute to a Third-Party Neutral, who will be jointly selected by the Settling Parties and who will decide the coverage issue, which will be a final and non-appealable decision.

9.12 No Person shall have any claim against the Settling Parties, their respective counsel, or the Settlement Administrator arising from or related to determinations or payments made in

accordance with this Settlement Agreement.

10. DISPUTE RESOLUTION

10.1 **Court's Continuing Jurisdiction.** The Court shall retain jurisdiction with respect to the interpretation, implementation, and enforcement of the terms of this Agreement and all orders and judgments entered in connection therewith, and Plaintiffs, Defendants, and their respective counsel submit to the jurisdiction of the Court for purposes of interpreting, implementing and enforcing the Settlement Agreement and all orders and judgments entered in connection therewith, except that the Court shall not have authority under the Settlement Agreement to increase Defendants' payment obligations hereunder.

10.2 **Dispute Resolution Procedure.** Except as otherwise set forth herein, all disputes concerning the interpretation, calculation, or payment of settlement claims, or other disputes regarding compliance with this Settlement Agreement, shall be resolved as follows:

a) If Plaintiffs or Class Counsel, on the one hand, or Defendants, on the other hand, at any time believes the other party has materially breached the Settlement Agreement, that party shall notify the other party in writing of the alleged violation.

b) Upon receiving notice of the alleged violation or dispute, the responding party shall have twenty (20) days to correct the alleged violation and/or respond in writing to the initiating party with the reasons why the party disputes all or part of the allegation.

c) If the response does not address the alleged violation to the initiating party's satisfaction, Plaintiffs, Class Counsel, and Defendants shall negotiate in good faith for up to twenty (20) days to resolve their differences.

d) If Plaintiffs, Class Counsel, and Defendants are unable to resolve their differences after twenty (20) days, either party may file an appropriate motion to enforce the Settlement Agreement with the Court.

11. TAXES

11.1 Neither Class Counsel nor Defense Counsel intends anything contained herein to constitute legal advice regarding the taxability of any amount paid hereunder, nor shall it be relied upon as such. The tax issues for each Settlement Class Member may be unique, and each Settlement Class Member is advised to obtain tax advice from his or her own tax advisor with respect to any payments resulting from this Agreement. Each Settlement Class Member will be responsible for paying all applicable state, local, and federal income taxes on all amounts the Settlement Class Member receives pursuant to this Settlement Agreement.

11.2 No person shall have any claim against the Settling Parties, their respective counsel, or the Settlement Administrator based on the mailings, distributions, and payments made in accordance with or pursuant to this Settlement Agreement.

12. MISCELLANEOUS TERMS

12.1 **Integrated Agreement.** After this Agreement is signed and delivered by Plaintiffs, Defendants and their respective counsel, this Agreement and its exhibits will constitute the entire agreement between Plaintiffs and Defendants relating to the Settlement, and it will then be deemed that no oral representations, warranties, covenants, or inducements have been made by Plaintiffs and/or Defendants concerning this Agreement or its exhibits other than the representations, warranties, covenants, and inducements expressly stated in this Agreement and its exhibits.

12.2 **Attorney Authorization.** Class Counsel and Defense Counsel warrant and represent that they are authorized by Plaintiffs and Defendants, respectively, to take all appropriate

action required or permitted to be taken pursuant to this Agreement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Agreement. Plaintiffs, Defendants and their respective counsel will cooperate with each other and use their best efforts to effect the implementation of the Settlement. In the event Plaintiffs and Defendants are unable to reach agreement on the form or content of any document needed to implement the Agreement, or on any supplemental provisions that may become necessary to effectuate the terms of this Agreement, Plaintiffs and Defendants will seek the assistance of the Court, and in all cases all such documents, supplemental provisions and assistance of the court will be consistent with this Agreement.

12.3 **Modification of Agreement.** This Agreement, and any and all parts of it, may be amended, modified, changed, or waived in writing by Plaintiffs' or Defendants' counsel with each party's consent.

12.4 **Agreement Binding on Successors.** This Agreement will be binding upon, and inure to the benefit of, the successors of each of Plaintiffs, Defendants, and the Settlement Administrator.

12.5 **Applicable Law.** All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the laws of the State of Georgia, without giving effect to any conflict of law principles or choice of law principles.

12.6 **Cooperation in Drafting.** Plaintiffs and Defendants have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any party on the basis that the party was the drafter or participated in the drafting.

12.7 **Fair Settlement.** Plaintiffs, Defendants, and their respective counsel believe and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of the claims

against Defendants and have arrived at this Agreement through arms-length negotiations, taking into account all relevant factors, current and potential.

12.8 **Stay of Proceedings.** The Settling Parties hereby agree and stipulate to stay all proceedings in this Litigation until the approval of this Agreement has been finally determined, except the stay of proceedings shall not prevent the filing of any motions, declarations, and other matters necessary to the approval of this Agreement. The Settling Parties also agree and stipulate that a stay, pursuant to the All Writs Act, in any other current or future parallel proceedings involving the same subject matter—including but not limited to *Ponzio, et al. v. Mercedes-Benz USA, LLC, et al.*, Case No. 1:18-CV-12544 (D.N.J.)—will conserve the parties' and courts' resources, minimize interference with the Court's ability to rule on the proposed Settlement, avoid the risk of conflicting results, and preserve the Settlement for a short period of time while class members receive notice and evaluate their options. The Settling Parties agree and stipulate the Settlement provides substantial benefits to Plaintiffs and the Class that will be jeopardized by ongoing competing cases covering overlapping subclasses; maintaining the status quo protects the integrity of the Settlement, while the Court evaluates whether it is fair, reasonable and adequate. A standstill of litigation will be efficient, promotes the public policy favoring settlement and aids resolution of claims on a nationwide basis, which is in the public interest.

12.9 **Dismissal of the Litigation.** Upon the Effective Date of the Settlement, the Settling Parties shall stipulate to voluntarily dismiss with prejudice the Litigation pursuant to Federal Rule of Civil Procedure 41(a)(1)A)(ii).

12.10 Defendants or any Authorized Service Center may continue to effect or implement any goodwill policy, program, or procedure during the pendency of the settlement approval proceedings.

12.11 **Headings.** The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.

12.12 **Notice.** All notices, demands or other communications given under this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, addressed as follows:

To Plaintiff and the Class:

HENINGER GARRISON DAVIS, LLC
W. Lewis Garrison, Jr.
2224 1st Avenue North
Birmingham, AL 35203
Tel: (205) 326-3336
Fax: (205) 326-3332

To Defendants:

SQUIRE PATTON BOGGS (US) LLP
Troy M. Yoshino
275 Battery Street, Suite 2600
San Francisco, CA 94111
Tel: (415) 954-0200
Fax: (415) 393-9887

12.13 **Execution in Counterparts.** This Agreement may be executed in one or more counterparts and may be delivered by facsimile or electronic scan, each of which, when so executed and delivered, shall be an original, but such counterparts together shall constitute but one and the same instrument and Agreement, provided that counsel for Plaintiffs and Defendants will exchange between themselves original signed counterparts. Plaintiffs and Defendants further agree to accept a digital image, printout, facsimile or photocopy of this Agreement, as executed, as a true and correct original and admissible as best evidence for the purposes of state law, California Evidence Code 1520, Federal Rule of Evidence 1002, and like statutes and regulations.

Dated: 12/20/20 _____
EMILY PINON

Dated: _____ _____
GARY C. KLEIN

Dated: _____ _____
KIM BROWN

Dated: _____ _____
JOSHUA FRANKUM

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To Plaintiff and the Class:

HENINGER GARRISON DAVIS, LLC
W. Lewis Garrison, Jr.
2224 1st Avenue North
Birmingham, AL 35203
Tel: (205) 326-3336
Fax: (205) 326-3332

To Defendants:

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Dated: _____

EMILY PINON

Dated: 12/19/2020

GARY C. KLEIN

Dated: _____

KIM BROWN

Dated: _____

JOSHUA FRANKUM

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To Plaintiff and the Class:

HENINGER GARRISON DAVIS, LLC
W. Lewis Garrison, Jr.
2224 1st Avenue North
Birmingham, AL 35203
Tel: (205) 326-3336
Fax: (205) 326-3332

To Defendants:

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Dated: _____ _____
EMILY PINON

Dated: _____ _____
GARY C. KLEIN

Dated: 12/20/20 _____
KIM BROWN

Dated: _____ _____
JOSHUA FRANKUM

12.11 **Headings.** The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.

12.12 **Notice.** All notices, demands or other communications given under this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, addressed as follows:

To Plaintiff and the Class:

HENINGER GARRISON DAVIS, LLC
W. Lewis Garrison, Jr.
2224 1st Avenue North
Birmingham, AL 35203
Tel: (205) 326-3336
Fax: (205) 326-3332

To Defendants:

SQUIRE PATTON BOGGS (US) LLP
Troy M. Yoshino
275 Battery Street, Suite 2600
San Francisco, CA 94111
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Dated: _____ _____
EMILY PINON

Dated: _____ _____
GARY C. KLEIN

Dated: _____ _____
KIM BROWN

Dated: Dec 19 2020 _____
JOSHUA FRANKUM

Dated: 12/21/20

Dinez Webster

DINEZ WEBSTER

Dated: _____

_____

TODD BRYAN

Dated: _____

DINEZ WEBSTER

Dated: 12/19/2020

TODD BRYAN

Dated: 12/20/2020

HENINGER GARRISON DAVIS, LLC

By: 

W. Lewis Garrison, Jr.
Attorneys for Plaintiff

Dated: _____

DAIMLER AG

By: _____

Paul Hecht
Senior Counsel, Head of Global Litigation
Daimler AG

Dated: _____

DAIMLER AG

By: _____

Dieter Scheunert
Head of Product Analysis and Product Safety
Daimler AG

Dated: _____

MERCEDES-BENZ USA, LLC

By: _____

Audra Dial
Assistant General Counsel – Litigation
Mercedes-Benz USA, LLC

Dated: _____

MERCEDES-BENZ USA, LLC

By: _____

Lillian N. Caudle
Corporate Counsel – Litigation
Mercedes-Benz USA, LLC

Dated: _____ HENINGER GARRISON DAVIS, LLC

By: _____
W. Lewis Garrison, Jr.
Attorneys for Plaintiff

Dated: _____ DAIMLER AG

By: p.p.a. PHECHT Digital unterschriebe n von PHECHT Datum: 2020.12.18 20:49:09 +01'00' _____
Paul Hecht
Senior Counsel, Head of Global Litigation
Daimler AG

Dated: 2020/12/18 DAIMLER AG

By: p.p.a. _____
Dieter Scheunert
Head of Product Analysis and Product Safety
Daimler AG

Dated: _____ MERCEDES-BENZ USA, LLC

By: _____
Audra Dial
Assistant General Counsel – Litigation
Mercedes-Benz USA, LLC

Dated: _____ MERCEDES-BENZ USA, LLC

By: _____
Lillian N. Caudle
Corporate Counsel – Litigation
Mercedes-Benz USA, LLC

Dated: _____ HENINGER GARRISON DAVIS, LLC

By: _____
W. Lewis Garrison, Jr.
Attorneys for Plaintiff

Dated: _____ DAIMLER AG

By: _____
Paul Hecht
Senior Counsel, Head of Global Litigation
Daimler AG

Dated: _____ DAIMLER AG

By: _____
Dieter Scheunert
Head of Product Analysis and Product Safety
Daimler AG

Dated: December 18, 2020 MERCEDES-BENZ USA, LLC

By: _____
Audra Dial
Assistant General Counsel – Litigation
Mercedes-Benz USA, LLC

Dated: December 18, 2020 MERCEDES-BENZ USA, LLC

By: _____
Lillian N. Caudle
Corporate Counsel – Litigation
Mercedes-Benz USA, LLC

Dated: DEC. 18, 2020

SQUIRE PATTON BOGGS (US) LLP

By: _____
Troy M. Yoshino
Attorneys for Daimler AG and MBUSA

Dated: 12/18/2020

KING & SPALDING LLP

By: _____
Stephen B. Devereaux
Attorneys for Daimler AG and MBUSA

EXHIBIT A

TO CLASS ACTION SETTLEMENT AGREEMENT AND RELEASE

Clearcoat peeling / flaking / bubbling

Topic number	LI98.00-P-058914
Version	10
Function group	98.00 General
Date	05-23-2018
Validity	All vehicles with 590 - Mars Red
Reason for change	Added PTSS feedback
Reason for block	

Complaint:

Exterior clearcoat finish is peeling, flaking, or exhibits bubbles under the surface

Attachments	
File	Description
Peeling clearcoat.jpg	Clearcoat peeling
Clearcoat flaking.jpg	Clearcoat flaking
White flaking.jpg	White Flaking
Clearcoat bubbles.jpg	Clearcoat bubbles

Cause:

Improper adhesion of clearcoat. Exposure factors like humidity or solar radiation may cause adhesion problems between base coat and clearcoat.

Remedy:

Refinish affected areas only, according to WIS and approved paint manufacturer instructions.

.

Note 1: The paint on the whole part has to be grinded down to the filler coat, but the cathodic immersion coat (e-coat) should not be damaged. Only areas that are exposed to UV radiation are affected, i.e. hidden surfaces, e.g. door entry, folds or back sides, are not affected.

Note 2: Affected components like fenders, hoods, doors, trunk lids and rear doors will be painted while installed on the vehicle.

Note 3: Unaffected plastic parts (bumpers) must only be loosened and remain attached to the vehicle. Other plastic exterior components such as bumpers, rocker panels, and trim are not affected, and repairs to these parts (for similar clearcoat complaints) will not be covered under warranty.

Note 4: Any transition where there is new painting will be masked off so no visible paint edges occur.

Note 5: The windshield, the rear window and the side windows must not be removed for the painting process and remain on the vehicle.

.

Repair steps:

1.) The paint on the affected panels has to be completely ground down to the filler coat.

NOTE for the dry sanding process: The removal of the clear coat is carried out with a 5-7 mm range eccentric grinder, recommended sandpaper is P180. The removal of the base coat is carried out with a 5-7 mm range eccentric grinder, recommended sandpaper is P240.

2.) Completely prime the affected panel. The primer layer serves as a separation layer for the new paintwork structure.

3.) Carry out the paint application process, according to WIS and approved paint manufacturer instructions. Do not paint hidden edges.

.

NOTE: If technical feedback is requested, open a PTSS case with:

1. photos of affected areas

2. paint thickness measurements according to WIS forms OF98.00-P-3000-03_

If the labor required is greater than 30hrs - Warranty policy requires an Information Only PTSS case with:

1. photos of affected areas

2. paint thickness measurements according to WIS forms OF98.00-P-3000-03_

Please also refer to the Warranty Policy and Procedures manual, section 10.12

.

Please use damage code 98292 01

Symptoms
Overall vehicle / Paint/corrosion / Paintwork Fault / Poor grip
Overall vehicle / Paint/corrosion / Paint damage / Swelling

Operation numbers/damage codes				
Op. no.	Operation text	Time	Damage code	Note
			98292 01	

EXHIBIT B

TO CLASS ACTION SETTLEMENT AGREEMENT AND RELEASE

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

EMILY PINON, GARY C. KLEIN, KIM BROWN, JOSHUA FRANKUM, LACRESHA EARLEY, and TODD BRYAN, on behalf of themselves and all others similarly situated, Plaintiffs, v. MERCEDES-BENZ USA, LLC and DAIMLER AG, Defendants.	Case No. 1:18-cv-03984-MHC

STIPULATED UNDERTAKING REGARDING ATTORNEYS' FEES, COSTS AND EXPENSES

Plaintiffs Emily Pinon, Gary C. Klein, Kim Brown, Joshua Frankum, Dinez Webster, and Todd Bryan ("Plaintiffs") and Defendants Daimler AG and Mercedes-Benz USA, LLC (collectively, "Defendants"), by and through their undersigned counsel, stipulate and agree as follows:

WHEREAS, Class Counsel (as defined in the underlying Settlement Agreement) and their respective law firm(s) desire to give an undertaking for repayment of their award of attorney fees, costs and expenses ("Undertaking"), as is required by the Settlement Agreement,

NOW, THEREFORE, each of the undersigned Class Counsel, on behalf of themselves as individuals and as agents for their respective law firms, hereby

submit themselves and their respective law firms to the jurisdiction of the Court for the purpose of enforcing the provisions of this Undertaking.

Capitalized terms used herein without definition have the meanings given to them in the Settlement Agreement.

The obligations of Class Counsel and their respective law firms are joint and several.

In the event that the Final Order and Judgment is reversed on appeal, in whole or in part, Class Counsel shall, within ten (10) business days after the order reversing the Final Order and Judgment, in whole or in part, becomes final, repay to Defendants the full amount of the attorneys' fees, costs and expenses paid by Defendants to Class Counsel, including any accrued interest.

In the event the Final Order and Judgment is not reversed on appeal, in whole or in part, but the attorneys' fees, costs and expenses awarded by the Court are vacated or modified on appeal, Class Counsel shall, within ten (10) business days after the order vacating or modifying the award of attorneys' fees, costs and expenses becomes final, repay to Defendants the attorneys' fees, costs and expenses paid by Defendants to Class Counsel in the amount vacated or modified, including any accrued interest.

In the event that the Final Order and Judgment is reversed or modified on appeal, in whole or in part, any action that may be required thereafter may be addressed to this Court on shortened notice not less than five (5) business days.

This Undertaking and all obligations set forth herein shall expire upon finality of all direct appeals of the Final Order and Judgment.

In the event Class Counsel fails to repay to Defendants any of attorneys' fees, costs and/or expenses that are owed to it pursuant to this Stipulated Undertaking, the Court shall, upon application of Defendants and notice to Class Counsel, summarily issue orders including, but not limited to, judgments and attachment orders against Class Counsel, and each of them, and may make appropriate findings for sanctions for contempt of court.

The undersigned stipulate, warrant and represent that they are equity partners in their respective law firm(s) and have both actual and apparent authority to enter into this stipulation, agreement and undertaking on behalf of their respective law firm(s).

This Undertaking may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Signatures by facsimile shall be as effective as original signatures.

The undersigned declare under penalty of perjury under the laws of the State of Georgia and the United States that they have read and understand the foregoing and that it is true and correct.

IT IS SO STIPULATED THROUGH COUNSEL OF RECORD:

Dated: 12/20/2020

HENINGER GARRISON DAVIS, LLC

By: _____

W. Lewis Garrison, Jr.
Attorneys for Plaintiff

SIGNATURES CONTINUED ON NEXT PAGE

Dated: _____ DAIMLER AG

By: p.p.a. PHECHT Digital unterschrieben von PHECHT Datum: 2020.12.18 20:47:46 +01'00' _____
Paul Hecht
Senior Counsel, Head of Global Litigation
Daimler AG

Dated: 2020/12/18 DAIMLER AG

p.p.a.
By: _____
Dieter Scheunert
Head of Product Analysis and Product Safety
Daimler AG

Dated: _____ MERCEDES-BENZ USA, LLC

By: _____
Matthew J. Everitt
General Counsel, Mercedes-Benz USA, LLC

Dated: _____ SQUIRE PATTON BOGGS (US) LLP

By: _____
Troy M. Yoshino
Attorneys for Daimler AG and MBUSA

SIGNATURES CONTINUED ON NEXT PAGE.

Dated: _____ DAIMLER AG

By: _____
Paul Hecht
Senior Counsel, Head of Global Litigation
Daimler AG

Dated: _____ DAIMLER AG

By: _____
Dieter Scheunert
Head of Product Analysis and Product Safety
Daimler AG

Dated: December 18, 2020 MERCEDES-BENZ USA, LLC

By: Audra Dial
Audra Dial
Assistant General Counsel – Litigation
Mercedes-Benz USA, LLC

Dated: December 18, 2020 MERCEDES-BENZ USA, LLC

By: LCaudle
Lillian N. Caudle
Corporate Counsel – Litigation
Mercedes-Benz USA, LLC

Dated: DEC. 18, 2020 SQUIRE PATTON BOGGS (US) LLP

By: _____
Troy M. Yoshino
Attorneys for Daimler AG and MBUSA

SIGNATURES CONTINUED ON NEXT PAGE.

Dated: 12/18/2020

KING & SPALDING LLP

By: _____

Stephen B. Devereaux
Attorneys for Daimler AG and MBUSA

EXHIBIT 2

TO MOTION FOR PRELIMINARY APPROVAL

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

MATTHEW GROGAN, individually and on behalf of all others similarly-situated, Plaintiff, v. AARON'S INC., Defendant.	CIVIL NO.: 1:18-CV-02821-JPB

ORDER PRELIMINARILY APPROVING CLASS ACTION SETTLEMENT, DIRECTING NOTICE OF PROPOSED CLASS SETTLEMENT AND SCHEDULING A FINAL APPROVAL HEARING

This matter having come before the Court on Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement (the "Motion"), the Court having reviewed in detail and considered the Motion, the Class Action Settlement Agreement ("Settlement Agreement") between Plaintiffs Matthew Grogan, Chad Severson, LaTia Bryant, Serge Belozerov, and Defendant Aaron's, Inc. ("Aaron's") (together, the "Parties"), and all other papers that have been filed with the Court related to the Settlement Agreement, including all exhibits and attachments to the Motion and the Settlement Agreement,

IT IS HEREBY ORDERED AS FOLLOWS:

1. The Court has jurisdiction over the subject matter of the litigation, the Parties, and all Settlement Class Members.

2. Capitalized terms used in this Order that are not otherwise defined herein have the same meaning assigned to them as in the Settlement Agreement.

3. The Court concludes that the Settlement is likely to be found fair, adequate, and reasonable.

4. The Class Representatives and Class Counsel have adequately represented the class. The Court has observed that the Class Representatives and Class Counsel have vigorously and effectively represented the class through the filing of a motion for class certification.

5. The Settlement was negotiated at arm's length and without collusion, and under the supervision of an experienced and well-respected mediator.

6. The relief provided by the Settlement is fair, adequate, reasonable, and in the best interests of the Settlement Class, when measured against, among other things, the costs, risks, and delay of trial and appeal. In particular, this case presents numerous risks on liability, including the Eleventh Circuit's recent opinion on the definition of an "automatic telephone dialing system" and class certification, in particular the manageability questions posed by a TCPA non-customer class.

7. The Settlement is non-reversionary and is proposed to be distributed on a pro rata basis, a method that is well-established as fair.

8. Plaintiffs' counsel intends to seek attorneys' fees as a percentage of the common fund, the preferred approach in this Circuit. The amount to be requested (33-1/3%) as well as the requested service awards do not raise any concerns precluding the directing of notice to the class. The Court will decide the entitlement to, and amount of, any fees or service awards at the appropriate time.

9. The parties state that there are no side agreements required to be identified under Rule 23(e)(3).

10. The Settlement gives equal pro rata shares to each valid claimant, an apportionment that treats Settlement Class Members equitably.

11. The Court concludes, for purposes of settlement only, that it will likely be able to certify the Settlement Class under Rules 23(a) and 23(b)(3).

12. The Settlement Class comprises subscribers and users of more than 297,000 telephone numbers and so is sufficiently numerous.

13. For settlement purposes only, resolution of this litigation would depend on common answers to common questions, including whether Aaron's used an automatic telephone dialing system or artificial voice, and whether Aaron's placed calls to telephone numbers using an automatic telephone dialing system without obtaining the recipients' prior consent for the call.

14. For settlement purposes only, Plaintiffs' claims are typical of the class because they arise out of the same factual circumstances and proceed under the same legal theories.

15. For settlement purposes only, Plaintiffs are adequate Class Representatives because there are no evident conflicts between them and the class, and they, particularly lead Class Representative Grogan, have evidenced a willingness to advocate vigorously for the class. Class Counsel are experienced attorneys who have been appointed class counsel in numerous TCPA class action cases and settlements.

16. For settlement purposes only, common issues in this litigation predominate over individual issues. The central elements of the Class's claims concern Aaron's calling practices.

17. For settlement purposes only, a class action is superior to many individual actions because the TCPA permits statutory damages in an amount not to exceed $1,500 per violation and does not permit an award of attorneys' fees in individual actions. Therefore, it is not economical for Settlement Class Members to pursue individual claims.

18. The Settlement Class is defined as:

> All persons in the United States (1) who were the subscribers or customary users of a telephone number that was Called by Defendant; (2) with the Genesys Interactive Intelligence System and/or an artificial or prerecorded voice; (3) from June 8, 2014 through the date

the Court grants preliminary approval of the Settlement; (4) where that telephone number has been associated with a wrap-up code of "wrong party" at any time in Defendant's records.

19. Plaintiffs Matthew Grogan, Chad Severson, LaTia Bryant, and Serge Belozerov are preliminarily appointed as Class Representatives.

20. The Court preliminarily appoints the following counsel to serve as Class Counsel: Matthew Wilson of Meyer Wilson, Co., LPA, and Jonathan D. Selbin and Daniel M. Hutchinson of Lieff Cabraser Heimann & Bernstein, LLP.

21. The Court approves, in form and content, the Mail Notice, the Email Notice, and the Publication Notice attached to the Settlement Agreement as Exhibit C and finds that they meet the requirements of Fed. R. Civ. P. 23 and satisfy due process.

22. The Court finds that the Notice Plan as set forth in the Settlement Agreement meets the requirements of Fed. R. Civ. P. 23 and constitutes the best notice practicable under the circumstances, including direct individual notice by mail and email to Settlement Class Members where feasible and a nationwide publication website-based notice program, as well as establishing a Settlement Website at the web address of www.AaronsTCPASettlement.com, and satisfies fully the requirements the Federal Rules of Civil Procedure, the U.S. Constitution, and any other applicable law, such that the Settlement Agreement and Final Order and Judgment will be binding on all Settlement Class Members.

In addition, the Court finds that no notice other than that specifically identified in the Settlement Agreement is necessary in this action. The Parties, by agreement, may revise the Class Notice and Claim Form in ways that are not material, or in ways that are appropriate to update those documents for purposes of accuracy or formatting

23. Angeion Group is hereby appointed Claims Administrator to supervise and administer the notice process, as well as to oversee the administration of the Settlement, as more fully set forth in the Settlement Agreement.

24. The Claims Administrator may proceed with the distribution of Class Notice as set forth in the Settlement Agreement.

25. Settlement Class Members who wish to receive the monetary benefit under the Settlement Agreement must complete and submit a valid Claim in accordance with the instructions provided in the Class Notice on or before September 8, 2020.

26. All Claims must be submitted either electronically, by U.S. Mail, or telephonically to the Settlement Administrator no later than September 8, 2020. Settlement Class Members who do not timely submit a Claim Form deemed to be valid in accordance with the Settlement Agreement shall not be entitled to receive any monetary benefit from the Settlement.

27. Any Person within the Settlement Class may request exclusion from the Settlement Class by expressly stating his/her request in a written exclusion request in the manner described in the Settlement Agreement. Such exclusion requests must be received by the Settlement Administrator at the address specified in the Class Notice in written form, by U.S. Mail, postmarked no later than August 10, 2020.

28. In order to exercise the right to be excluded, a Person within the Settlement Class must timely send a written request for exclusion to the Settlement Administrator providing the Class Member's (1) full name, address, and telephone number where he or she may be contacted; (2) the telephone number(s) on which he or she maintains he or she was called; and (3) a statement that he or she wishes to be excluded from the Settlement Class. Any request for exclusion must be personally signed by the person requesting exclusion.

29. Any person in the Settlement Class who elects to be excluded shall not: (i) be bound by any orders or the Final Order and Judgment; (ii) be entitled to relief under the Settlement Agreement; (iii) gain any rights by virtue of this Settlement Agreement; or (iv) be entitled to object to any aspect of this Settlement Agreement.

30. Class Counsel may file any motion seeking an award of attorneys' fees, costs and expenses, as well as an Incentive Award for the Class

Representatives, no later than July 20, 2020. Any Settlement Class Member who has not requested exclusion from the Settlement Class and who wishes to object to any aspect of the Settlement Agreement, including the amount of the attorneys' fees and expenses that Class Counsel intends to seek and the payment of any incentive awards, may do so, either personally or through an attorney, by filing a written objection, together with the supporting documentation set forth below in Paragraph 21 of this Order, with the Clerk of the Court, and served upon Class Counsel, Defendant's counsel, and the Settlement Administrator no later than August 10, 2020. Addresses for Class Counsel, Defendant's Counsel, the Settlement Administrator, and the Clerk of Court are as follows:

Class Counsel	Matthew Wilson Meyer Wilson, Co., LPA 1320 Dublin Road, Suite 100 Columbus, OH 43215 Jonathan D. Selbin Daniel M. Hutchinson Lieff Cabraser Heimann & Bernstein LLP 275 Battery St., 29th Fl. San Francisco, CA 94111
Defendant's Counsel	Dave M. Gettings Troutman Sanders LLP 222 Central Park Avenue, Suite 2000 Virginia Beach, VA 23462
Settlement Administrator	Angeion Group 1650 Arch Street, Suite 2210 Philadelphia, PA 19103
Clerk of Court	Clerk of the Court U.S. District Court, Northern District of Georgia

	2211 United States Courthouse 75 Ted Turner Drive, SW Atlanta, GA 30303-3309

Any Settlement Class Member who has not requested exclusion and who intends to object to this Agreement must state, in writing: (1) his or her full name; (2) his or her address; (3) the telephone number where he or she may be contacted; (4) the telephone number(s) that he or she maintains were called; (5) all grounds for the objection, with specificity and with factual and legal support for each stated ground; (6) the identity of any witnesses he or she may call to testify; (7) copies of any exhibits that he or she intends to introduce into evidence at the Final Approval Hearing; (8) a statement of the identity (including name, address, law firm, phone number and email) of any lawyer who will be representing the individual with respect to any objection; (9) a statement of whether he or she intends to appear at the Final Approval Hearing with or without counsel; and (10) a statement as to whether the objection applies only to the objector, a specific subset of the Settlement Class, or the entire Settlement Class.

31. A Settlement Class Member who has not requested exclusion from the Settlement Class and who has properly submitted a written objection in compliance with the Settlement Agreement, may appear at the Final Approval Hearing in person or through counsel. Attendance at the hearing is not necessary; however, persons wishing to be heard orally in opposition to the approval of the

Settlement and/or Class Counsel's Fee and Expense Application and/or the request for an incentive award to the Class Representatives are required to indicate in their written objection their intention to appear at the Final Approval Hearing on their own behalf or through counsel. For any Settlement Class Member who files a timely written objection and who indicates his/her intention to appear at the Final Approval Hearing on their own behalf or through counsel, such Settlement Class Member must also include in his/her written objection the identity of any witnesses he/she may call to testify, and all exhibits he/she intends to introduce into evidence at the Final Approval Hearing, which shall be attached.

32. Any Settlement Class Member who timely objects to the Settlement in the manner provided herein may be required to provide testimony or produce documents under Federal Rules of Civil Procedure 30 and 34, by means of a deposition request and/or document request pursuant to Fed. R. Civ. P. 30, 31, 34, and 45.

33. All papers in support of the final approval of the proposed Settlement, and in response to any objections, shall be filed no later than fourteen (14) before the Final Approval Hearing.

34. A hearing (the "Final Approval Hearing") shall be held before the Court on a date convenient to the Court, but no earlier than September 14, 2020, in Courtroom 2306 of the U.S. District Court for the Northern District of Georgia, 75 Ted Turner Drive, Atlanta, Georgia

30303 (or at such other time or location as the Court may without further notice direct) for the following purposes:

a. to finally determine whether the applicable prerequisites for settlement class action treatment under Fed. R. Civ. P. 23 have been met;

b. to determine whether the Settlement is fair, reasonable and adequate, and should be approved by the Court;

c. to determine whether the judgment as provided under the Settlement Agreement should be entered, including a bar order prohibiting Settlement Class Members from pursuing claims released in the Settlement Agreement;

d. to consider the application for an award of attorneys' fees, costs and expenses of Class Counsel;

e. to consider the application for an incentive award to the Class Representatives;

f. to consider the distribution of the Settlement Fund under the terms of the Settlement Agreement; and

g. to rule upon such other matters as the Court may deem appropriate.

The Court may, for good cause, extend any of the scheduled dates or deadlines set forth in this Order without further notice to the members of the Settlement

Class. The Final Approval Hearing may be postponed, adjourned, transferred or continued by order of the Court without further notice to the Settlement Class. At or following the Final Approval Hearing, the Court may enter a judgment approving the Settlement Agreement and a Final Approval Order in accordance with the Settlement Agreement that adjudicates the rights of all Settlement Class Members.

35. Settlement Class Members do not need to appear at the Final Approval Hearing or take any other action to indicate their approval.

36. The Court adopts the following deadlines pursuant to the Settlement Agreement:

Class Notice Mailed By:	June 10, 2020
Settlement Website Launched By:	June 10, 2020
Fee and Expense Application	July 20, 2020
Deadline for Objections/Exclusions	August 10, 2020
Motion in Support of Final Approval:	Two weeks before the final approval hearing
Final Approval Hearing:	TBD
Claims Deadline:	September 8, 2020

37. The Agreement and any and all negotiations, documents, and discussions associated with it, will not be deemed or construed to be an admission or evidence of any violation of any statute, law, rule, regulation, or principle of

common law or equity, or of any liability or wrongdoing, by Defendant, or the truth of any of the claims, and evidence relating to the Agreement will not be discoverable or used, directly or indirectly, in any way, whether in the Action or in any other action or proceeding, except for purposes of demonstrating, describing, implementing, or enforcing the terms and conditions of the Agreement, this Order, and the Final Approval Order.

38. Pending the final determination of whether the Settlement should be approved, all discovery, pre-trial proceedings and briefing schedules in the Action are stayed, except such actions as may be necessary to implement the Settlement Agreement and this Order. If the Settlement is terminated or final approval does not for any reason occur, the stay will be immediately terminated.

39. If the Settlement is not finally approved by the Court for any reason, including pursuant to Section 14.01 of the Settlement Agreement, the Settlement and all proceedings in connection with the Settlement will be without prejudice to the right of Defendant or the Settlement Class Representatives to assert any right or position that could have been asserted if the Settlement Agreement or Motion for Preliminary Approval had never been reached or proposed to the Court. In such an event, the Parties will return to the *status quo ante* in the Action pursuant to Section 14.02 of the Settlement Agreement. Findings related to the certification of the Settlement Class for settlement purposes, or any briefing or materials submitted

seeking certification of the Settlement Class, will not be considered in connection with any subsequent class certification decision.

40. Pending the final determination of whether the Settlement should be approved, any Class Representative and all Settlement Class Members are hereby enjoined from commencing, pursuing, maintaining, enforcing, or prosecuting, either directly or indirectly, any Released Claims in any judicial, administrative, arbitral, or other forum, against any of the Released Parties. Such injunction will remain in force until the Final Approval Order or until such time as the Parties notify the Court that the Settlement Agreement has been terminated. This injunction is necessary to protect and effectuate the Settlement Agreement, this Preliminary Approval Order, and the Court's flexibility and authority to effectuate the Settlement Agreement and to enter Judgment when appropriate and is ordered in aid of this Court's jurisdiction and to protect its judgments. Any Class Representative and all Settlement Class Members are hereby enjoined from filing any class action or attempting to amend an existing action to assert any claims which would be released pursuant to the Settlement Agreement. If the Settlement is

terminated or final approval does not for any reason occur, the injunction will be immediately terminated.

SO ORDERED this 1st day of May, 2020.

J. P. BOULEE
United States District Judge

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

EMILY PINON, GARY C. KLEIN, KIM BROWN, JOSHUA FRANKUM, DINEZ WEBSTER, and TODD BRYAN, on behalf of themselves and all others similarly situated, **Plaintiffs,** **v.** **MERCEDES-BENZ USA, LLC, and DAIMLER AG,** **Defendants.**	**CASE NO: 1:18-CV-03984-MHC**

MEDIATOR'S DECLARATION OF RETIRED FEDERAL JUDGE JAMES F. HOLDERMAN

I, James F. Holderman, hereby declare:

1. I am a mediator and a retired federal judge. I am over 18 years old and competent to testify. I prepared this Declaration for filing with the consent of Counsel for both sides of the case. Unless otherwise indicated, I have personal knowledge of the facts set forth herein. Counsel for both sides jointly asked me to submit this Declaration to further explain the circumstances of the proposed class settlement in this case.

2. From May 1, 1985 until my retirement on June 1, 2015, I served as a United States District Court Judge of the Northern District of Illinois and served as Chief Judge of that District from July 1, 2006 through June 30, 2013.

3. On June 2, 2015, I began providing private dispute resolution services with JAMS, including mediating lawsuits.

4. I served as the mediator to settlement negotiations between Plaintiffs Emily Pinon, Gary C. Klein, Kim Brown, Joshua Frankum, Dinez Webster, and Todd Bryan ("Plaintiffs") and Defendants Daimler AG and Mercedes-Benz USA, LLC ("Defendants"). I understand that the Plaintiffs and Defendants first began discussing a potential resolution of this matter in September 2020. I further understand that, prior to my engagement, the Plaintiffs and Defendants made substantial progress in attempting to negotiate the terms of a potential settlement of this lawsuit, but they reached an impasse on terms.

5. In October 2020, the Parties agreed to engage me to mediate settlement discussions in this case. The mediated settlement negotiations between Plaintiffs and Defendants in this case began with pre-mediation discussions, continued with the submission and exchange of mediation statements by each side, and concluded with a full day mediation session via JAMS Zoom videoconference on November 9, 2020. The Parties had an additional mediation session via JAMS Zoom videoconference on November 12, 2020.

6. During and between those mediation sessions, Counsel for the Plaintiffs and Counsel for the Defendants discussed with me their relative views of the law, the facts, and the risks involved in continuing to litigate this matter. For the majority of the time during the mediation sessions, each side was in a separate virtual room. I mediated their discussions using the shuttle diplomacy method. Where I felt that traversing certain issues required the Plaintiffs and Defendants to directly communicate a particular position or concern, I held discrete joint sessions which I oversaw for the purpose of furthering the mediation.

7. I personally witnessed that each side and their Counsel conducted their mediated settlement negotiations in an adversarial, arm's-length, and non-collusive manner. I further note that both sides approached the settlement negotiations in good faith and worked accordingly while vigorously maintaining integrity to their positions.

8. After a spirited exchange of demands, offers, and counteroffers that were conveyed through me, during the November 9, 2020 mediation session, the Parties reached an agreement-in-principle on terms and conditions of a proposed class settlement.

9. On November 12, 2020, after the agreement-in-principle was reached on November 9, 2020 as to the terms and conditions of the proposed class settlement, each side's Counsel then mediated attorney fees, expenses, and class incentive

awards to reach an agreement on those issues. The issue of attorney fees, expenses, and class incentive awards had not been discussed prior to the Parties reaching an agreement-in-principle on the terms and conditions of the proposed class settlement.

10. I understand that the Parties now have reduced the major settlement terms to writing, including the terms and conditions of the settlement as reflected in the agreement-in-principle as to the proposed class settlement and the subsequent agreement as to attorney fees, expenses, and class incentive awards.

VERIFICATION

Consistent with 28 U.S.C. § 1746, I declare and verify under penalty of perjury that the forgoing is true and correct.

Date: December 8, 2020.

/s/ James F. Holderman

James F. Holderman - Mediator

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

EMILY PINON, GARY C. KLEIN, KIM BROWN, JOSHUA FRANKUM, DINEZ WEBSTER, and TODD BRYAN, on behalf of themselves and all others similarly situated, **Plaintiffs,** **v.** **MERCEDES-BENZ USA, LLC, and DAIMLER AG,** **Defendants.**	**CASE NO: 1:18-CV-03984-MHC**

DECLARATION OF EMILY PINON IN SUPPORT OF MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT

I, Emily Pinon declare as follows:

1. I submit this declaration to assist the Court in evaluating Plaintiffs' Motion for Preliminary Approval of Class Action Settlement, any Motion for Final Approval of Class Action Settlement, and any Motion for an Award of Attorneys' Fees and Costs and for Class Representative Service Awards. I have personal knowledge of the facts stated in this declaration, and I can testify to them if so required.

2. I am a named plaintiff in *Pinon, et al. v. Mercedes-Benz USA, LLC and Daimler AG*, No. 1:18-cv-03984-MHC (N.D. Ga.) (the "*Pinon* Lawsuit").

3. I own a Class Vehicle, which is a 2015 Mercedes C250 painted in "Mars Red." During my ownership and use of the vehicle I experienced the blistering, peeling, flaking, and bubbling of the exterior paint as described in the *Pinon* Lawsuit (the "Alleged Mars Red Paint Defect"). As part of being a named plaintiff in the *Pinon* Lawsuit, I agreed to be proffered as a class representative in the case, with the goal of representing similarly situated owners and lessees of Mercedes vehicles with Mars Red paint and who have experienced the Alleged Mars Red Paint Defect.

4. As part of being a named Plaintiff in the *Pinon* Lawsuit, I actively participated in the litigation. I responded to substantial written discovery, produced documents related to my purchase, ownership, service, and maintenance of my Class Vehicle and made my vehicle available for inspection by Class Counsel and their experts. Throughout the course of this litigation, I remained in touch with Class Counsel, who kept me updated and informed of matters of importance in the lawsuit, and I regularly updated them on the condition of my vehicle's exterior paint. I spent significant time pursuing these claims and representing the Class to the best of my ability.

5. I understand the terms of the Settlement currently before this Court and the benefits it offers to me and the Class Members. Given my active and significant involvement in the *Pinon* Litigation, I am able to evaluate the Settlement in context. I believe the Settlement is fair and reasonable to all members of the Class in light of the relief we sought, and the risks and delay of continued litigation. The Settlement should be approved, and I am willing and able to represent and protect the Class going forward.

6. I understand that Class Counsel intends to apply for a service award on my behalf. I was not promised, and my role as a Class Representative was not based on the expectation of, a service award.

VERIFICATION

Consistent with 28 U.S.C. § 1746, I declare and/or verify under penalty of perjury that the forgoing is true and correct.

Date: 12/20/2020 Emily Pinon

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

EMILY PINON, GARY C. KLEIN, KIM BROWN, JOSHUA FRANKUM, DINEZ WEBSTER, and TODD BRYAN, on behalf of themselves and all others similarly situated, **Plaintiffs,** **v.** **MERCEDES-BENZ USA, LLC, and DAIMLER AG,** **Defendants.**	**CASE NO: 1:18-CV-03984-MHC**

DECLARATION OF GARY C. KLEIN IN SUPPORT OF MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT

I, Gary C. Klein declare as follows:

1. I submit this declaration to assist the Court in evaluating Plaintiffs' Motion for Preliminary Approval of Class Action Settlement, any Motion for Final Approval of Class Action Settlement, and any Motion for an Award of Attorneys' Fees and Costs and for Class Representative Service Awards. I have personal knowledge of the facts stated in this declaration, and I can testify to them if so required.

2. I am a named plaintiff in *Pinon, et al. v. Mercedes-Benz USA, LLC and Daimler AG*, No. 1:18-cv-03984-MHC (N.D. Ga.) (the "*Pinon* Lawsuit").

3. I own a Class Vehicle, which is a 2014 Mercedes E-350 painted in "Mars Red." During my ownership and use of the vehicle I experienced the blistering, peeling, flaking, and bubbling of the exterior paint as described in the *Pinon* Lawsuit (the "Alleged Mars Red Paint Defect"). As part of being a named plaintiff in the *Pinon* Lawsuit, I agreed to be proffered as a class representative in the case, with the goal of representing similarly situated owners and lessees of Mercedes vehicles with Mars Red paint and who have experienced the Alleged Mars Red Paint Defect.

4. As part of being a named Plaintiff in the *Pinon* Lawsuit, I actively participated in the litigation. I responded to substantial written discovery, produced documents related to my purchase, ownership, service, and maintenance of my Class Vehicle and made my vehicle available for inspection by Class Counsel and their experts. Throughout the course of this litigation, I remained in touch with Class Counsel, who kept me updated and informed of matters of importance in the lawsuit, and I regularly updated them on the condition of my vehicle's exterior paint. I spent significant time pursuing these claims and representing the Class to the best of my ability.

5. I understand the terms of the Settlement currently before this Court and the benefits it offers to me and the Class Members. Given my active and significant involvement in the *Pinon* Litigation, I am able to evaluate the Settlement in context. I believe the Settlement is fair and reasonable to all members of the Class in light of the relief we sought, and the risks and delay of continued litigation. The Settlement should be approved, and I am willing and able to represent and protect the Class going forward.

6. I understand that Class Counsel intends to apply for a service award on my behalf. I was not promised, and my role as a Class Representative was not based on the expectation of, a service award.

VERIFICATION

Consistent with 28 U.S.C. § 1746, I declare and/or verify under penalty of perjury that the forgoing is true and correct.

Date: December 19, 2020.

Gary C. Klein

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

EMILY PINON, GARY C. KLEIN, KIM BROWN, JOSHUA FRANKUM, DINEZ WEBSTER, and TODD BRYAN, on behalf of themselves and all others similarly situated, **Plaintiffs,** **v.** **MERCEDES-BENZ USA, LLC, and DAIMLER AG,** **Defendants.**	**CASE NO: 1:18-CV-03984-MHC**

DECLARATION OF KIM BROWN IN SUPPORT OF MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT

I, Kim Brown declare as follows:

1. I submit this declaration to assist the Court in evaluating Plaintiffs' Motion for Preliminary Approval of Class Action Settlement, any Motion for Final Approval of Class Action Settlement, and any Motion for an Award of Attorneys' Fees and Costs and for Class Representative Service Awards. I have personal knowledge of the facts stated in this declaration, and I can testify to them if so required.

2. I am a named plaintiff in *Pinon, et al. v. Mercedes-Benz USA, LLC and Daimler AG*, No. 1:18-cv-03984-MHC (N.D. Ga.) (the "*Pinon* Lawsuit").

3. I own a Class Vehicle, which is a 2011 Mercedes C300 painted in "Mars Red." During my ownership and use of the vehicle I experienced the blistering, peeling, flaking, and bubbling of the exterior paint as described in the *Pinon* Lawsuit (the "Alleged Mars Red Paint Defect"). As part of being a named plaintiff in the *Pinon* Lawsuit, I agreed to be proffered as a class representative in the case, with the goal of representing similarly situated owners and lessees of Mercedes vehicles with Mars Red paint and who have experienced the Alleged Mars Red Paint Defect.

4. As part of being a named Plaintiff in the *Pinon* Lawsuit, I actively participated in the litigation. I responded to substantial written discovery, produced documents related to my purchase, ownership, service, and maintenance of my Class Vehicle and made my vehicle available for inspection by Class Counsel and their experts. Throughout the course of this litigation, I remained in touch with Class Counsel, who kept me updated and informed of matters of importance in the lawsuit, and I regularly updated them on the condition of my vehicle's exterior paint. I spent significant time pursuing these claims and representing the Class to the best of my ability.

5. I understand the terms of the Settlement currently before this Court and the benefits it offers to me and the Class Members. Given my active and significant involvement in the *Pinon* Litigation, I am able to evaluate the Settlement in context. I believe the Settlement is fair and reasonable to all members of the Class in light of the relief we sought, and the risks and delay of continued litigation. The Settlement should be approved, and I am willing and able to represent and protect the Class going forward.

6. I understand that Class Counsel intends to apply for a service award on my behalf. I was not promised, and my role as a Class Representative was not based on the expectation of, a service award.

VERIFICATION

Consistent with 28 U.S.C. § 1746, I declare and/or verify under penalty of perjury that the forgoing is true and correct.

Date: December 20, 2020.

Kim Brown

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

EMILY PINON, GARY C. KLEIN, KIM BROWN, JOSHUA FRANKUM, DINEZ WEBSTER, and TODD BRYAN, on behalf of themselves and all others similarly situated, **Plaintiffs,** **v.** **MERCEDES-BENZ USA, LLC, and DAIMLER AG,** **Defendants.**	**CASE NO: 1:18-CV-03984-MHC**

DECLARATION OF JOSHUA FRANKUM IN SUPPORT OF MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT

I, Joshua Frankum declare as follows:

1. I submit this declaration to assist the Court in evaluating Plaintiffs' Motion for Preliminary Approval of Class Action Settlement, any Motion for Final Approval of Class Action Settlement, and any Motion for an Award of Attorneys' Fees and Costs and for Class Representative Service Awards. I have personal knowledge of the facts stated in this declaration, and I can testify to them if so required.

2. I am a named plaintiff in *Pinon, et al. v. Mercedes-Benz USA, LLC and Daimler AG*, No. 1:18-cv-03984-MHC (N.D. Ga.) (the "*Pinon* Lawsuit").

3. I own a Class Vehicle, which is a 2014 Mercedes GLK 250 painted in "Mars Red." During my ownership and use of the vehicle I experienced the blistering, peeling, flaking, and bubbling of the exterior paint as described in the *Pinon* Lawsuit (the "Alleged Mars Red Paint Defect"). As part of being a named plaintiff in the *Pinon* Lawsuit, I agreed to be proffered as a class representative in the case, with the goal of representing similarly situated owners and lessees of Mercedes vehicles with Mars Red paint and who have experienced the Alleged Mars Red Paint Defect.

4. As part of being a named Plaintiff in the *Pinon* Lawsuit, I actively participated in the litigation. I responded to substantial written discovery, produced documents related to my purchase, ownership, service, and maintenance of my Class Vehicle and made my vehicle available for inspection by Class Counsel and their experts. Throughout the course of this litigation, I remained in touch with Class Counsel, who kept me updated and informed of matters of importance in the lawsuit, and I regularly updated them on the condition of my vehicle's exterior paint. I spent significant time pursuing these claims and representing the Class to the best of my ability.

5. I understand the terms of the Settlement currently before this Court and the benefits it offers to me and the Class Members. Given my active and significant involvement in the *Pinon* Litigation, I am able to evaluate the Settlement in context. I believe the Settlement is fair and reasonable to all members of the Class in light of the relief we sought, and the risks and delay of continued litigation. The Settlement should be approved, and I am willing and able to represent and protect the Class going forward.

6. I understand that Class Counsel intends to apply for a service award on my behalf. I was not promised, and my role as a Class Representative was not based on the expectation of, a service award.

VERIFICATION

Consistent with 28 U.S.C. § 1746, I declare and/or verify under penalty of perjury that the forgoing is true and correct.

Date: Dec 19 2020, 2020.

Joshua Frankum

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

EMILY PINON, GARY C. KLEIN, KIM BROWN, JOSHUA FRANKUM, DINEZ WEBSTER, and TODD BRYAN, on behalf of themselves and all others similarly situated, **Plaintiffs,** **v.** **MERCEDES-BENZ USA, LLC, and DAIMLER AG,** **Defendants.**	**CASE NO: 1:18-CV-03984-MHC**

DECLARATION OF TODD BRYAN IN SUPPORT OF MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT

I, Todd Bryan declare as follows:

1. I submit this declaration to assist the Court in evaluating Plaintiffs' Motion for Preliminary Approval of Class Action Settlement, any Motion for Final Approval of Class Action Settlement, and any Motion for an Award of Attorneys' Fees and Costs and for Class Representative Service Awards. I have personal knowledge of the facts stated in this declaration, and I can testify to them if so required.

2. I am a named plaintiff in *Pinon, et al. v. Mercedes-Benz USA, LLC and Daimler AG*, No. 1:18-cv-03984-MHC (N.D. Ga.) (the "*Pinon* Lawsuit").

3. I own a Class Vehicle, which is a 2013 Mercedes SLK 250 painted in "Mars Red." During my ownership and use of the vehicle I experienced the blistering, peeling, flaking, and bubbling of the exterior paint as described in the *Pinon* Lawsuit (the "Alleged Mars Red Paint Defect"). As part of being a named plaintiff in the *Pinon* Lawsuit, I agreed to be proffered as a class representative in the case, with the goal of representing similarly situated owners and lessees of Mercedes vehicles with Mars Red paint and who have experienced the Alleged Mars Red Paint Defect.

4. As part of being a named Plaintiff in the *Pinon* Lawsuit, I actively participated in the litigation. I responded to substantial written discovery, produced documents related to my purchase, ownership, service, and maintenance of my Class Vehicle and made my vehicle available for inspection by Class Counsel and their experts. Throughout the course of this litigation, I remained in touch with Class Counsel, who kept me updated and informed of matters of importance in the lawsuit, and I regularly updated them on the condition of my vehicle's exterior paint. I spent significant time pursuing these claims and representing the Class to the best of my ability.

5. I understand the terms of the Settlement currently before this Court and the benefits it offers to me and the Class Members. Given my active and significant involvement in the *Pinon* Litigation, I am able to evaluate the Settlement in context. I believe the Settlement is fair and reasonable to all members of the Class in light of the relief we sought, and the risks and delay of continued litigation. The Settlement should be approved, and I am willing and able to represent and protect the Class going forward.

6. I understand that Class Counsel intends to apply for a service award on my behalf. I was not promised, and my role as a Class Representative was not based on the expectation of, a service award.

VERIFICATION

Consistent with 28 U.S.C. § 1746, I declare and/or verify under penalty of perjury that the forgoing is true and correct.

Date: Dec 19TH, 2020.

Todd Bryan

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

EMILY PINON, GARY C. KLEIN, KIM BROWN, JOSHUA FRANKUM, DINEZ WEBSTER, and TODD BRYAN, on behalf of themselves and all others similarly situated, **Plaintiffs,** **v.** **MERCEDES-BENZ USA, LLC, and DAIMLER AG,** **Defendants.**	**CASE NO: 1:18-CV-03984-MHC**

DECLARATION OF DINEZ WEBSTER IN SUPPORT OF MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT

I, DINEZ WEBSTER declare as follows:

1. I submit this declaration to assist the Court in evaluating Plaintiffs' Motion for Preliminary Approval of Class Action Settlement, any Motion for Final Approval of Class Action Settlement, and any Motion for an Award of Attorneys' Fees and Costs and for Class Representative Service Awards. I have personal knowledge of the facts stated in this declaration, and I can testify to them if so required.

2. I am a named plaintiff in *Pinon, et al. v. Mercedes-Benz USA, LLC and Daimler AG*, No. 1:18-cv-03984-MHC (N.D. Ga.) (the "*Pinon* Lawsuit").

3. I own a Class Vehicle, which is a 2014 Mercedes GLK 350 painted in "Mars Red." During my ownership and use of the vehicle I experienced the blistering, peeling, flaking, and bubbling of the exterior paint as described in the *Pinon* Lawsuit (the "Alleged Mars Red Paint Defect"). As part of being a named plaintiff in the *Pinon* Lawsuit, I agreed to be proffered as a class representative in the case, with the goal of representing similarly situated owners and lessees of Mercedes vehicles with Mars Red paint and who have experienced the Alleged Mars Red Paint Defect.

4. As part of being a named Plaintiff in the *Pinon* Lawsuit, I actively participated in the litigation. I responded to substantial written discovery, produced documents related to my purchase, ownership, service, and maintenance of my Class Vehicle and made my vehicle available for inspection by Class Counsel and their experts. Throughout the course of this litigation, I remained in touch with Class Counsel, who kept me updated and informed of matters of importance in the lawsuit, and I regularly updated them on the condition of my vehicle's exterior paint. I spent significant time pursuing these claims and representing the Class to the best of my ability.

5. I understand the terms of the Settlement currently before this Court and the benefits it offers to me and the Class Members. Given my active and significant involvement in the *Pinon* Litigation, I am able to evaluate the Settlement in context. I believe the Settlement is fair and reasonable to all members of the Class in light of the relief we sought, and the risks and delay of continued litigation. The Settlement should be approved, and I am willing and able to represent and protect the Class going forward.

6. I understand that Class Counsel intends to apply for a service award on my behalf. I was not promised, and my role as a Class Representative was not based on the expectation of, a service award.

VERIFICATION

Consistent with 28 U.S.C. § 1746, I declare and/or verify under penalty of perjury that the forgoing is true and correct.

Date: December 21, 2020.

Dinez Webster

Dinez Webster

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

EMILY PINON, GARY C. KLEIN, KIM BROWN, JOSHUA FRANKUM, LACRESHA EARLEY, and TODD BRYAN on behalf of themselves and all others similarly situated,	)	
Plaintiffs,	)	CASE NO: 1:18-cv-03984-MHC
v.	)	
DAIMLER AG and MERCEDES-BENZ USA, LLC	)	
Defendants.	)	

DECLARATION OF WILLIAM LEWIS GARRISON, J.R. IN SUPPORT OF MOTION FOR PRELIMINARY APPROVAL OF CLASS SETTLEMENT AND DIRECTION OF CLASS NOTICE

I, W. Lewis Garrison, Jr. hereby declare as follows:

1. I am a shareholder at Heninger Garrison Davis, LLC ("HGD"). I make this declaration in support of our Motion for Preliminary Approval of Class Settlement and Direction of Class Notice. I have personal knowledge of the facts stated below and, if called upon, could and would competently testify thereto.

Background

2. Heninger Garrison Davis, LLC, with co-counsel Jackson & Tucker, P.C. ("Jackson Tucker"), represent the plaintiffs, who assert claims in this class action against Defendants stemming from alleged defects in the manufacture, process, materials, and workmanship of Mercedes vehicles with "Mars Red" exterior paint, and particularly allegations regarding misleading marketing, advertising, warranting, selling, and servicing of the relevant class vehicles.

3. Heninger Garrison Davis, LLC was formed over thirteen years ago and has been growing in case load, staff numbers, and attorney numbers ever since. With twenty-five seasoned attorneys and almost fifty staff members across several offices, including Birmingham, Alabama, Atlanta, Georgia, and New York, New York, Heninger Garrison Davis, LLC has the experience, resources, and expertise to successfully prosecute complex consumer actions.

4. I was admitted to practice before courts in 1983. I am admitted to practice before the United States District Courts for the Middle, Southern, and Northern Districts of Alabama, the United States District Courts for the Northern and Middle Districts of Georgia, the United States Court of Appeals for the Third, Fourth, Fifth, Ninth, Tenth and Eleventh Circuits, and the United States Supreme Court.

5. Our firm has substantial experience in class action litigation involving complex businesses, products, and services. We have developed an expertise in consumer protection and product liability cases and the state and federal laws governing the salient issues in these litigations. A profile of our firm's experience in complex class actions, and specifically in consumer protection and products liability cases, is attached as Exhibit A. That exhibit also provides a background on myself, James F. McDonough, III, and Taylor C. Bartlett.

Pre-Suit Investigation

6. Beginning in the summer of 2018, HGD and its co-counsel, Jackson Tucker began receiving communications from owners of Defendants' vehicles complaining of issues related to the Mars Red paint peeling, bubbling, and growing cloudy in appearance.

7. We diligently investigated and researched the Mercedes Mars Red paint defect and Mercedes' response to it through information provided by the National Highway Traffic Safety Administration ("NHTSA"). We reviewed and researched consumer complaints and discussions of the Mars Red paint defect in articles and forums online, in addition to various Mercedes manuals and Technical Service Bulletins discussing the defect.

8. We conducted detailed interviews with putative class members regarding their pre-purchase research, their purchasing decisions, and their repair histories, ultimately interviewing and talking with hundreds of prospective class members.

9. After digesting all of the information garnered, we conducted research into the various causes of action and analyzed similar automotive actions, developed a plan for litigation based on class members' reported experiences with their vehicles.

10. We consulted with and retained leading experts in engineering and chemistry who inspected vehicles, investigated the alleged defect, and identified the alleged defect in the vehicles painted with Mars Red. We also engaged damages expert to assess individual and Class-wide damages

11. HGD and Jackson Tucker's efforts are reflected the length and detail of the original and amended complaints in this action. In addition to the Plaintiffs identified in the operative complaint, we were in the process of filing a second class action case against Defendants, including plaintiffs from many additional states from those where the Plaintiffs were harmed in *Pinon,* related to the Mars Red issue and had given notice to Defendants that such second lawsuit was coming.

Pinon **Action and Discovery**

12. On August 21, 2018, Plaintiff Emily Pinon initiated the present action on behalf of a Nationwide class and an Alabama subclass.

13. At the time we filed this case, we were unaware of the earlier filed *Ponzio* Action. *See Robert Ponzio, et al. v. Mercedes-Benz USA LLC, et al.*, 1:18-cv-12544-JHR (D. N.J.), Dkt. 1. We did not view or see the *Ponzio* Action complaint before filing the original complaint in this action. Shortly after becoming aware of the action, we reached out to counsel for plaintiffs in the *Ponzio* Action to discuss the case and explore coordinate the actions, including for discovery and Rule 26 purposes.

14. On October 24, 2018, an amended complaint was filed in this case to include Plaintiff Gary C. Klein and adding a Florida subclass.

15. On January 31, 2019, Plaintiffs filed a second amended complaint to include Plaintiff Kim Brown (Arkansas), Plaintiff Joshua Frankum (Tennessee), Plaintiff Nancy Pearsall (Tennessee), Plaintiff Lacresha Early (Louisiana), and Plaintiff Todd Bryan (North Carolina), and adding subclasses for Arkansas, Tennessee, Louisiana, and North Carolina.

16. On June 22, 2020, Plaintiffs filed a third amended complaint substituting Plaintiff Dinez Webster (Louisiana), who dropped her claim without prejudice, for Plaintiff Early (Louisiana).

17. Accordingly, the current *Pinon* Plaintiffs and proposed Class Representatives are Emily Pinon, Gary C. Klein, Kim Brown, Joshua Frankum, Dinez Webster, and Todd Bryan.

18. The *Pinon* has been intensively litigated from its inception, and it has far outpaced the *Ponzio* litigation in both timing and substance.

19. Defendants fought vigorously to dismiss *Pinon* but the *Pinon* Plaintiffs ultimately prevailed on most of the causes of actions asserted in the complaint.

20. Since prevailing, HGD and Jackson Tucker as counsel for the *Pinon* Plaintiffs have conducted extensive discovery.

21. We negotiated and spent substantial time working out an electronic discovery protocol that incorporated specific search terms to effectively produce responsive and relevant documents.

22. HGD and Jackson Tucker as counsel for the *Pinon* Plaintiffs have served three sets of requests for production and three sets of interrogatories to each Defendant. In total, we served 95 requests for production and 28 interrogatories on each Defendant. Defendants responded to each of the first two sets of discovery

request and produced over 56,000 pages of documents, as well as extensive warranty, sales and repair data compiled from their databases.

23. HGD and Jackson Tucker as counsel for the *Pinon* Plaintiffs met and conferred with Defendants several times on their responses, and we continued to demand documents and information up until the time the settlement-in-principle was reached. The third set of discovery focused on confirming certain representations made in settlement negotiations is pending and answers are expected shortly.

24. We have engaged an electronic discovery vendor to assist with the technical aspects of the production and have since reviewed each page of the produced documents coding them for issues.

25. Defendants issued substantial discovery to each *Pinon* Plaintiff, including 12 requests for admission, 22 interrogatories, and 43 requests for production to each Plaintiff. Plaintiffs then responded to each discovery request and produced hundreds of pages of documents.

26. Since Defendants began producing documents in this case, we have had several meet and confers with Defendants to deal with discovery issues, vehicle inspection protocols, depositions, electronic search terms and databases, and responses and objections to discovery served in this Action. We resolved those after substantial time and effort. As a condition precedent to settlement, we also requested

and received from the Defendants an affidavit confirming the completeness and accuracy of the warranty, sales and repair data produced by them related to the Alleged 590 Mars Red Paint Defect, which pertained to the over 72,500 Subject Vehicles were sold and/or leased in the United States and likely over one hundred thousand current and former owners and lessees of Subject Vehicles in the proposed Class, including the total universe of Subject Vehicles sold or leased, the costs of repair under warranty related to the alleged 590 Mars Red paint defect, dates of repair, and claims covered by goodwill, among other information.

27. In the midst of this discovery, HGD and Jackson Tucker as counsel for the *Pinon* Plaintiffs researched potential experts and ultimately interviewed five experts. Two of these experts were automobile manufacturing process experts and three of these experts were chemical specialists with specific expertise in automobile coatings. We ultimately retained two experts, one of which spent substantial time preparing for and attending *Pinon* Plaintiff vehicle inspections.

28. HGD and Jackson Tucker as counsel for the *Pinon* Plaintiffs also issued six subpoena *duces tecums* to various related third-parties, including a major German supplier of the 590 Mars Red paint. We met and conferred with four of these third-parties ultimately resolving their discovery disputes and receiving additional documents from them. Notably, we secured service of a subpoena *duces tecum* on

the German supplier of the 590 Mars Red paint, which was critical in obtaining documents related to the 590 Mars Red paint.

29. We also negotiated two vehicle inspection protocols, one for non-destructive testing and one for destructive testing. The Parties then scheduled vehicle inspections for each Plaintiff's vehicle in numerous states. Prior to reaching the Proposed Settlement, two of the *Pinon* Plaintiffs' vehicles were inspected and results of the non-destructive and destructive testing were shared amongst the Parties. At each inspection, one of the *Pinon* Plaintiffs' experts attended and contributed to the inspection ultimately provided the *Pinon* Plaintiffs with a report and evidence.

Settlement Efforts

30. The Parties first broached the topic of settlement in February of 2020, but the Parties made little headway in settlement of the claims until recently.

31. In September of this year, settlement negotiations between the Parties began in earnest with intensive exchanges of information and the Parties proposing settlement frameworks, but falling short of reaching a final agreement.

32. The Parties conducted a mediation with former U.S. District Judge James F. Holderman (Ret.) on November 9th through November 12th, where the Parties reached an agreement-in-principle on the terms and conditions of the

settlement and of attorney fees, expenses, and class representative incentives, respectively.

33. The Parties only mediated and negotiated issues regarding attorneys' fees, costs and expenses, and Class Representative service awards after reaching an agreement-in-principle as to the terms and conditions of the settlement for Class Members.

34. The Parties finalized a written Term Sheet on November 19, 2020.

35. In my experience, this is an outstanding result for the Class. The Settlement achieved here provides meaningful relief to the Class that is specifically targeted to address the issues with the Alleged 590 Mars Red Paint Defect. The relief achieved here is exceptional in that it extends the warranty on paint, on a sliding scale, out to 15 years or 150,000 miles, whichever comes first. The result achieved here puts this Settlement in the upper range of possible recoveries in the Litigation, which goes to show what a great deal this is for the Class. Our review of this information, along with our other discovery and investigations over the past couple years, causes us to conclude that that the Symptoms Alleged are experienced consistently by Class Members, and the remedy provided by the Settlement directly addresses those issues.

36. We will continue to fulfill our duties to the Class in order to see this Settlement through and get the needed and meaningful relief to Class Members.

37. For purposes of effectuating this proposed Settlement in this action and in this District, Plaintiffs are informed that the Defendants will be filing a motion to stay *Ponzio* action.

38. The Proposed Settlement in this case will resolve the claims of all Class Members in the United States.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: December 21, 2020

Respectfully submitted,

/s/ W. Lewis Garrison, Jr.
W. Lewis Garrison, Jr.
Heninger Garrison Davis, LLC
2224 First Avenue North
Birmingham, AL 35203

LOCAL RULE 7.1(D) COMPLIANCE CERTIFICATE

Pursuant to L.R. 7.1(D), this certifies that the foregoing document complies with the font and point selections approved by L.R. 5.1(C). The foregoing document was prepared using Times New Roman font in 14 point.

Dated: December 21, 2020

/s/ W. Lewis Garrison, Jr.
W. Lewis Garrison, Jr.
Heninger Garrison Davis, LLC
2224 First Avenue North
Birmingham, AL 35203

EXHIBIT A

TO GARRISON DECLARATION

FIRM RESUME

HENINGER GARRISON DAVIS FIRM PROFILE

Heninger Garrison Davis LLC ("HGD") is headquartered in Birmingham with offices in Atlanta and New York, and focuses on Class Actions, Mass Torts, Business Litigation, and Intellectual Property. The firm was formed in 2006 with 5 partners as the result of a merger of three firms with over a century of combined experience. It has earned the finest rating (A.V.) on the Martindale-Hubbell Law Directory and is listed in the Bar Register of Preeminent Lawyers. Since its beginnings, the firm has grown to 25 lawyers in 4 cities. Today, there are 13 partners. The firm's mass tort and class action group is comprised of 19 lawyers. The firm has close to 50 staff to support HGD's attorneys. The firm is dedicated to representing plaintiffs in complex class action, mass tort, intellectual property, and single event cases.

Over the years, Heninger Garrison Davis has had a significant and extensive class action practice. It has been lead or co-lead class counsel in state and federal class actions all over the country. Additionally, it has received appointments to serve in various other leadership roles from many federal judges overseeing MDLs. The record will reflect that HGD worked hard and achieved successful results in each case, and HGD has the necessary resources to commit to this task before this Court, including devoting as many lawyer resources and financial resources as is necessary to vigorously prosecute this case. One of the core values of HGD is "Lead by Serving," and the firm truly take that to heart.

Throughout the last decade, the firm has obtained settlements of hundreds of millions of dollars on behalf of more than thousands of clients. Today, it represents over 5,000 individuals in over 50 litigation projects, including class actions, MDLs, mass tort actions, intellectual property actions. Following the individual attorney profiles of Dr. François M. Blaudeau and James F. McDonough, III appearing immediately below, a complete listing of Heninger Garrison Davis' class action and MDL experience appears.

In this case, Mr. Garrison, Mr. McDonough, and Mr. Bartlett are seeking to be appointed as interim class counsel. Each of their CVs are exhibited hereto. Mr. Garrison, Mr. McDonough, and Mr. Bartlett are committed and able to devote the necessary time and resources to represent the various interests in this litigation and look forward to the continuing to work with Your Honor. That said, no individual leadership member can do it alone—it takes a massive effort by attorneys and staff to

achieve a satisfactory result in these types of cases. HGD has a dedicated group of attorneys and staff who will do what it takes to represent the plaintiffs in this litigation. In this important case, as in others, there will be millions of documents to review, briefs to write, law to research, and the like. HGD has many talented attorneys and staff members ready to assume roles in accomplishing these tasks.

ATTORNEY PROFILE

W. Lewis Garrison, Jr.

Lew Garrison one of the firm's founders and head of the Class Actions and Mass Tort group at HGD. Mr. Garrison has been practicing law for more than 31 years. He has been fortunate to have been involved in significant and landmark litigation throughout the country. As Mr. Garrison's resume demonstrates, he has been involved in a variety of litigation in state and federal courts. His complex litigation experience falls into two broad categories: (1) class actions; and (2) mass tort and product cases.

Over the years, Mr. Garrison has had a significant and extensive class action practice. He has been lead or co-lead class counsel in state and federal class actions all over the country. Throughout the last decade, Mr. Garrison and HGD have obtained settlements of hundreds of millions of dollars on behalf of thousands of clients. Additionally, during his career he has received appointments to serve in various other leadership roles from many federal judges overseeing MDLs. The record will reflect that Mr. Garrison and HGD worked hard and achieved successful results in each case, and HGD has the necessary resources to commit to this task before this Court.

Professional Ratings

Martindale-Hubbell Law Directory: AV rated
2009-Present: Alabama Super Lawyers — Class Actions and Mass Torts

Bar Admissions

Alabama - 1983. Georgia - 1984. United States District Courts for the Middle, Southern, and Northern Districts of Alabama. United States District Courts for the Northern and Middle Districts of Georgia. United States Court of Appeals, Third, Fourth, Fifth, and Eleventh Circuits. United States Supreme Court.

Professional Societies

American Bar Association; American Association for Justice; Birmingham Bar Association

James F. McDonough, III

James F. McDonough, III, is a partner at Heninger Garrison Davis, LLC. He joined the firm in June of 2013 after running a private practice representing plaintiffs in multi-party, complex technology-oriented litigation. James has served as lead counsel representing plaintiffs in approaching a hundred of cases, and has been involved in a wide range of litigation, including mass tort, class action, and intellectual property litigation. He has served in a number of different roles in litigation leadership groups and committees. James has led all aspect of dispositive motions, trial preparation, fact and expert discovery, including first chair role in arguing all motions related to the same. He has most recently been appointed to the PSC in *In Re: CenturyLink Sales Practices and Securities Litigation* and as settlement class counsel in *Bittner v. Browning Arms Co.*, identified below.

James has also served as lead settlement counsel in approximately one hundred litigations that ended in favorable settlements to his clients, which have ranged from individual plaintiffs to groups of plaintiffs to publicly traded corporations. Most recently, James worked to obtain a favorable $11.2M settlement in the In re Ashley Madison Data Security Breach Litigation, MDL No. 2669. James attended Emory School of Law, where he participated in a joint collaborative program between Emory and the Georgia Institute of Technology focusing on technology commercialization and was Managing Editor of the Emory Law Review. While in law school, he received several national writing awards including the Burton Award for Legal Achievement (presented in Library of Congress, Washington, DC), the Judge John R. Brown Award for Excellence in Legal Writing, and the Mary Chi Davis Scholarship for Writing Excellence.

Bar Admissions

Georgia, 2007; Georgia Supreme Court; Northern District of Georgia, 2008; Southern District of Georgia, 2020; Eastern District of Texas, 2010; U.S. Court of Appeals For The Federal Circuit, 2013; US. Court of Appeals for the Eleventh Circuit, 2016; District of Colorado, 2014; Western District of Texas, 2020, United States Supreme Court, 2020.

Professional Societies

Georgia State Bar; Atlanta Lawyer Magazine; Georgia Trial Lawyers Association; ABA Technology Law Section, ABA Intellectual Property Law Section; *Advisory Board Member*, Technology Innovation: Generating Economic Results (TI:GER); *Leadership Board Member*, Georgia Bio Emerging Leaders Network.

Taylor C. Bartlett

Taylor Bartlett is a partner in the Class Action and Mass Tort group at HGD. Mr. Bartlett began practicing law over nine years ago and since 2011, has practiced complex civil litigation. Mr. Bartlett spends approximately half of his time litigating complex consumer class actions. Most recently, he and HGD represented consumer classes in the Nissan CVT class action litigation settled in the Middle District of Tennessee. In addition to litigating on behalf consumers in class actions, Mr. Bartlett represents thousands of current and former servicemembers in personal injury claims for hearing related problems brought against the 3M Company.

Bar Admissions

Georgia, 2007; Georgia Supreme Court; Northern District of Georgia, 2008; Eastern District of Texas, 2010; U.S. Court of Appeals For The Federal Circuit, 2013; US. Court of Appeals for the Eleventh Circuit, 2016; District of Colorado, 2014;

Professional Societies

Georgia State Bar; Atlanta Lawyer Magazine; Georgia Trial Lawyers Association; ABA Technology Law Section, ABA Intellectual Property Law Section; *Advisory Board Member*, Technology Innovation: Generating Economic Results (TI:GER); *Leadership Board Member*, Georgia Bio Emerging Leaders Network.

NOTABLE HGD CLASS ACTION AND MDL CASES

Class Action and Mass Tort Experience

In re Nissan CVT Litigation:[1] Class counsel and settlement counsel for owners of certain Nissan vehicles equipped with defective Continuously Variable Transmission that caused slipping, shuddering, and other issues with the vehicle transmission systems.

Volkswagen Diesel Fraud Litigation. Represented approximately 4000 individual owners and lessees of Volkswagen and Audi vehicles. The firm filed case in the City of St. Louis, the State Court of DeKalb County, Georgia, the Northern District of Alabama, and the Northern District of Georgia; HGD later filed thousands of cases in Fairfax County, VA, which were consolidated with other cases in *In re: Volkswagen "Clean Diesel" Litigation*, Fairfax County, VA, CCN No. CL-2016-9917. Part of leadership team litigating these cases to trial and selected for trial team for plaintiffs picks in first batch of trials in the country concerning VW's fraudulent use of defeat devices in their "CleanDiesel" vehicles (settled before trial).

In Re: 3M Combat Arms Earplug Products Liability Litigation, MDL No. 2885. Appointed to various subcommittee positions in the MDL leadership by Judge M. Casey Rodgers (U.S. Dist. Court for the Northern District of Florida) in a product liability case accusing 3M of causing hearing loss and other issues caused by defective ear plugs issued to military servicepersons.

In Re: CenturyLink Sales Practices and Securities Litigation, MDL No. 2795. Appointed to Plaintiff Steering Committee by Judge Michael Davis (U.S. Dist. Court for the District of Minnesota) in a consumer fraud and deceptive practices action alleging overbilling of consumers by utility company related to telephone, internet, and television services;

In re Ashley Madison Data Breach Litigation, MDL No. 2669. Appointed to be Co-Lead Counsel by Judge John A. Ross (U.S. Dist. Court for the Eastern District of Missouri) in a combined data breach and consumer fraud case alleging inadequate security systems and fraudulent use of bots to communicate with website customers.

In re Daily Fantasy Sports Litigation, MDL No. 2677. Appointed as Member of Plaintiffs' Steering Committee by Hon. George A. O'Toole (U.S. Dist. Court for the District of Massachusetts) in consumer fraud case involving the promotion and

[1] These actions are: (1) *Falk v. Nissan North America*, Inc., No. 4:17-cv-04871 (N.D. Cal.); (2) *Pamela Pritchett, et al. v. Nissan North America, Inc.*, No. 2:17-cv-00736 (M.D. Ala); (3) *Knotts v. Nissan North America, Inc*., No. 17-cv-05049 (D. Minn.); and (4) *Norman v. Nissan North America, Inc. and Nissan Motor Co., Ltd*., No. 3:18-cv-00588 (M.D. Tenn.)

engaging in illegal gambling by online daily fantasy sports companies, including DraftKings and FanDuel.

In re Apple iPhone 3G Products Liability Litigation, MDL No. 2045. Appointed to Member of Plaintiffs' Steering Committee by Hon. James Ware (U.S. Dist. Court for the Northern District of California) in consumer fraud case alleging defects with Apple's iPhone 3g.

In re Bayer Corp. Combination Aspirin Products Marketing and Sales Practices Litigation, MDL No. 2023. Appointed to Plaintiffs' Steering Committee by Hon. Brian M. Cogan (U.S. Dist. Court for the Eastern District of New York) in consumer fraud case alleging illegal marketing of women's aspirin products manufactured by Bayer.

In re Bullitt County Train Derailment Litigation, Case No. 3:07 CV-24-R, Plaintiffs' Class Counsel. Represented thousands of members of plaintiffs' class in a settlement which was approved by Hon. Thomas Russell, U.S. District Court for the Western District of Kentucky.

In re VTran Media Technologies, LLC, Patent Litigation, MDL No. 1948. Represent patent holder in consolidated federal actions in claims against cable television companies throughout the United States. Appointed MDL co-liaison counsel by Honorable Bruce Kaufman, U.S. District Judge, Eastern District of Pennsylvania.

In re MasterCard International, Inc. Internet Gambling Litigation, and Visa International Service Association Internet Gambling Litigation, MDL Nos. 1321 and 1322. Member, Plaintiffs Steering Committee.

In re American General Life and Accident Ins. Litigation, MDL No. 1429 (racially discriminatory insurance pricing). Member, Plaintiffs' Executive Committee. Obtained settlements for 1500-plus clients in states of Alabama, Georgia, Mississippi, Florida, and Tennessee.

In re Unitrin (same as *In re American General*, above), obtained settlements for 600-plus clients in states of Alabama, Georgia, Mississippi, Florida, and Tennessee.

In re Life of Georgia Industrial Ins. Litigation, MDL No. 1390. Obtained settlements for over 600 clients who were charged racially-discriminatory insurance premiums.

In re Prudential Sales Practices Litigation (fraudulent or deceptive sales of

insurance products), obtained settlements for 300-plus clients in Alabama and Georgia.

In re Chemtura Corporation, et al, Reorganized Debtors, in United States Bankruptcy Court Southern District of New York, Chapter 11, Case No. 09-11233 (REG). Class Counsel for thousands of individuals impacted by catastrophic fire in Conyers, GA. Settlement approved by Bankruptcy Court.

In re Black Farmers Discrimination Litigation, United States District Court for the District of Columbia, Case No. 08-mc-0511 (PLF). Class Counsel in a nationwide plaintiff class of individuals considered to be "late filers" from *Pigford v. Glickman*, Case No. 97-1978 (D.D.C.)

Poletti, et al. v. Syngenta Corp., et al., No. 3:15-cv-1221-DRH; Brase Farms, Inc., et al. v. Syngenta Corp., et al., No. 3:15-cv-1374-DRH; *Wiemers Farms, Inc., et al. v. Syngenta Corp., et al.*, No. 3: 15-cv-01379-DRH pending in U.S.D.C. for the Southern District of Illinois. Plaintiffs' co-counsel responsible for strategy and motions practice in these mass action suits for over three thousand farmers.

Turner v. Allstate Insurance Company, NDAL 2:13-cv-00685. Plaintiffs' co-counsel responsible for strategy and motions practice, including defending against dispositive motions, in this ERISA class action for thousands of retirees pending in the U.S.D.C. for the Middle District of Alabama. Recently won preliminary injunctive relief for class representatives for the retirement benefit at issue.

Thurman v. Judicial Correctional Services, Inc., No. 2:12-CV-00724. Plaintiffs' co-lead counsel responsible for strategy and motions practice, including defending against dispositive motions, in this class action for misdemeanor probationers pending in the U.S.D.C. for the Middle District of Alabama. The suit seeks recovery of probation fees paid by the class to the Defendant.

Strickland v. MERSCORP, Inc., et al., No. 2:14-cv-01040-TFM (M.D. Ala); *Robertson v. MERSCORP, Inc., et al.*, No. 69-CV-14-900058.00 (Cir. Ct. of Barbour Co., Ala.). Plaintiffs' co-lead counsel in these class actions pending in state and federal court on suits for recording fees and to reform mortgage recordings.

Bobby Taylor Enterprises v. Argos Ready Mix, LLC, Circuit Court of Barbour County, Alabama 69-CV-2015-900012. Represent plaintiffs in consumer class action alleging breach of contract, breach of the duty of good faith and fair dealing, and violations of deceptive trade practices acts.

Vision Construction Ent, Inc. v. Argos Ready Mix, LLC, NDLA 3:15-cv-534. Represent plaintiffs in consumer class action alleging breach of contract, breach of the duty of good faith and fair dealing, and violations of deceptive trade practices acts.

Valente v. International Follies, Inc. d/b/a The Cheetah et. al., NDGA 15-cv-02477. Represent opt-in class in Fair Labor Standards Act case seeking overtime and back pay for individuals who were not paid according to the law.

In & Out Welders Inc. v. H&E Equipment Services Inc., NDAL 15-cv-01746. Represent plaintiffs in this consumer class action alleging breach of contract, breach of the duty of good faith and fair dealing, and violations of deceptive trade practices acts.

Spotswood v. Hertz Corporation, DNJ 15-cv-03518. Represent plaintiffs in this consumer class action alleging breach of contract, breach of the duty of good faith and fair dealing, and violations of deceptive trade practices acts.

Lewis Hill v. LaFarge North America, Inc., Circuit Court of Barbour County, Alabama 69- CV-2015-900014. Represent plaintiffs in consumer class action alleging breach of contract, breach of the duty of good faith and fair dealing, and violations of deceptive trade practices acts.

Weeks v. Wyeth, et al., No. 1:10-CV-602 (M.D. Ala.), and related suits. Plaintiffs' co-lead counsel in suits against brand-name drug maker for injuries sustained from ingestion of generic version of the brand drug. Won first-ever state supreme court decision in favor of patients bringing that claim, as reported by The New York Times, Jan. 2013 (B3, "Man Taking Generic Drug Can Sue Branded Maker"), and the Product Safety & Liability Reporter, 42 PSLR 918 (Aug. 25, 2014)

All-South Subcontractors, Inc. v. Sunbelt Rentals, Inc., Superior Court of Dougherty County, Georgia 14-cv-1376-1. Represent plaintiffs in consumer class action alleging breach of contract, breach of the duty of good faith and fair dealing, and violations of deceptive trade practices acts.

S&S Construction LLC. v. United Rentals (North America), Inc., MDAL 15-cv-00712. Represent plaintiffs in consumer class action alleging breach of contract, breach of the duty of good faith and fair dealing, and violations of deceptive trade practices acts.

Gauthier, et al. v. Hagberg, et al., No. 1781-CV-01791 (Mass. Sup. Ct., Middlesex). Lead counsel for derivative action for owners of a timeshare resort against the owners (and related businesses) for fraud, breach of contract, breach of fiduciary duties.

Bittner v. Browning Arms Co., No. 3:17-cv-143-MPM-JMV (N.D. Miss.). Lead counsel for class action against gun manufacturer for sales of defective gun stocks.

Other Mass Tort / Product / MDL Experience

In re Vioxx Marketing, Sales Practices and Products Liability Litigation, MDL No. 1657. Represented people from around the country who suffered heart attacks and strokes due to ingestion of Vioxx. Lead Trial Counsel in one of the few Vioxx cases tried to a jury verdict, in *Gary Albright v. Merck & Co.*, Circuit Court of Jefferson County, Alabama, December 2006. Member of Discovery and Science Committees in the MDL No. 1657. Received MDL Common Benefit Fee awarded by Hon. Eldon Fallon.

In re Xarelto Products Liability Litigation, MDL No. 2592. Discovery Committee Co-Chair of the Sales Representative sub-committee. Presently representing clients around the country who took the drug Xarelto and suffered injuries.

In re Actos Litigation, Case No. 2011 L 010011, Circuit Court of Cook County. Member of Plaintiff's leadership group in a pharmaceutical mass tort case alleging bladder cancer as a result of Actos (Pioglitazone) ingestion.

In re Zyprexa Litigation, MDL No. 1596. Represented and settled the claims of more than 1,500 people from all over US who contracted diabetes mellitus after ingesting anti- psychotic medication Zyprexa. Appointed to Plaintiffs' Steering Committee, which was responsible for developing entire liability and damages case against Eli Lilly, by Honorable Jack Weinstein, United States District Judge, Eastern District of New York.

In re Seroquel Litigation, MDL No. 1769. One of three firms retained by State of Alabama to investigate and pursue claims of the state for Medicaid fraud arising out of promotion of Seroquel. Represented more than 3,000 people from across United States who filed lawsuits against AstraZeneca for diabetes and similar injuries

caused by ingestion of Seroquel.

In re Diet Drug Litigation, MDL No. 1203 (pharmaceutical product liability). Filed suit and settled more than 500 cases in initial opt-out phase of Diet Drug Litigation. Filed suit and settled more than 1,700 cases in downstream opt-out phase of Diet Drug Litigation. Also filed and settled several cases relating to Primary Pulmonary Hypertension (PPH).

In re Kugel Mesh Hernia Patch Litigation, MDL No. 1842. Represent hundreds of individuals from across the country who sustained injuries due to defective implantation of Kugel Hernia Mesh. Appointed to Plaintiffs' Steering Committee by Honorable Mary Lisi, United States District Judge, District of Rhode Island.

In re Levaquin Products Liability Litigation, MDL No. 1943. Member, Plaintiffs' Steering Committee. Represented hundreds of people throughout the country who sustained injuries as a result of ingestion of antibiotic drug Levaquin. Appointed to MDL Plaintiffs' Steering Committee by Honorable John R. Tunheim, United States District Judge, District of Minnesota.

In re Sulzer Hip Prosthesis and Knee Prosthesis Product Liability Litigation, MDL No. 1401. Represented and settled claims of clients who were injured by defective hip implants manufactured by Sulzer.

In re Ortho Evra Litigation, MDL No. 1742. Represented and settled claims of women from across United States who were injured by defective birth control patches manufactured by Ortho Evra.

In re Bextra and Celebrex Marketing, Sales Practices and Products, MDL No. 1699. Represented and settled claims of people throughout the United States who suffered heart attacks and strokes after ingestion of Bextra or Celebrex.

In re Guidant Corp. Litigation, MDL No. 1708. Represented and settled hundreds of claims by people throughout the United States who were injured by defective implantable cardiac defibrillators manufactured by Guidant.

In re Medtronic, Inc. Implantable Defibrillators Products Liability Litigation, MDL No. 1726. Represented and settled hundreds of claims by people throughout the United States who were injured by defective implantable cardiac defibrillators manufactured by Medtronic.

In re Baycol Multidistrict Litigation, MDL No. 1431 (pharmaceutical product liability), Litigated and settled claims of people who suffered rhabdomyolysis after ingestion of cholesterol drug Baycol. Also appointed to Discovery Committee in MDL 1431.

Neurontin Sales Practices and Product Liability Litigation, MDL No. 1629 (pharmaceutical product liability). Represent individuals injured as a consequence of off-label promotion and prescription of the drug.

Monsanto PCB Litigation. Represented over 1500 people who were injured by PCB exposure in and around Anniston, Alabama. All cases consolidated in Jefferson County, Alabama Circuit Court.

Brase Farms, Inc., et. al., v. Syngenta AG, et. al., SDIL 3:15-cv-01374. Represent plaintiffs in mass action litigation which involves genetically modified corn and the damages suffered by corn farmers and others in the corn business. He assists in developing strategy, gathering clients, and conducting discovery.

Other Class Action Settlements (either lead or co-lead counsel for plaintiffs)

J. C. Holt and Milton Alexander v. Life Insurance Company of Alabama, et al, Circuit Court of Franklin County, Alabama, Case No. CV-2009-122; *Gabriel Johnson v. Apple, Inc.*, United States District Court for the Southern District of California, Case No. 1-09-CV- 146501 (national class); *Lonnie & Dawn Glover v. Standard Federal Bank*, United States District Court for the District of Minnesota, Case No. 97-2068; *Hope v. STM Mortgage Co.*, Circuit Court of Jefferson County, Alabama, Case Number CV94-03194 (national class);

Thomason v. Litton Mortgage Servicing Center, Circuit Court of Jefferson County, Alabama, Case Number CV94-02756 (national class); *Gray v. Columbia National, Inc.*, Circuit Court of Jefferson County, Alabama, Case Number CV94-06668 (national class); *Bell v. The Prudential Home Mortgage Co., Inc.*, Circuit Court of Montgomery County, Alabama, Case Number CV94-2717G (national class - settlement); *Huggins v. Compass Bank*, Circuit Court of Shelby County, Alabama, Case Number CV95-520 (national class - settlement); *Trotman v. Market Street Mortgage Co.*, Circuit Court of Montgomery County, Alabama, Case Number CV94-2716.80 (national class - settlement); *Williams v. First NH Mortgage Corp.*, Circuit Court of Jefferson County, Alabama, Case Number CV94-5993 (national

class - settlement); *Dillon Equities d/b/a H.L. Franklin's Place v. Jefferson County, Alabama*, Circuit Court of Jefferson County, Alabama; *Wanda Chandler v. Molton, Allen & Williams Corp.*, Circuit Court of Jefferson County, Alabama, Case Number CV97-1989 (national class - settlement); *Popular Package Stores v. City of Montgomery*, Circuit Court of Montgomery County, Alabama, Case Number CV92-52; *Mabson v. GMAC and MIC Life Ins. Co.*, Circuit Court of Jefferson County, Alabama, Case Number CV94-6141 (State of Alabama class); *Vakakes Enterprises d/b/a P.T.'s Sports Grill v. City of Birmingham*, Circuit Court of Jefferson County, Alabama; *Dwyer v. J.I. Kislak Mortgage Corp.* Superior Ct. King County Washington, Case No. 97-2-10584-6 (national class certification and settlement); *George T. Ballance v. Hibernia National Bank and Progressive Casualty Insurance Company*, United States District Court for the Southern District of Mississippi, Southern Division, Case No. 1:96CV13GR (national class - $10 million settlement); *Gary Archer v. Wal-Mart*, Circuit Court of Shelby County, Alabama; *James Warren Wilson and Thelma Wilson v. Commercial Federal Mortgage Corporation*, United States District Court for the Northern District of Alabama, Southern Division, Case No. CV 98-J-0184-S (national class certification); *J.M. Maples, et al v. Jack Williams, et al*, Circuit Court of Jefferson County, Alabama, Case No. 97-058; *Brasher v. Norfolk Southern* (class settlement, co-lead class counsel), United States District Court for the Northern District of Alabama, Eastern Division, CV-06-BE-0198-ES; *Sanders v. Norfolk Southern* (putative class action), Court of Common Pleas of Aiken Co., South Carolina, No. 05-CP-02-68; *MNP Holdings, LLC, v. Smallwood*, Circuit Court of Jefferson Co., Alabama, Case No. 2007-900669 (class settlement, co-lead class counsel).

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

EMILY PINON, GARY C. KLEIN, KIM BROWN, JOSHUA FRANKUM, DINEZ WEBSTER, and TODD BRYAN, on behalf of themselves and all others similarly situated, **Plaintiffs,** **v.** **MERCEDES-BENZ USA, LLC, and DAIMLER AG,** **Defendants.**	**CASE NO: 1:18-CV-03984-MHC**

DECLARATION OF K. STEPHEN JACKSON, ESQ.

I, Attorney K. Stephen Jackson, hereby declare as follows:

1. I am over the age of 18 years.

2. This Declaration is made and submitted in support of Plaintiffs' *Motion to Appoint Class Counsel* and on behalf of myself and my law firm Jackson & Tucker, P.C. (founded in 2006). I have personal knowledge of all matters set forth herein.

3. I hold "Of Counsel" status with Heninger Garrison Davis, LLC ("HGD") and am Plaintiffs' counsel of record in the present action, having

provided legal services to Plaintiffs Emily Pinon, Gary C. Klein, Kim Brown, Joshua Frankum, Dinez Webster, and Todd Bryan, and generally on behalf of all putative class members, since this action was first instituted on August 21, 2018.

4. Jackson & Tucker, P.C.'s attorneys are licensed to practice law in Alabama, Georgia, Mississippi, Tennessee, Pennsylvania, New York, Texas, and the District of Columbia. The firm holds Martindale-Hubbell's highest rating for ethical standards and legal ability ("AV"), and has been listed in the Bar *Register of Pre-Eminent Lawyers* [2008-2010].

5. I am a 1983 graduate of the Cumberland School of Law, Samford University, located in Birmingham, Alabama. I was admitted to practice law in the State of Alabama in September, 1983, and in the State of Georgia in May, 1984. Since 1983, I have practiced exclusively in the area of civil litigation. I am admitted to practice before the United States District Courts for the Northern, Middle and Southern Districts of Alabama, and the United States District Court for the Northern District of Georgia.

6. I have tried numerous civil cases in state and federal courts and have been admitted *pro hac vice* in a number of state and federal courts during my legal career, representing thousands of clients in class action and/or complex litigation cases.

7. I hold Martindale-Hubbell's highest individual attorney rating for ethical standards and legal ability ("AV") in the areas of Personal Injury Law, Insurance Fraud, Insurance Bad Faith, Products Liability Law, Medical Negligence, Wrongful Death, Consumer Fraud, Class Actions & Mass Torts. I have been deemed a "SuperLawyer" [www.superlawyers.com] by my peers [2008-2009, 2011-2012, 2019-2020], and am a member of the Birmingham Bar Association, having served for several years on various committees.

8. Some of the class action cases I have handled include: *Baker v. Regions Financial Corp.*, CV 99-252, in the Circuit Court of Jackson County, Alabama (granted class certification on September 27, 2001) [involving the improper sale of insurance to banking customers]; *Mercer, et al. v. Life Insurance Company of Georgia*, CV 2000RCCV-27, in the Superior Court of Richmond County, Georgia (class settlement Fairness Hearing held on September 24, 2001) [a national class action comprising more than 180,000 class members involving allegations of improper premium pricing of life insurance products]; *Riggins v. Allstate*, CV 00-1708, filed in the Circuit Court of Jefferson County, Alabama [involving allegations of improper life insurance pricing practices]; *Thomas v. Progressive Specialty, Ins. Co., et al.*, CV 01-98, in the Circuit Court of Barbour County, Alabama, Clayton Division [involving allegations of improper claim

practices relating to property insurance]; *McGhee v. Chase Manhattan Mortgage Corporation, et al.*, CV 01-58, in the Circuit Court of Tallapoosa County, Alabama [involving allegations relating to the sale of hazard insurance]; *Morris v. DirecTV*, in the Superior Court of Fulton County, Georgia, 2001 CV3-9999 [involving claims for sending unlawful facsimiles under the Telephone Consumer Protection Act]; *McEachern v. The Equitable Life Assurance Society of the United States, et al.*, CV 00-403-CB-C, in the United States District Court for the Southern District of Alabama [involving allegations of charging improper fees in annuity contracts]; *Gilmore v. MONY Life Insurance Company of America*, CV-00-T-84-N, in the United States District Court of the Middle District of Alabama [involving allegations of charging improper fees in annuity contract]; *Buckingham v. Baptist Memorial Hospital-Golden Triangle Inc., et al.*, CV 1:01CV36-B-D, in the U.S. District Court of the Northern District of Mississippi, Eastern Division [a Fair Debt Collection Practices Act Claim regarding the practice of collecting debts following their discharge in bankruptcy court]; *O'Neil v. Abbott Labs, et al.*, [involving price-fixing and other claims arising out of anti-competitive activities with respect to the drug terazosin hydrochloride] (originally filed in the Circuit Court of Jefferson County, Alabama, made part of the Terazosin Hydrochloride Antitrust Litigation MDL, Docket No 1317); *Allen and Cannon v. Jefferson County Commission, The*

Water Works and Sewer Board of the City of Birmingham, et al., CV-01-491, in the Circuit Court of Jefferson County, Alabama – Bessemer Division [involving allegations of improper charging of customers for water and sewer usage]; *Ragan v. Invesco Funds Group*, in the United States District Court, Southern District of Georgia – Dublin Division [involving allegations of improper fees charged to certain mutual funds].

9. In addition to representation of plaintiffs in class actions, Jackson & Tucker, P.C., regularly undertakes mass tort litigation involving the representation of numerous individual plaintiffs with similar claims. These include the prosecution of cases for thousands of plaintiffs with claims against, among others, Prudential Insurance Company, Metropolitan Life Insurance Company, State Farm Insurance Company, Life of Georgia Insurance Company of America (approximately 1,300 clients), American General Insurance Company (approximately 2,500 clients), Liberty National Life Insurance Company (approximately 1,000 clients), United Insurance Company (approximately 1,200 clients), New England Mutual Life Insurance Company, IDS/American Express, Lincoln National Life Insurance Company, H&R Block (approximately 250 clients), Primerica Life Insurance Company, Allianz Life Insurance Company, CitiFinancial Associates, Nissan Motor Acceptance Corporation, Chrysler

Financial Company (approximately 200 clients), Toyota Motor Credit Corporation (approximately 370 clients), Warner Lambert, Parke-Davis, Purdue Pharma, American Home Products/Wyeth (approximately 500 clients), Mutual Savings (approximately 1,000 clients), Bayer (approximately 600 clients), Bristol Meyers, Janssen Pharmaceutical, First Family, Lifescan, Inc., Johnson & Johnson, and Guidant Corporation.

10. I and my firm are presently counsel of record for the plaintiff(s) and/or plaintiff class in the following complex and/or class action cases in conjunction with HGD:

a. *Pinon, et al., individually and on behalf of all others similarly situated, v. Daimler AG, et al.* [Civil Action No.: 1:18-cv-03984-MHC (U.S. District Court for the Northern District of Georgia)].

b. *Essure Product Cases*. Representing approximately 300 individual Plaintiffs in various venues Nationwide.

11. I am knowledgeable about the facts and law applicable to the claims in this case, including the proposed settlement, having been involved in this matter beginning in the summer of 2018, when my firm and HGD first began investigating the facts and circumstances made the basis of this action.

12. I and my firm are fully qualified and committed to dedicating the necessary time and resources to continue pursuing this matter on behalf of the

named Plaintiffs and Proposed Class to a final resolution, in conjunction with HGD, regardless of the form.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: December 21, 2020

Respectfully submitted,

/s/ K. Stephen Jackson
K. Stephen Jackson
(GA Bar No. 387443)
JACKSON & TUCKER, PC
2229 1st Avenue North
Birmingham, Alabama 35203
Telephone: (205) 252-3535
Facsimile: (205) 252-3536
Email: steve@jacksonandtucker.com

Counsel for the Plaintiffs and Proposed Class

LOCAL RULE 7.1(D) COMPLIANCE CERTIFICATE

Pursuant to L.R. 7.1(D), this certifies that the foregoing document complies with the font and point selections approved by L.R. 5.1(C). The foregoing document was prepared using Times New Roman font in 14 point.

Dated: December 21, 2020

/s/ K. Stephen Jackson
K. Stephen Jackson
(GA Bar No. 387443)

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

EMILY PINON, GARY C. KLEIN, KIM BROWN, JOSHUA FRANKUM, DINEZ WEBSTER, and TODD BRYAN, on behalf of themselves and all others similarly situated, **Plaintiffs,** **v.** **MERCEDES-BENZ USA, LLC, and DAIMLER AG,** **Defendants.**	Case No. 1:18-CV-03984-MHC **DECLARATION OF JENNIFER M. KEOUGH REGARDING PROPOSED NOTICE PLAN**

I, Jennifer M. Keough, declare and state as follows:

INTRODUCTION

1. I am Chief Executive Officer of JND Class Action Administration ("JND"). This Declaration is based on my personal knowledge, as well as upon information provided to me by experienced JND employees and Counsel for the Plaintiffs and Defendants ("Counsel"), and if called upon to do so, I could and would testify competently thereto.

2. I have more than 20 years of legal experience creating and supervising Notice and Claims Administration programs and have personally

overseen well over 500 matters. A comprehensive description of my experience is attached as Exhibit A.

3. JND is a legal administration services provider with headquarters located in Seattle, Washington. JND has extensive experience with all aspects of legal administration and has administered hundreds of class action settlements. JND was chosen as the Settlement Administrator in this case after going through a competitive bidding process.

4. As CEO, I am involved in all facets of JND's operation, including monitoring the implementation of our notice and claims administration programs.

5. I submit this Declaration at the request of Counsel in the above-referenced litigation to describe the proposed Notice Plan for Class Members and address why this comprehensive proposed Notice Plan is consistent with other best practicable court-approved notice programs and the requirements of Rule 23 of the Federal Rules of Civil Procedure and the Federal Judicial Center ("FJC") guidelines for Best Practicable Due Process notice.

RELEVANT EXPERIENCE

6. JND is one of the leading legal administration firms in the country. JND's class action and lien resolution divisions provide all services necessary for the effective implementation of class action settlements, including: (1) all facets of legal notice, such as outbound mailing, email notification, and the design and implementation of media programs, including through digital and social media

platforms; (2) website design and deployment, including online claim filing capabilities; (3) call center and other contact support; (4) secure class member data management; (5) paper and electronic claims processing; (6) lien verification, negotiation, and resolution; (7) calculation design and programming; (8) payment disbursements through check, wire, PayPal, merchandise credits, and other means; (9) qualified settlement fund tax reporting; and (11) all other functions related to the secure and accurate administration of class action settlements. JND is an approved vendor for the United States Securities and Exchange Commission ("SEC") as well as for the Federal Trade Commission ("FTC"). We also have Master Services Agreements with various law firms, corporations, banks, and other government agencies, which were only awarded after JND underwent rigorous reviews of our systems, privacy policies, and procedures. JND has also been certified as SOC 2 compliant by noted accounting firm Moss Adams. Finally, JND has been recognized by various publications, including the National Law Journal, the Legal Times, and, most recently, the New York Law Journal, for excellence in class action administration.

7. The principals of JND, including myself, collectively have over 75 years of experience in class action legal and administrative fields. We have personally overseen some of the most complex administration programs, including: $20 billion Gulf Coast Claims Facility, $10 billion Deepwater Horizon BP Settlement, $6.15 billion WorldCom Securities Settlement, $3.4 billion Cobell

Indian Trust Settlement (the largest U.S. government class action ever), and $3.05 billion VisaCheck/MasterMoney Antitrust Settlement.

8. In the past several months alone, JND has been appointed Notice Expert in the following matters: *Linneman, et al. v. Vita-Mix Corp*., Case No. 15-cv-748 (S.D. Ohio); *In re Intuit Data Litigation*, Case No. 15-cv-1778 (N.D. Cal.); *In re Broiler Chicken Antitrust Litigation*, Case No. 16-cv-8637 (N.D. Ill.); *McWilliams v. City of Long Beach*, Case No. BC361469 (Cal. Super. Ct.); *Granados v. County of Los Angeles*, Case No. BC361470 (Cal. Super. Ct.); *Finerman v. Marriott Ownership Resorts, Inc*., Case No. 14-cv-1154 (M.D. Fla.); *Huntzinger, et al. v. Suunto Oy, et al*., Case No. 37-2018-00027159-CU-BT-CTL (Cal. Super. Ct.); and *Dover v. British Airways, PLC (UK)*, Case No. 12-cv-5567 (E.D.N.Y.). I have also been appointed as the Independent Claims Administrator ("ICA") by the United States District Court for the Northern District of California in *Allagas v. BP Solar Int'l, Inc*., Case No. 14-cv-560.

9. JND's Legal Notice Team, which operates under my direct supervision, researches, designs, develops, and implements a wide array of legal notice programs to meet the requirements of Rule 23 of the Federal Rules of Civil Procedure and relevant state court rules. Our notice campaigns, which are regularly approved by courts throughout the United States, use a variety of media, including newspapers, press releases, magazines, trade journals, radio, television, social media, and the internet, depending on the circumstances and allegations of the case, the

demographics of the class, and habits of its members, as reported by various research and analytics tools. During my career, I have submitted several hundred affidavits to courts throughout the country attesting to our role in the creation and launch of various media programs.

NOTICE PLAN SUMMARY

10. This section summarizes all elements of the Notice Plan that will be part of this settlement. The proposed Notice Plan is designed to inform Class Members of the proposed class action settlement between Plaintiffs and Defendants Daimler AG and Mercedes-Benz USA, LLC ("MBUSA"). In the Settlement Agreement, the Settlement Class is defined as "all current owners, former owners, current lessees, and former lessees of Subject Vehicles who purchased or leased their Subject Vehicle in the United States. Excluded from the Settlement Class are: (a) Persons who have settled with, released, or otherwise had claims adjudicated on the merits against Defendants that are substantially similar to the Litigation Claims related to the Symptoms Alleged (*i.e.*, alleging that 590 Mars Red paint is inadequate, of poor or insufficient quality or design, or defective, due to peeling, flaking, bubbling, fading, discoloration, or poor adhesion of the paint or clearcoat); (b) Defendants and their officers, directors and employees, as well as their corporate affiliates and the corporate affiliates' officers, directors and employees; (c) Counsel to any of the parties; and (d) The Honorable Mark H. Cohen, the Honorable James Holderman (Ret.), and members of their respective immediate families."

11. The Notice Plan described and detailed below has been designed to reach the Class through direct mail. Specifically, the proposed Notice Plan includes the following components: CAFA Notice, Direct Mail Notice, Notice via Settlement Website, Settlement Administrator Email Address, and a Toll-free Information Line.

NOTICE DESIGN AND CONTENT

12. The Notice Documents are written in plain language and comply with the requirements of Rule 23 of the Federal Rules of Civil Procedure. I have reviewed the Notice Documents and believe each complies with these requirements as well as the FJC Class Action Notice and Plain Language Guide.

13. JND has designed the Postcard Notice to attract the attention of the recipient so they are encouraged to read the contents and take additional action to learn more about the Settlement. The Postcard Notice includes "call-out" language to signal the recipient that the mailing is not junk mail and is Court-ordered. The actual content of the Notice included bolded language to draw the recipient's attention to read on to find out if they are included in the Class, how they can get Settlement Benefits, what their options are under the Settlement, and how to get more information. The Postcard Notice includes plain and easy-to-read summaries of the Settlement and directs Class Members to the Settlement Website for more information, including an online Reimbursement Claim Form and Qualified Future Repair Claim Form and important case documents.

14. In addition, to the extent a portion of the Class may speak Spanish as their primary language, the Postcard Notice and Long Form Notice include a direction to visit the Settlement Website to view the Notices in Spanish. Spanish-speaking Class Members who call the toll-free information line during business hours may also speak with call center agents who are fluent in Spanish. The proposed Postcard Notice and Long Form Notice are attached as Exhibits B and C, respectively.

NOTICE PLAN DETAILS

15. **CAFA Notice**: JND will provide notice of the proposed Settlement under the Class Action Fairness Act ("CAFA"), 28 U.S.C. §1715(b) no later than 10 days after the proposed Settlement Agreement is filed with the Court. JND will provide such notice to the appropriate state and federal government officials.

16. **Direct Mail Notice**: An adequate notice program must satisfy "due process" when reaching a class. The United States Supreme Court, in the seminal case of *Eisen v. Carlisle & Jacqueline*, 417 U.S. 156 (1974), clearly stated that direct notice (when possible) is the preferred method for reaching a class. In addition, Rule 23(c)(2) of the Federal Rules of Civil Procedure requires that "the court must direct to class members the best notice that is practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort. The notice may be by one or more of the following: United States mail, electronic means, or other appropriate means."

17. For this settlement, JND estimates that the direct notice component will include mail notice to approximately 100,000 potential Class Members, using the contact information to be collected using the following advanced address research strategies.

18. As soon as practicable following the filing of the motion for preliminary approval, and in no event later than five (5) court days after the motion is filed, Defendants will provide a list of applicable Vehicle Identification Numbers ("VINs") to JND. JND will work with Departments of Motor Vehicles ("DMVs") to gather addresses for potential class members by sending Vehicle Identification Numbers ("VINs") for Class Vehicles to the DMVs. The DMVs will cross-check the VINs for vehicle transactions and will return the related mailing addresses and contact information to JND. The contact information gained using this process is considered particularly reliable because owners and lessees must maintain accurate and up-to-date contact information in order to pay vehicle registration fees and keep driver licenses and voter registrations current. The DMVs will provide multiple points of information, including make, model and model year of the vehicle, names and addresses of the purchasers, the inferred date of purchase, whether the vehicle was new or used, and whether the vehicle was leased.

19. Following the return of contact information from the DMVs, JND will promptly load the information into a unique database for the Settlement. A unique identification number will be assigned to each Class Member to identify them

throughout the administration process. To increase deliverability, JND will review the data provided to identify any undeliverable addresses and duplicate records based on name and address.

20. Prior to mailing notice, JND will update all addresses using the United States Postal Service's National Change of Address ("NCOA") database.[1] JND will then mail to all unique Class Members identified through DMV records a Postcard Notice, substantially similar to the proposed Postcard Notice agreed upon by the Parties and submitted to the Court. A copy of the Reimbursement Claim Form and the Qualified Future Repair Claim Form that Class Members can download will be available on the settlement website, and there will also be an electronic version of the Reimbursement Claim Form and Qualified Future Repair Claim Form that can be completed online and that allows for uploading of any required documentation to support a Claim. The proposed Reimbursement Claim Form and Qualified Future Repair Claim Form are attached as Exhibits D and E, respectively. The proposed Long Form Notice will be available for download on the Settlement Website, and Class Members may also request that a copy be mailed to them by calling or emailing the Settlement Administrator.

[1] The NCOA database is the official United States Postal Service ("USPS") technology product which makes change of address information available to mailers to help reduce undeliverable mail pieces before mail enters the stream. This product is an effective tool to update address changes when a person has completed a change of address form with the USPS. The address information is maintained on the database for 48 months.

21. **Settlement Website**: JND will develop and deploy an informational and interactive, case-specific Settlement Website on which the Postcard Notice, Long Form Notice, Settlement Agreement, a downloadable Reimbursement Claim Form and Qualified Future Repair Claim Form, and other important case documents will be posted. The website will host an online Reimbursement Claim Form and Qualified Future Repair Claim Form, permit upload of supporting documentation for Class Members who mailed their Reimbursement Claim Forms and Qualified Future Repair Claim Forms, provide answers to frequently asked questions, and include contact information for the Settlement Administrator.

22. The Website will have an easy-to-navigate design and will be formatted to emphasize important information and deadlines. Other available features will include an email contact form, a page with answers to frequently asked questions, links to important case documents including the Motion for Attorneys' Fees once it is filed, and an online Reimbursement Claim Form and Qualified Future Repair Claim Form. The Website will be optimized for mobile visitors so that information loads quickly on mobile devices and will also be designed to maximize search engine optimization through Google and other search engines. Keywords and natural language search terms will be included in the site's metadata to maximize search engine rankings.

23. **Settlement Administrator Email Address**: JND will establish a dedicated email address to receive and respond to Class Member inquiries. JND will generate email responses from scripted FAQs that will also be used by our call center

personnel. Depending on call volume and availability, we will use some of the same members on each team for efficiency and to establish uniformity of messaging.

24. **Toll-free Information Line**: JND will make available its scalable call center resources to develop and manage the incoming telephone calls received in response to the Notice Plan. JND will establish and maintain a 24-hour, toll-free telephone line that Class Members may call to obtain information about the Settlement. During business hours, JND's call center will be staffed with live operators who are trained to answer questions about the Settlement.

CONCLUSION

25. In JND's opinion, the Notice Plan as described herein, as well as the exhibits attached hereto, provide the best notice practicable under the circumstances, are consistent with the requirements of Rule 23 of the Federal Rules of Civil Procedure and all applicable court rules, and are consistent with, and exceed, other similar court-approved best notice practicable notice programs. The Notice Plan is designed to reach as many Class Members as possible and provide them with the opportunity to review a plain language notice with the ability to easily take the next step to learn more about the Settlement.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on December 21, 2020, in Seattle, Washington.

Jennifer M. Keough

EXHIBIT A

TO KEOUGH DECLARATION

JENNIFER KEOUGH

CHIEF EXECUTIVE OFFICER AND CO-FOUNDER

JND | LEGAL ADMINISTRATION

I. INTRODUCTION

Jennifer Keough is Chief Executive Officer and a Founder of JND Legal Administration ("JND"). She is the only judicially recognized expert in all facets of class action administration - from notice through distribution. With more than 20 years of legal experience, Ms. Keough has directly worked on hundreds of high-profile and complex administration engagements, including such landmark matters as the $20 billion Gulf Coast Claims Facility, $10 billion BP Deepwater Horizon Settlement, $3.4 billion Cobell Indian Trust Settlement (the largest U.S. government class action settlement ever), $3.05 billion VisaCheck/MasterMoney Antitrust Settlement, $1.3 billion Equifax Data Breach Settlement, $1 billion Stryker Modular Hip Settlement, $600 million Engle Smokers Trust Fund, $215 million USC Student Health Center Settlement, and countless other high-profile matters. She has been appointed notice expert in many notable cases and has testified on settlement matters in numerous courts and before the Senate Committee for Indian Affairs.

The only female CEO in the field, Ms. Keough oversees more than 200 employees at JND's Seattle headquarters, as well as other office locations around the country. She manages all aspects of JND's class action business from day-to-day processes to high-level strategies. Her comprehensive expertise with noticing, claims processing,

Systems and IT work, call center logistics, data analytics, recovery calculations, check distribution, and reporting gained her the reputation with attorneys on both sides of the aisle as the most dependable consultant for all legal administration needs. Ms. Keough also applies her knowledge and skills to other divisions of JND, including mass tort, lien resolution, government services, and eDiscovery. Given her extensive experience, Ms. Keough is often called upon to consult with parties prior to settlement, is frequently invited to speak on class action issues, and has authored numerous articles in her multiple areas of expertise.

Ms. Keough launched JND with her partners in early 2016. Just a few months later, Ms. Keough was named as the Independent Claims Administrator ("ICA") in a complex BP Solar Panel Settlement. Ms. Keough also started receiving numerous appointments as notice expert and in 2017 was chosen to oversee a restitution program in Canada where every adult in the country was eligible to participate. Also, in 2017, Ms. Keough was named a female entrepreneur of the year finalist in the 14th Annual Stevie Awards for Women in Business. In 2015 and 2017, she was recognized as a "Woman Worth Watching" by Profiles in Diversity Journal.

Since JND's launch, Mrs. Keough has also been featured in numerous news sources. In 2019, she was highlighted in an Authority Magazine article, "5 Things I wish someone told me before I became a CEO," and a Moneyish article, "This is exactly how rampant 'imposter syndrome' is in the workforce." In 2018, she was featured in several Fierce CEO articles, "JND Legal Administration CEO Jennifer Keough aids law firms in complicated settlements," "Special Report—Women CEOs offer advice on defying preconceptions and blazing a trail to the top," and "Companies stand out with organizational excellence," as well as a Puget Sound Business Journal article, "JND Legal CEO Jennifer Keough handles law firms' big business." In 2013, Ms. Keough appeared in a CNN article, "What Changes with Women in the Boardroom."

Prior to forming JND, Ms. Keough was Chief Operating Officer and Executive Vice President for one of the then largest legal administration firms in the country, where she oversaw operations in several offices across the country and was responsible for all large and critical projects. Previously, Ms. Keough worked as a class action

business analyst at Perkins Coie, one of the country's premier defense firms, where she managed complex class action settlements and remediation programs, including the selection, retention, and supervision of legal administration firms. While at Perkins she managed, among other matters, the administration of over $100 million in the claims-made Weyerhaeuser siding case, one of the largest building product class action settlements ever. In her role, she established a reputation as being fair in her ability to see both sides of a settlement program.

Ms. Keough earned her J.D. from Seattle University. She graduated from Seattle University with a B.A. and M.S.F. with honors.

II. LANDMARK CASES

Jennifer Keough has the distinction of personally overseeing the administration of more large class action programs than any other notice expert in the field. Some of her largest engagements include the following:

1. *Allagas v. BP Solar Int'l, Inc.*

No. 14-cv-00560 (N.D. Cal.)

Ms. Keough was appointed by the United States District Court for the Northern District of California as the Independent Claims Administrator ("ICA") supervising the notice and administration of this complex settlement involving inspection, remediation, and replacement of solar panels on homes and businesses throughout California and other parts of the United States. Ms. Keough and her team devised the administration protocol and built a network of inspectors and contractors to perform the various inspections and other work needed to assist claimants. She also built a program that included a team of operators to answer claimant questions, a fully interactive dedicated website with online claim filing capability, and a team trained in the very complex intricacies of solar panel mechanisms. In her role as ICA, Ms. Keough regularly reported to the parties and the Court regarding the progress of the case's administration. In addition to her role as ICA, Ms. Keough also acted as mediator for those claimants who opted out of the settlement to pursue their claims individually against BP. Honorable Susan Illston, recognized the complexity of the settlement when appointing Ms. Keough the ICA (December 22, 2016):

> *The complexity, expense and likely duration of the litigation favors the Settlement, which provides meaningful and substantial benefits on a much shorter time frame than otherwise possible and avoids risk to class certification and the Class's case on the merits...The Court appoints Jennifer Keough of JND Legal Administration to serve as the Independent Claims Administrator ("ICA") as provided under the Settlement.*

2. *Careathers v. Red Bull North America, Inc.*

No. 13-cv-0369 (KPF) (S.D.N.Y.)

Due to the nature of this case, direct notice was impossible. Therefore, Ms. Keough assisted in the design of a publication notice and claims administration program intended to reach the greatest number of affected individuals. Due to the success of the notice program, the informational website designed by Ms. Keough and her team received an unprecedented 67 million hits in less than 24 hours. The Claims Administration program received over 2 million claim forms submitted through the three available filing options: online, mail, and email. Judge Katherine Polk Failla approved the notice program (May 12, 2015) finding:

> *…that the Notice to the Settlement Class… was collectively the best notice practicable under the circumstances of these proceedings of the matters set forth therein, and fully satisfies the requirements of Rule 23(c)(2)(B) of the Federal Rules of Civil Procedure, due process, and any other applicable laws.*

3. *Chester v. The TJX Cos.*

No. 15-cv-01437 (C.D. Cal.)

As the notice expert, Ms. Keough proposed a multi-faceted notice plan designed to reach over eight million class members. Where class member information was available, direct notice was sent via email and via postcard when an email was returned as undeliverable or for which there was no email address provided. Additionally, to reach the unknown class members, Ms. Keough's plan included a summary notice in eight publications directed toward the California class and a tear-away notice posted in all TJ Maxx locations in California. The notice effort also included an informational and interactive website with online claim filing and a toll-free number that provided information 24 hours a day. Additionally, associates were available to answer class member questions in both English and Spanish during business hours. Honorable Otis D. Wright, II approved the plan (May 14, 2018):

> *...the Court finds and determines that the Notice to Class Members was complete and constitutionally sound, because individual notices were mailed and/or emailed to all Class Members whose identities and addresses are reasonably known to the Parties, and Notice was published in accordance with this Court's Preliminary Approval Order, and such notice was the best notice practicable.*

4. *Cobell v. Salazar*

No. 96 CV 1285 (TFH) (D. D.C.)

As part of the largest government class action settlement in our nation's history, Ms. Keough worked with the U.S. Government to implement the administration program responsible for identifying and providing notice to the two distinct but overlapping settlement classes. As part of the notice outreach program, Ms. Keough participated in multiple town hall meetings held at Indian reservations located across the country. Due to the efforts of the outreach program, over 80% of all class members were provided notice. Additionally, Ms. Keough played a role in creating the processes for evaluating claims and ensuring the correct distributions were made. Under Ms. Keough's supervision, the processing team processed over 480,000 claims forms to determine eligibility. Less than one half of one percent of all claim determinations made by the processing team were appealed. Ms. Keough was called upon to testify before the Senate Committee for Indian Affairs, where Senator Jon Tester of Montana praised her work in connection with notice efforts to the American Indian community when he stated: "Oh, wow. Okay... the administrator has done a good job, as your testimony has indicated, [discovering] 80 percent of the whereabouts of the unknown class members." Additionally, when evaluating the Notice Program, Judge Thomas F. Hogan concluded (July 27, 2011):

> *...that adequate notice of the Settlement has been provided to members of the Historical Accounting Class and to members of the Trust Administration Class.... Notice met and, in many cases, exceeded the requirements of F.R.C.P. 23(c)(2) for classes certified under F.R.C.P. 23(b)(1), (b)(2) and (b)(3). The best notice practicable has been provided class members, including individual*

notice where members could be identified through reasonable effort. The contents of that notice are stated in plain, easily understood language and satisfy all requirements of F.R.C.P. 23(c)(2)(B).

5. *Gulf Coast Claims Facility (GCCF)*

The GCCF was one of the largest claims processing facilities in U.S. history and was responsible for resolving the claims of both individuals and businesses relating to the Deepwater Horizon oil spill. The GCCF, which Ms. Keough helped develop, processed over one million claims and distributed more than $6 billion within the first year-and-a-half of its existence. As part of the GCCF, Ms. Keough and her team coordinated a large notice outreach program which included publication in multiple journals and magazines in the Gulf Coast area. She also established a call center staffed by individuals fluent in Spanish, Vietnamese, Laotian, Khmer, French, and Croatian.

6. *Hernandez v. Experian Info. Solutions, Inc.*

No. 05-cv-1070 (C.D. Cal.)

This case asserts claims in violation of the Fair Credit Reporting Act. The litigation dates back to 2005, when José Hernandez filed his original Class Action Complaint in *Hernandez v. Equifax Info. Services, LLC*, No. 05-cv-03996 (N.D. Cal.), which was later transferred to C.D. Cal. and consolidated with several other related cases. In April 2009, a settlement agreement between Defendants and some Plaintiffs was reached that would provide payments of damage awards from a $45 million settlement fund. However, after being granted final approval by the Court, the agreement was vacated on appeal by the United States Circuit Court of Appeals for the Ninth Circuit. The parties resumed negotiations and reached an agreement in April 2017. The settlement provided both significant monetary (approximately $38.7 million in non-reversionary cash) and non-monetary benefits. Ms. Keough oversaw the notice and administration efforts for the entire litigation. In approving the settlement and responding to objections about notice and administration expenses, Honorable David O. Carter, stated (April 6, 2018):

The Court finds, however, that the notice had significant value for the Class, resulting in over 200,000 newly approved claims—a 28% increase in the number of Class members who will receive claimed benefits—not including the almost 100,000 Class members who have visited the CCRA section of the Settlement Website thus far and the further 100,000 estimated visits expected through the end of 2019. (Dkt. 1114-1 at 3, 6). Furthermore, the notice and claims process is being conducted efficiently at a total cost of approximately $6 million, or $2.5 million less than the projected 2009 Proposed Settlement notice and claims process, despite intervening increases in postage rates and general inflation. In addition, the Court finds that the notice conducted in connection with the 2009 Proposed Settlement has significant ongoing value to this Class, first in notifying in 2009 over 15 million Class members of their rights under the Fair Credit Reporting Act (the ignorance of which for most Class members was one area on which Class Counsel and White Objectors' counsel were in agreement), and because of the hundreds of thousands of claims submitted in response to that notice, and processed and validated by the claims administrator, which will be honored in this Settlement.

7. *In re Air Cargo Shipping Servs. Antitrust Litig.*

No. 06-md-1775 (JG) (VVP) (E.D.N.Y.)

This antitrust settlement involved five separate settlements. As a result, many class members were affected by more than one of the settlements, Ms. Keough constructed the notice and claims programs for each settlement in a manner which allowed affected class members the ability to compare the claims data. Each claims administration program included claims processing, review of supporting evidence, and a deficiency notification process. The deficiency notification process included mailing of deficiency letters, making follow-up phone calls, and sending emails to class members to help them complete their claim. To ensure accuracy throughout the claims process for each of the settlements, Ms. Keough created a process which audited many of the claims that were eligible for payment.

8. *In re Blue Cross Blue Shield Antitrust Litig.*

Master File No.: 2:13-CV-20000-RDP (N.D. Ala.)

JND was recently appointed as the notice and claims administrator in the $2.67 billion Blue Cross Blue Shield proposed settlement. In approving the notice plan designed by Jennifer Keough, United States District Court Judge R. David Proctor, wrote: "JND has a proven track record and extensive experience in large, complex matters."

9. *In re Classmates.com*

No. C09-45RAJ (W.D. Wash.)

Ms. Keough managed a team that provided email notice to over 50 million users with an estimated success rate of 89%. When an email was returned as undeliverable, it was re-sent up to three times in an attempt to provide notice to the entire class. Additionally, Ms. Keough implemented a claims administration program which received over 699,000 claim forms and maintained three email addresses in which to receive objections, exclusions, and claim form requests. The Court approved the program when it stated:

> *The Court finds that the form of electronic notice… together with the published notice in the Wall Street Journal, was the best practicable notice under the circumstances and was as likely as any other form of notice to apprise potential Settlement Class members of the Settlement Agreement and their rights to opt out and to object. The Court further finds that such notice was reasonable, that it constitutes adequate and sufficient notice to all persons entitled to receive notice, and that it meets the requirements of Due Process…*

10. *In re Equifax Inc. Customer Data Sec. Breach Litig.*

No. 17-md-2800-TWT (N.D. Ga.)

JND was appointed settlement administrator, under Ms. Keough's direction, for this complex data breach settlement valued at $1.3 billion with a class of 147 million individuals nationwide. Ms. Keough and her team oversaw all aspects

of claims administration, including the development of the case website which provided notice in seven languages and allowed for online claim submissions. In the first week alone, over 10 million claims were filed. Overall, the website received more than 200 million hits and the Contact Center handled well over 100,000 operator calls. Ms. Keough and her team also worked closely with the Notice Provider to ensure that each element of the media campaign was executed in the time and manner as set forth in the Notice Plan.

Approving the settlement on January 13, 2020, Judge Thomas W. Thrash, Jr. acknowledged JND's outstanding efforts:

> *JND transmitted the initial email notice to 104,815,404 million class members beginning on August 7, 2019. (App. 4, ¶¶ 53-54). JND later sent a supplemental email notice to the 91,167,239 class members who had not yet opted out, filed a claim, or unsubscribed from the initial email notice. (Id., ¶¶ 55-56). The notice plan also provides for JND to perform two additional supplemental email notice campaigns. (Id., ¶ 57)...JND has also developed specialized tools to assist in processing claims, calculating payments, and assisting class members in curing any deficient claims. (Id., ¶¶ 4, 21). As a result, class members have the opportunity to file a claim easily and have that claim adjudicated fairly and efficiently...The claims administrator, JND, is highly experienced in administering large class action settlements and judgments, and it has detailed the efforts it has made in administering the settlement, facilitating claims, and ensuring those claims are properly and efficiently handled. (App. 4, ¶¶ 4, 21; see also Doc. 739-6, ¶¶ 2-10). Among other things, JND has developed protocols and a database to assist in processing claims, calculating payments, and assisting class members in curing any deficient claims. (Id., ¶¶ 4, 21). Additionally, JND has the capacity to handle class member inquiries and claims of this magnitude. (App. 4, ¶¶ 5, 42). This factor, therefore, supports approving the relief provided by this settlement.*

11. *In re General Motors LLC Ignition Switch Litig.*

No. 2543 (MDL) (S.D.N.Y.)

GM Ignition Switch Compensation Claims Resolution Facility

Ms. Keough oversaw the creation of a Claims Facility for the submission of injury claims allegedly resulting from the faulty ignition switch. The Claims Facility worked with experts when evaluating the claim forms submitted. First, the Claims Facility reviewed thousands of pages of police reports, medical documentation, and pictures to determine whether a claim met the threshold standards of an eligible claim for further review by the expert. Second, the Claims Facility would inform the expert that a claim was ready for its review. Ms. Keough constructed a database which allowed for a seamless transfer of claim forms and supporting documentation to the expert for further review.

12. *In re General Motors LLC Ignition Switch Litig.*

No. 2543 (MDL) (S.D.N.Y.)

Ms. Keough was also recently appointed the class action settlement administrator for the $120 million GM Ignition Switch settlement. On April 27, 2020, Honorable Jesse M. Furman approved the notice program designed by Ms. Keough and her team and the notice documents they drafted with the parties:

> *The Court further finds that the Class Notice informs Class Members of the Settlement in a reasonable manner under Federal Rule of Civil Procedure 23(e)(1)(B) because it fairly apprises the prospective Class Members of the terms of the proposed Settlement and of the options that are open to them in connection with the proceedings.*
>
> *The Court therefore approves the proposed Class Notice plan, and hereby directs that such notice be disseminated to Class Members in the manner set forth in the Settlement Agreement and described in the Declaration of the Class Action Settlement Administrator...*

Under Ms. Keough's direction, JND has already mailed notice to nearly 30 million potential class members.

13. *In re Mercedes-Benz Emissions Litig.*

No. 16-cv-881 (D.N.J.)

JND Legal Administration was recently appointed as the Settlement Administrator in this $700 million plus settlement wherein Daimler AG and its subsidiary Mercedes-Benz USA reached an agreement to settle a consumer class action alleging that the automotive companies unlawfully misled consumers into purchasing certain diesel type vehicles by misrepresenting the environmental impact of these vehicles during on-road driving. As part of its appointment, the Court approved Jennifer Keough's proposed notice plan and authorized JND Legal Administration to provide notice and claims administration services.

> *The Court finds that the content, format, and method of disseminating notice, as set forth in the Motion, Declaration of JND Legal Administration, the Class Action Agreement, and the proposed Long Form Notice, Short Form Notice, and Supplemental Notice of Class Benefits (collectively, the "Class Notice Documents") – including direct First Class mailed notice to all known members of the Class deposited in the mail within the later of (a) 15 business days of the Preliminary Approval Order; or (b) 15 business days after a federal district court enters the US-CA Consent Decree – is the best notice practicable under the circumstances and satisfies all requirements provided in Rule 23(c)(2)(B). The Court approves such notice, and hereby directs that such notice be disseminated in the manner set forth in the Class Action Settlement to the Class under Rule 23(e)(1)…JND Legal Administration is hereby appointed as the Settlement Administrator and shall perform all duties of the Settlement Administrator set forth in the Class Action Settlement.*

14. *In re Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010*

No. 2179 (MDL) (E.D. La.)

Following the closure of the Gulf Coast Claims Facility, the Deepwater Horizon Settlement claims program was created. There were two separate legal settlements that provided for two claims administration programs. One of the

programs was for the submission of medical claims and the other was for the submission of economic and property damage claims. Ms. Keough played a key role in the formation of the claims program for the evaluation of economic and property damage claims. Additionally, Ms. Keough built and supervised the back-office mail and processing center in Hammond, Louisiana, which was the hub of the program. The Hammond center was visited several times by Claims Administrator Pat Juneau -- as well as by the District Court Judge and Magistrate -- who described it as a shining star of the program.

15. *In re Stryker Rejuvenate and ABG II Hip Implant Products Liab. Litig.*

No. 13-2441 (MDL) (D. Minn.)

Ms. Keough and her team were designated as the escrow agent and claims processor in this $1 billion settlement designed to compensate eligible U.S. Patients who had surgery to replace their Rejuvenate Modular-Neck and/or ABG II Modular-Neck hip stems prior to November 3, 2014. As the claims processor, Ms. Keough and her team designed internal procedures to ensure the accurate review of all medical documentation received; designed an interactive website which included online claim filing; and established a toll-free number to allow class members to receive information about the settlement 24 hours a day. Additionally, she oversaw the creation of a deficiency process to ensure claimants were notified of their deficient submission and provided an opportunity to cure. The program also included an auditing procedure designed to detect fraudulent claims and a process for distributing initial and supplemental payments. Approximately 95% of the registered eligible patients enrolled in the settlement program.

16. *In re The Engle Trust Fund*

No. 94-08273 CA 22 (Fla. 11th Jud. Cir. Ct.)

Ms. Keough played a key role in administering this $600 million landmark case against the country's five largest tobacco companies. Miles A. McGrane, III, Trustee to the Engle Trust Fund recognized Ms. Keough's role when he stated:

The outstanding organizational and administrative skills of Jennifer Keough cannot be overstated. Jennifer was most valuable to me in handling numerous substantive issues in connection with the landmark Engle Trust Fund matter. And, in her communications with affected class members, Jennifer proved to be a caring expert at what she does.

17. *In re Washington Mut. Inc., Sec. Litig.*

No. 08-md-1919 MJP (W.D. Wash.)

Ms. Keough supervised the notice and claims administration for this securities class action, which included three separate settlements with defendants totaling $208.5 million. In addition to mailing notice to over one million class members, Ms. Keough managed the claims administration program, including the review and processing of claims, notification of claim deficiencies, and distribution. In preparation for the processing of claims, Ms. Keough and her team established a unique database to store the proofs of claim and supporting documentation; trained staff to the particulars of this settlement; created multiple computer programs for the entry of class member's unique information; and developed a program to calculate the recognized loss amounts pursuant to the plan of allocation. The program was designed to allow proofs of claim to be filed by mail or through an online portal. A deficiency process was established in order to reach out to class members who submitted incomplete proof of claims. The deficiency process involved reaching out to claimants via letters, emails, and telephone calls.

18. *In re Yahoo! Inc. Sec. Litig.*

No. 17-cv-373 (N.D. Cal.)

Ms. Keough oversaw the notice and administration of this $80 million securities settlement. In approving the settlement, Judge Lucy H. Koh, stated (September 7, 2018):

The Court hereby finds that the forms and methods of notifying the Settlement Class of the Settlement and its terms and conditions: met the requirements of due process, Rule 23 of the Federal Rules of Civil Procedure, and 15 U.S.C.

§ 78u-4(a)(7) (added to the Exchange Act by the Private Securities Litigation Reform Act of 1995); constituted the best notice practicable under the circumstances; and constituted due and sufficient notice to all persons and entities entitled thereto of these proceedings and the matters set forth herein, including the Settlement and Plan of Allocation.

19. *Linneman v. Vita-Mix Corp.*

No. 15-cv-748 (S.D. Ohio)

Ms. Keough was hired by Plaintiff Counsel to design a notice program regarding this consumer settlement related to allegedly defective blenders. The Court approved Ms. Keough's plan and designated her as the notice expert for this case. As direct notice to the entire class was impracticable due to the nature of the case, Ms. Keough proposed a multi-faceted notice program. Direct notice was provided by mail or email to those purchasers identified through data obtained from Vita-Mix and third parties, such as retailers, dealers, distributors, or restaurant supply stores. To reach the unknown class members, Ms. Keough oversaw the design of an extensive media plan that included: published notice in *Cooking Light*, *Good Housekeeping*, and *People* magazine and digital notice; placements through Facebook/Instagram, Twitter, and Conversant; and paid search campaign through Google and Bing. In addition, the program included an informational and interactive website where class members could submit claims electronically, and a toll-free number that provided information to class members 24 hours a day. When approving the plan, Honorable Susan J. Dlott stated (May 3, 2018):

JND Legal Administration, previously appointed to supervise and administer the notice process, as well as oversee the administration of the Settlement, appropriately issued notice to the Class as more fully set forth in the Agreement, which included the creation and operation of the Settlement Website and more than 3.8 million mailed or emailed notices to Class Members. As of March 27, 2018, approximately 300,000 claims have been filed by Class Members, further demonstrating the success of the Court-approved notice program.

20. *Loblaw Card Program*

Jennifer Keough was selected by major Canadian retailer Loblaw and its counsel to act as program administrator in its voluntary remediation program. The program was created as a response to a price-fixing scheme perpetrated by some employees of the company involving bread products. The program offered a $25 gift card to all adults in Canada who purchased bread products in Loblaw stores between 2002 and 2015. Some 28 million Canadian residents were potential claimants. Ms. Keough and her team: (1) built an interactive website that was capable of withstanding hundreds of millions of "hits" in a short period of time; (2) built, staffed and trained a call center with operators available to take calls twelve hours a day, six days a week; (3) oversaw the vendor in charge of producing and distributing the cards; (4) was in charge of designing and overseeing fraud prevention procedures; and (5) handled myriad other tasks related to this high-profile and complex project.

21. *New Orleans Tax Assessor Project*

After Hurricane Katrina, the City of New Orleans began to reappraise properties in the area which caused property values to rise. Thousands of property owners appealed their new property values and the City Council did not have the capacity to handle all the appeals in a timely manner. As a result of the large number of appeals, the City of New Orleans hired Ms. Keough to design a unique database to store each appellant's historical property documentation. Additionally, Ms. Keough designed a facility responsible for scheduling and coordinating meetings between the 5,000 property owners who appealed their property values and real estate agents or appraisers. The database that Ms. Keough designed facilitated the meetings between the property owners and the property appraisers by allowing the property appraisers to review the property owner's documentation before and during the appointment with them.

22. *USC Student Health Ctr. Settlement*

No. 18-cv-04258-SVW (C.D. Cal.)

JND was approved as the Settlement Administrator in this important $215 million settlement that provides compensation to women who were sexually assaulted, harassed and otherwise abused by Dr. George M. Tyndall at the USC Student Health Center during a nearly 30-year period. Ms. Keough and her team designed a notice effort that included: mailed and email notice to potential Class members; digital notices on Facebook, LinkedIn, and Twitter; an internet search effort; notice placements in USC publications/eNewsletters; and a press release. In addition, her team worked with USC staff to ensure notice postings around campus, on USC's website and social media accounts, and in USC alumni communications, among other things. Ms. Keough ensured the establishment of an all-female call center, whose operators were fully trained to handle delicate interactions, with the goal of providing excellent service and assistance to every woman affected. She also worked with the JND staff handling lien resolution for this case. Preliminarily approving the settlement, Honorable Stephen V. Wilson stated (June 12, 2019):

> *The Court hereby designates JND Legal Administration ("JND") as Claims Administrator. The Court finds that giving Class Members notice of the Settlement is justified under Rule 23(e)(1) because, as described above, the Court will likely be able to: approve the Settlement under Rule 23(e)(2); and certify the Settlement Class for purposes of judgment. The Court finds that the proposed Notice satisfies the requirements of due process and Federal Rule of Civil Procedure 23 and provides the best notice practicable under the circumstances.*

23. *Williams v. Weyerhaeuser Co.*

Civil Action No. 995787 (Cal. Super. Ct.)

This landmark consumer fraud litigation against Weyerhaeuser Co. had over $100 million in claims paid. The action involved exterior hardboard siding installed on homes and other structures throughout the United States from January 1, 1981 to December 31, 1999 that was alleged to be defective and prematurely fail when exposed to normal weather conditions.

Ms. Keough oversaw the administration efforts of this program, both when she was employed by Perkins Coie, who represented defendants, and later when she joined the legal administration firm handling the case. Operating for nine years, the claims program was extensive, subject to varying claims with varying claims deadlines depending on when the class member installed the original Weyerhaeuser siding. The program involved not just payments to class members, but an inspection component where a court-appointed inspector analyzed the particular claimant's siding to determine the eligibility and award level. Class members received a check for their damages, based upon the total square footage of damaged siding, multiplied by the cost of replacing, or, in some instances, repairing, the siding on their homes. Ms. Keough oversaw the entirety of the program from start to finish.

III. JUDICIAL RECOGNITION

Courts have favorably recognized Ms. Keough's work as outlined above and by the sampling of judicial comments from JND programs listed below.

1. Judge Jesus G. Bernal

Noriesta v. Konica Minolta Bus. Solutions U.S.A., Inc., (October 22, 2020) No. 19-cv-00620 (C.D. Cal.):

Rule 23(c)(2)(B) requires that the Court "direct to class members the best notice that is practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort." Fed. R. Civ. P. 23(c)(2)(B). Similarly, Rule 23(e)(1) requires that a proposed settlement may only be approved after notice is directed in a reasonable manner to all class members who would be bound by the agreement. Fed. R. Civ. P. 23(e)(1). In its MPA Order, the Court approved the notice sent to Settlement Class Members. (MPA Order at 13.) JND Legal Administration completed notice in accordance with the procedures approved by the Court. (See Keough Decl.) The Court therefore finds that notice to the Settlement Class was adequate.

2. Judge Amy Totenberg

Amin v. Mercedes-Benz USA, LLC, (September 11, 2020) No. 17-cv-01701-AT (N.D. Ga.):

Further, the Court finds that notice was given in accordance with the Preliminary Approval Order (Doc. 75), and that the form and content of that Notice, and the procedures for dissemination thereof, afforded adequate protections to Class Members and satisfy the requirements of Rule 23(e) and due process and constitute the best notice practicable under the circumstances.

3. Judge Fernando M. Olguin

Gonzalez-Tzita v. City of Los Angeles, (August 25, 2020)
No. 16-cv-00194 (C.D. Cal.):

After undertaking the required examination, the court approved the form of the proposed class notice. Also… the notice program was implemented by JND. Accordingly, based on the record and its prior findings, the court finds that the class notice and the notice process fairly and adequately informed the class members of the nature of the action, the terms of the proposed settlement, the effect of the action and release of claims, the class members' right to exclude themselves from the action, and their right to object to the proposed settlement.

4. Judge Steven W. Wilson

Amador v Baca, (August 11, 2020)
No. 10-cv-1649 (C.D. Cal.):

Class Counsel, in conjunction with JND, have also facilitated substantial notice and outreach to the relatively disparate and sometimes difficult to contact class of more than 94,000 individuals, which has resulted in a relatively high claims rate of between 33% and 40%, pending final verification of deficient claims forms. Their conduct both during litigation and after settlement was reached was adequate in all respects, and supports approval of the Settlement Agreement.

5. Judge Gary A. Fenner

In re Pre-Filled Propane Tank Antitrust Litig., (June 18, 2020)
No. 14-md-02567 (W.D. Mo.):

In short, court-appointed claims administrator JND provided actual notice where possible to each Settlement Class Member. As explained above, the Notice was sent by first-class regular mail directly to all 50,485 Settlement Class Members. Where Notice was returned as undeliverable to certain Settlement Class Members, JND made reasonable attempts to obtain updated addresses for all such Settlement

Class Members and to provide additional direct notice to such Settlement Class Members. JND also established a settlement-specific website, toll free telephone number, and fax number through which Settlement Class Members could obtain information about the action, the Settlement Agreements, the Plan of Allocation, and their rights with respect to the Settlement Agreements.

6. Judge Susan R. Bolton

In re Banner Health Data Breach Litig., (April 21, 2020)
No. 16-cv-02696 (D. Ariz.):

Prior to the Final Approval Hearing, Class Counsel filed the original and supplemental Declaration of Jennifer M. Keough Regarding Notice Administration, confirming that the Notice Program was completed in accordance with the Parties' instructions and the Preliminary Approval Order. Therefore, the Court is satisfied that Settlement Class Members were properly notified of their right to appear at the Final Approval Hearing in support of, or in opposition to, the proposed Settlement, the award of attorneys' fees, costs, and expenses, and the payment of Service Awards to the Class Representatives.

7. Judge Stephanie M. Rose

Swinton v. SquareTrade, Inc., (April 14, 2020)
No. 18-CV-00144-SMR-SBJ (S.D. Iowa):

This publication notice appears to have been effective. The digital ads were linked to the Settlement Website, and Google Analytics and other measures indicate that, during the Publication Notice Period, traffic to the Settlement Website was at its peak.

8. Honorable Virginia A. Phillips

Sonner v. Schwabe North America, Inc., (April 7, 2020)
No. 15-cv-01358 VAP (SPx) (C.D. Cal.):

The Court orders the appointment of JND Legal Administration to implement and administrate the dissemination of class notice and administer opt-out requests pursuant to the proposed notice dissemination plan attached as Exhibit D to the Stipulation.

9. Honorable John Ruhl

Folweiler v. Am. Family Ins. Co., (February 19, 2020)
No. 16-2-16112-0 (Wash. Super. Ct.):

Through the retention of a class action settlement administrator, JND Legal Administration (JND), the parties have now complied with the notice plan set forth in the Court's Order granting preliminary approval. See, Declaration of Jennifer M. Keough submitted in support of motion for final approval…Moreover, as set forth information provided by JND, the individual mailed Class Notice reached approximately 88.5% of the Settlement Class.

10. Judge Joan B. Gottschall

In re Navistar MaxxForce Engines Mktg., Sales Practices and Products, (January 3, 2020)
No. 14-cv-10318 (N.D. Ill.):

In accordance with PTO 29 and subsequent orders, the settlement administrator, a corporation for which Jennifer Keough ("Keough" or "settlement administrator") speaks, filed several declarations updating the court on the notice, opt-out, and claims process… the court finds that the settlement is fair, reasonable, and adequate.

11. Judge Fernando M. Olguin

Ahmed v. HSBC Bank USA, NA, (December 30, 2019)
No. 15-cv-2057-FMO-SPx (N.D. Ill.):

On June 21, 2019, the court granted preliminary approval of the settlement, appointed JND Legal Administration ("JND") as settlement administrator… the court finds that the class notice and the notice process fairly and adequately informed the class members of the nature of the action, the terms of the proposed settlement, the effect of the action and release of claims, the class members' right to exclude themselves from the action, and their right to object to the proposed settlement… the reaction of the class has been very positive.

12. Honorable Steven I. Locke

Donnenfield v. Petro, Inc., (December 4, 2019)
No. 17-cv-02310 (E.D.N.Y.):

WHEREAS, the Parties have agreed to use JND Legal Administration ("JND"), an experienced administrator of class action settlements, as the claims administrator for this Settlement and agree that JND has the requisite experience and expertise to serve as claims administrator; The Court appoints JND as the claims administrator for the Settlement.

13. Judge Steven W. Wilson

Amador v Baca, (November 7, 2019)
No. 10-cv-1649 (C.D. Cal.):

The Court approves the retention of JND Legal Administration ("JND") as Class Administrator, to administer the distribution of the Class and Settlement Notice and publication of the Class and Settlement Notice, and to distribute the proceeds of the settlement to all eligible Class Members pursuant to the Plan set out in the Settlement Agreement (Exhibit A) should the Court grant final approval. Exhibit E (the Class Administrator bid) includes the qualifications of JND, which establishes to the Court's satisfaction the qualifications of JND to act as the Class Administrator.

14. Honorable Amy D. Hogue

Trepte v. Bionaire, Inc., (November 5, 2019)
No. BC540110 (Cal. Super. Ct.):

The Court appoints JND Legal Administration as the Class Administrator… The Court finds that the forms of notice to the Settlement Class regarding the pendency of the action and of this settlement, and the methods of giving notice to members of the Settlement Class… constitute the best notice practicable under the circumstances and constitute valid, due, and sufficient notice to all members of the Settlement Class. They comply fully with the requirements of California Code of Civil Procedure section 382, California Civil Code section 1781, California Rules of Court 3.766 and 3.769, the California and United States Constitutions, and other applicable law.

15. Judge Sarah D. Morrison

Blasi v. United Debt Serv., LLC, (November 5, 2019)
No. 14-cv-0083 (S.D. Ohio):

JND Class Action Administration ("JND"), the claims administrator, mailed 166,597 notices to the class and had 10,377 notices returned as undeliverable. Id. at 6. Of those, JND re-mailed 2,306 to updated addresses. Id. 7. In addition, the website hosted 3,606 users who registered 10,170 page views. Id. As of August 14, 2019, JND had received 11,178 claim forms that remained under review. Id. Not one objection was lodged, and no one sought exclusion. Id… Through the postcard mailing and the website, the Court finds that the Class Representatives have utilized the best possible yet reasonable means to effectuate notice. Consequently, the Court holds that the Settlement Notice is sufficient.

16. Judge Cormac J. Carney

In re ConAgra Foods Inc., (October 8, 2019)
No. 11-cv-05379-CJC-AGR (C.D. Cal.):

Following the Court's preliminary approval, JND used a multi-pronged notice campaign to reach people who purchased Wesson Oils…As of September 19, 2019,

only one class member requested to opt out of the settlement class, with another class member objecting to the settlement. The reaction of the class has thus been overwhelmingly positive, and this factor favors final approval.

17. Judge Teri L. Jackson

Lee v. Hertz Corp., Dollar Thrifty Auto. Grp. Inc., (August 30, 2019)
No. CGC-15-547520 (Cal. Super. Ct.):

On April, 16, 2019, the Court issued Order Granting Plaintiffs' Motion for Preliminary Approval of Class Action Settlement, in which the Court did the following…appointed JND Legal Administration as the Settlement Administrator…The manner and form of notice…was the best notice practicable under the circumstances, was valid, due, and sufficient notice to all members of the Settlement Class, and complied fully with California law and due process.

18. Judge Barbara Jacobs Rothstein

Wright v. Lyft, Inc., (May 29, 2019)
No. 17-cv-23307-MGC 14-cv-00421-BJR (W.D. Wash.):

The Court also finds that the proposed method of distributing relief to the class is effective. JND Legal Administration ("JND"), an experienced claims administrator, undertook a robust notice program that was approved by this Court…

19. Judge J. Walton McLeod

Boskie v. Backgroundchecks.com, (May 17, 2019)
No. 2019CP3200824 (S.C. C.P.):

The Court appoints JND Legal Administration as Settlement Administrator…The Court approves the notice plans for the HomeAdvisor Class and the Injunctive Relief Class as set forth in the declaration of JND Legal Administration. The Court finds the class notice fully satisfies the requirements of due process, the South Carolina Rules of Civil Procedure. The notice plan for the HomeAdvisor Class and Injunctive Relief Class constitutes the best notice practicable under the circumstances of each Class.

20. Honorable James Donato

***In re Resistors Antitrust Litig.*,** (May 2, 2019)
No. 15-cv-03820-JD (N.D. Cal.):

The Court approves as to form and content the proposed notice forms, including the long form notice and summary notice, attached as Exhibits B and D to the Second Supplemental Declaration of Jennifer M. Keough Regarding Proposed Notice Program (ECF No. 534-3). The Court further finds that the proposed plan of notice – including Class Counsel's agreement at the preliminary approval hearing for the KOA Settlement that direct notice would be effectuated through both U.S. mail and electronic mail to the extent electronic mail addresses can be identified following a reasonable search – and the proposed contents of these notices, meet the requirements of Rule 23 and due process, and are the best notice practicable under the circumstances and shall constitute due and sufficient notice to all persons entitled thereto.The Court appoints the firm of JND Legal Administration LLC as the Settlement Administrator.

21. Honorable Leigh Martin May

***Bankhead v. First Advantage Background Serv. Corp.*,** (April 30, 2019)
No. 17-cv-02910-LMM-CCB (N.D. Ga.):

The Court appoints JND Legal Administration as Settlement Administrator… The Court approves the notice plans for the Class as set forth in the declaration of the JND Legal Administration. The Court finds that class notice fully satisfies the requirements of due process of the Federal Rules of Civil Procedure. The notice plan constitutes the best notice practicable under the circumstances of the Class.

22. Honorable P. Kevin Castel

***Hanks v. Lincoln Life & Annuity Co. of New York*,** (April 23, 2019)
No. 16-cv-6399 PKC (S.D.N.Y.):

The Court approves the form and contents of the Short-Form Notice and Long-Form Notice (collectively, the "Notices") attached as Exhibits A and B, respectively, to the

Declaration of Jennifer M. Keough, filed on April 2, 2019, at Docket No. 120…The form and content of the notices, as well as the manner of dissemination described below, therefore meet the requirements of Rule 23 and due process, constitute the best notice practicable under the circumstances, and shall constitute due and sufficient notice to all persons and entities entitled thereto…the Court approves the retention of JND Legal Administration LLC ("JND") as the Notice Administrator.

23. Judge Cormac J. Carney

In re ConAgra Foods Inc, (April 4, 2019)
No. 11-cv-05379-CJC-AGR (C.D. Cal.):

The bids were submitted to Judge McCormick, who ultimately chose JND Legal Administration to propose to the Court to serve as the settlement administrator. (Id. ¶ 65.) In addition to being selected by a neutral third party, JND Legal Administration appears to be well qualified to administer the claims in this case… The Court appoints JND Legal Administration as Settlement Administrator… JND Legal Administration will reach class members through a consumer media campaign, including a national print effort in People magazine, a digital effort targeting consumers in the relevant states through Google Display Network and Facebook, newspaper notice placements in the Los Angeles Daily News, and an internet search effort on Google. (Keough Decl. ¶ 14.) JND Legal Administration will also distribute press releases to media outlets nationwide and establish a settlement website and toll-free phone number. (Id.) The print and digital media effort is designed to reach 70% of the potential class members. (Id.) The newspaper notice placements, internet search effort, and press release distribution are intended to enhance the notice's reach beyond the estimated 70%. (Id.)

24. Honorable William J. McGovern, III, J.S.C.

Atl. Ambulance Corp. v. Cullum and Hitti, (March 29, 2019)
No. MRS-L-264-12 (N.J. Super. Ct.):

The Court finds that the manner and form of notice set forth in the Settlement Agreement (Class Notice) was provided to the Settlement Class Members and

Settlement Sub-class Members by JND Legal Administration, the Court-appointed Administrator of the Settlement…The Class Notice satisfied the requirements of due process and R. 4:32-2 and constitutes the best practicable notice under the circumstances.

25. Judge Edward M. Chen

In re MyFord Touch Consumer Litig., (March 28, 2019)
No. 13-cv-3072 (EMC) (N.D. Ca.):

The parties have justified their choice of JND as Settlement Administrator… And the Court finds that the language of the class notice is appropriate and that the means of notice is the "best notice…practicable under the circumstances."

26. Judge Jonathan Goodman

Belanger v. RoundPoint Mortgage Servicing, (March 28, 2019)
No. 17-cv-23307-MGC (S.D. Fla.):

Class Counsel has filed with the Court a declaration from Jennifer M. Keough, Chief Executive Officer at JND Legal Administration, the independent third-party Settlement Administrator for the Settlement, establishing that the Mail Notice, Claim Form, and Claim Form Instructions were mailed to Noticed Class Members on December 12, 2018; the Settlement Website and IVR toll-free telephone number system were established on December 12, 2018; internet advertising was published beginning December 14, 2018; and the Publication Notice was published on January 7, 2019. Adequate Class Notice was given to the Noticed Class Members in compliance with the Settlement Agreement and the Preliminary Approval Order.

27. Judge Steven P. Shreder

Chieftain Royalty Co. v. Marathon Oil Co., (March 8, 2019)
No. 17-cv-334 (E.D. Okla.):

The Court also approves the efforts and activities of the Settlement Administrator, JND Legal Administration, and the Escrow Agent, Signature Bank, in assisting with

certain aspects of the administration of the Settlement, and directs them to continue to assist Class Representatives in completing the administration and distribution of the Settlement in accordance with the Settlement Agreement, this Judgment, any Plan of Allocation approved by the Court, and the Court's other orders.

28. Judge Thomas S. Zilly

Connolly v. Umpqua Bank, (February 28, 2019)
No. C15-517 (TSZ) (W.D. Wash.):

Notice of the proposed class action settlement and of the final approval hearing scheduled for February 21, 2019, was sent to all members of the Class in the manner described in the Declaration of Jennifer M. Keough, the Chief Executive Officer of JND Legal Administration, which is the Settlement Administrator for this matter… the methods of transmitting notices to class members, along with the maintenance of a dedicated website, were the best notice practicable under the circumstances and comported with Federal Rule of Civil Procedure 23 and the Due Process Clause of the United States Constitution.

29. Judge Kathleen M. Daily

Podawiltz v. Swisher Int'l, Inc., (February 7, 2019)
No. 16CV27621 (Or. Cir. Ct.):

The Court appoints JND Legal Administration as settlement administrator…The Court finds that the notice plan is reasonable, that it constitutes due, adequate and sufficient notice to all persons entitled to receive notice, and that it meets the requirements of due process, ORCP 32, and any other applicable laws.

30. Honorable Robert W. Lehrburger

Hines v. CBS Television Studios, (February 5, 2019)
No. 17-cv-7882 (PGG) (S.D.N.Y.):

Class Members were provided with the best notice practicable under the circumstances. The Court further finds that the Notice and its distribution comported

with all constitutional requirements, including those of due process. No Cass Member opted out of or objected to the Settlement. Moreover, approximately 57% of Class Members returned the Claim form, which represents a substantial response from the Settlement Class…On August 24, 2018 the Court preliminary appointed JND as the Settlement Claims Administrator in this action. JND is an experienced administrator of Class Action settlements nationwide.

31. Judge Kimberly E. West

Reirdon v. Cimarex Energy Co., (December 18, 2018)
No. 16-CIV-113 (KEW) (E.D. Okla.):

The Court further finds that due and proper notice, by means of the Notice and Summary Notice, was given to the Settlement Class in conformity with the Settlement Agreement and Preliminary Approval Order…The Court also approves the efforts and activities of the Settlement Administrator, JND Legal Administration, and the Escrow Agent, Signature Bank, in assisting with certain aspects of the administration of the Settlement, and directs them to continue to assist Class Representative in completing the administration and distribution of the Settlement in accordance with the Settlement Agreement, this Judgment, any Plan of Allocation approved by the Court, and the Court's other orders.

32. Honorable Kenneth J. Medel

Huntzinger v. Suunto Oy, (December 14, 2018)
No. 37-2018-27159 (CU) (BT) (CTL) (Cal. Super. Ct.):

The Court finds that the Class Notice and the Notice Program implemented pursuant to the Settlement Agreement and Preliminary Approval Order constituted the best notice practicable under the circumstances to all persons within the definition of the Class and fully complied with the due process requirement under all applicable statutes and laws and with the California Rules of Court.

33. Judge Mark H. Cohen

***Liotta v. Wolford Boutiques, LLC*,** (November 30, 2018)
No. 16-cv-4634 (N.D. Ga.):

The Notice Program included written mail notice via post-card pursuant to addresses determined from a look-up on the telephone numbers using a historic look-up process designed to identify the owner of the relevant telephone numbers on July 7, 2016 and September 2, 2016. Keough Decl. ¶¶ 3-4. The Claims Administrator used multiple databases to determine addresses and names of the cellular telephone owners at the time the text messages were sent. Keough Decl. ¶ 3. The Parties' filed evidence that the Claims Administrator provided notice in conformance with the Notice Program approved by the Court. Id. ¶ 4 & Ex. A; Settlement Agreement § C.4; Prelim. Approval Order at 16-17. This notice constituted the most effective and best notice practicable under the circumstances of the Settlement Agreement and the fairness hearing. The notice constituted due and sufficient notice for all other purposes to all persons entitled to receive notice.

34. Honorable Thomas M. Durkin

***In re Broiler Chicken Antitrust Litig.*,** (November 16, 2018)
No. 16-cv-8637 (N.D. Ill.):

The notice given to the Class, including individual notice to all members of the Class who could be identified through reasonable efforts, was the best notice practicable under the circumstances. Said notice provided due and adequate notice of the proceedings and of the matters set forth therein, including the proposed settlement set forth in the Settlement Agreement, to all persons entitled to such notice, and said notice fully satisfied the requirements of Rules 23(c)(2) and 23(e)(1) of the Federal Rules of Civil Procedure and the requirements of due process.

35. Judge Maren E. Nelson

***Granados v. County of Los Angeles*,** (October 30, 2018)
No. BC361470 (Cal. Super. Ct.):

JND's Media Notice plan is estimated to have reached 83% of the Class. The overall reach of the Notice Program was estimated to be over 90% of the Class. (Keough Decl., at ¶12.). Based upon the notice campaign outlined in the Keough Declaration, it appears that the notice procedure was aimed at reaching as many class members as possible. The Court finds that the notice procedure satisfies due process requirements.

36. Judge Maren E. Nelson

***McWilliams v. City of Long Beach*,** (October 30, 2018)
No. BC361469 (Cal. Super. Ct.):

It is estimated that JND's Media Notice plan reached 88% of the Class and the overall reach of the Notice Program was estimated to be over 90% of the Class. (Keough Decl., at ¶12.). Based upon the notice campaign outlined in the Keough Declaration, it appears that the notice procedure was aimed at reaching as many class members as possible. The Court finds that the notice procedure satisfies due process requirements.

37. Judge Cheryl L. Pollak

***Dover v. British Airways, PLC (UK)*,** (October 9, 2018)
No. 12-cv-5567 (E.D.N.Y.), in response to two objections:

JND Legal Administration was appointed as the Settlement Claims Administrator, responsible for providing the required notices to Class Members and overseeing the claims process, particularly the processing of Cash Claim Forms…the overwhelmingly positive response to the Settlement by the Class Members, reinforces the Court's conclusion that the Settlement is fair, adequate, and reasonable.

38. Judge Edward J. Davila

In re Intuit Data Litig., (October 4, 2018)
No. 15-CV-1778-EJD (N.D. Cal.):

The Court appoints JND Legal Administration ("JND") to serve as the Settlement Administrator…The Court approves the program for disseminating notice to Class Members set forth in the Agreement and Exhibit A thereto (herein, the "Notice Program"). The Court approves the form and content of the proposed forms of notice, in the forms attached as Attachments 1 through 3 to Exhibit A to the Agreement. The Court finds that the proposed forms of notice are clear and readily understandable by Class Members. The Court finds that the Notice Program, including the proposed forms of notice, is reasonable and appropriate and satisfies any applicable due process and other requirements, and is the only notice to the Class Members of the Settlement that is required.

39. Judge Michael H. Watson

O'Donnell v. Fin. American Life Ins. Co., (August 24, 2018)
No. 14-cv-01071 (S.D. Ohio):

The Court finds that the Class Notice and the notice methodology implemented pursuant to this Settlement Agreement (as evidenced by the Declaration of Settlement Administrator Keough, JND Legal Administration): (1) constituted the best practicable notice; (2) constituted notice that was reasonably calculated, under the circumstances, to apprise Class Members of the terms of the Proposed Settlement, the available relief, the release of claims, their right to object or exclude themselves from the proposed Settlement, and their right to appear at the fairness hearing; (3) were reasonable and constitute due, adequate, and sufficient notice to all persons entitled to receive notice; and (4) met all applicable requirements of the Federal Rules of Civil Procedure, the Class Action Fairness Act, the United States Constitution (including the Due Process Clause), the Rules of the Court, and any other applicable law.

40. Judge Timothy J. Corrigan

***Finerman v. Marriott Ownership Resorts, Inc.*,** (August 15, 2018)
No. 14-cv-1154-J-32MCR (M.D. Fla.):

Notice was given by Mail in accordance with the Settlement Agreement and the Preliminary Approval Order. The Class Notice, Claim Form, Preliminary Approval Order, Petition for Attorney's Fees, and Settlement Agreement (without exhibits) were also posted on the Settlement Website at www.cruisefaresettlement.com. These forms of class notice fully complied with the requirements of Rule 23(c)(2)(B) and due process, constituted the best notice practicable under the circumstances, and were due and sufficient notice to all persons entitled to notice of the settlement of this lawsuit.

41. Judge Federico A. Moreno

***Brna v. Isle of Capri Casinos and Interblock USA, LLC*,** (February 20, 2018)
No. 17-cv-60144 (FAM) (S.D. Fla.):

Class Counsel has filed with the Court a Declaration from JND Legal Administration, the independent third-party Settlement Administrator for the Settlement, establishing the Settlement Notice and Claim Form were delivered by email and mail to the class members on November 27, 2017 and December 4, 2017, the Settlement website was established on November 27, 2017, and Claim Forms were also available electronically on the website. Adequate notice was given to the Settlement Class Members in compliance with the Settlement Agreement and the preliminary approval order.

42. Honorable Percy Anderson

***Nozzi v. Housing Authority for the City of Los Angeles*,** (February 15, 2018)
No. CV 07-380 PA (FFMx) (C.D. Cal.):

The notice given in this case was reasonably calculated to reach the Damages Class… Finally, a notice was published in the L.A. Times for three consecutive weeks on August 18, 2017, August 25, 2017, and September 1, 2017, and a 30-day internet

advertising campaign was launched on Facebook, Instagram, and Twitter to inform Class Members about the settlement. (Keough Decl. ¶ 12.) The Court therefore concludes that the notice procedures satisfied the requirements of Due Process and Federal Rule of Civil Procedure 23(e).

43. Judge Ann D. Montgomery

In re Wholesale Grocery Prod. Antitrust Litig., (November 16, 2017)
No. 9-md-2090 (ADM) (TNL) (D. Minn.):

Notice provider and claims administrator JND Legal Administration LLC provided proof that mailing conformed to the Preliminary Approval Order in a declaration filed contemporaneously with the Motion for Final Approval of Class Settlement. This notice program fully complied with Fed. R. Civ. P. 23, satisfied the requirements of due process, is the best notice practicable under the circumstances, and constituted due and adequate notice to the Class of the Settlement, Final Approval Hearing and other matters referred to in the Notice.

44. Honorable Philip S. Gutierrez

Harris v. Amgen, Inc., (April 4, 2017)
No. CV 07-5442 PSG (PLAx) (C.D. Cal.):

Class counsel retained JND to provide notice and administration services for this litigation. See generally Keough Decl. JND mailed 13,344 class action notices to class members by first-class mail on January 14, 2017. See Keough Decl., ¶ 6. If the mailings returned undeliverable, JND used skip tracing to identify the most updated addresses for class members. Id. To date, JND reports than only 179 notices are undeliverable. Id. ¶ 7. Moreover, as of March 21, 2017, the deadline for filing objections, JND had received no objections to the final settlement agreement. The lack of objections is an indicator that class members find the settlement to be fair, reasonable, and adequate.

IV. CASE EXPERIENCE

Ms. Keough has played an important role in hundreds of matters throughout her career. A partial listing of her notice and claims administration case work is provided below.

CASE NAME	CASE NUMBER	LOCATION
Abrams v. Peppermill Casinos	CV16-00578	D. Nev.
Achziger v. IDS Prop. Cas. Ins.	14-cv-5445	W.D. Wa.
Adair v. Michigan Pain Specialist, PLLC	14-28156-NO	Mich. Cir.
Adkins v. EQT Prod. Co.	10-cv-00037-JPJ-PMS	W.D. Va.
Adzhikosyan v. Denver Mgmt.	BC648100	Cal. Super. Ct.
Ahmed v. HSBC Bank USA, NA	15-cv-2057-FMO-SPx	N.D. Ill.
Allagas v. BP Solar Int'l, Inc.	14-cv-00560 (SI)	N.D. Cal.
Amador v. Baca	10-cv-1649	C.D. Cal.
Amin v. Mercedes-Benz USA, LLC	17-cv-01701-AT	N.D. Ga.
Andreas-Moses v. Hartford Fire Ins. Co.	17-cv-2019-Orl-37KRS	M.D. Fla.
Anger v. Accretive Health	14-cv-12864	E.D. Mich.
Arthur v. Sallie Mae, Inc.	10-cv-00198-JLR	W.D. Wash.
Atkins v. Nat'l. Gen. Ins. Co.	16-2-04728-4	Wash. Super. Ct.
Atl. Ambulance Corp. v. Cullum & Hitti	MRS-L-264-12	N.J. Super. Ct.
Avila v. LifeLock Inc.	15-cv-01398-SRB	D. Ariz.
Backer Law Firm, LLC v. Costco Wholesale Corp.	15-cv-327 (SRB)	W.D. Mo.
Baker v. Equity Residential Mgmt., LLC	18-cv-11175	D. Mass.
Bankhead v. First Advantage Background Services Corp.	17-cv-02910-LMM-CCB	N.D. Ga.
Barclays Dark Pool Sec. Litig.	14-cv-5797 (VM)	S.D.N.Y.
Barrett v. Nestle USA, Inc.	18-cv-167-DPM	E.D. Ark.
Belanger v. RoundPoint Mortgage Servicing	17-cv-23307-MGC	S.D. Fla.
Beltran v. InterExchange, Inc.	14-cv-3074	D. Colo.
Bergman v. Thelen LLP	08-cv-05322-LB	N.D. Cal.
Bey v. Encore Health Res.	19-cv-00060	E.D. Tex.
BlackRock Core Bond Portfolio v. Wells Fargo	65687/2016	N.Y. Super. Ct.
Blasi v. United Debt Serv., LLC	14-cv-0083	S.D. Ohio

CASE NAME	CASE NUMBER	LOCATION
Blocher v. Landry's Inc.	14-cv-03213-MSS-JSS	M.D. Fla.
Bobo v. LM Wind Power Blades (ND), Inc.	18-cv-230-DPM	E.D. Ark.
Bollenbach Enters. Ltd. P'ship. v. Oklahoma Energy Acquisitions	17-cv-134	W.D. Okla.
Boskie v. Backgroundchecks.com	2019CP3200824	S.C. C.P.
Boyd v. RREM Inc., d/b/a Winston	2019-CH-02321	Ill. Cir. Ct.
Bradley v. Honecker Cowling LLP	18-cv-01929-CL	D. Or.
Briones v. Patelco Credit Union	RG 16805680	Cal. Super. Ct.
Brna v. Isle of Capri Casinos	17-cv-60144 (FAM)	S.D. Fla.
Broussard v. Stein Mart, Inc.	16-cv-03247	S.D. Tex.
Browning v. Yahoo!	C04-01463 HRL	N.D. Cal.
Call v. Shutterstock	SCV-262841	Cal. Super. Ct.
Calvert v. Xcel Energy	17-cv-02458-RBJ	D. Colo.
Cambridge v. Sheetz, Inc.	17-cv-01649-JEJ	M.D. Pa.
Careathers v. Red Bull North America, Inc.	13-cv-369 (KPF)	S.D.N.Y.
Carmack v. Amaya Inc.	16-cv-1884	D.N.J.
Carson v. Cheers	17-2-29644-9	Wash. Super. Ct.
Castro v. Cont'l Airlines, Inc.	14-cv-00169	C.D. Cal.
Cecil v. BP America Prod. Co.	16-cv-410 (RAW)	E.D. Okla.
Chamblee v. TerraForm Power, Inc.	16 MD 2742 (PKC)(AJP)	S.D.N.Y.
Chanve c. E.I. Du Pont De Nemours	16-cv-00376-MAC-ZJH	E.D. Tex.
Chavez v. Our Lady of Lourdes Hosp.	12-2-50575-9	Wash. Super. Ct.
Chavez v. Temperature Equip. Corp.	2019-CHS-02538	Ill. Cir. Ct.
Chester v. TJX Cos.	15-cv-1437 (ODW) (DTB)	C.D. Cal.
Chieftain Royalty Co. v. Marathon Oil Co.	17-cv-334	E.D. Okla.
Chieftain Royalty Co. v. Newfield Exploration Mid-Continent Inc.	17-cv-00336-KEW	E.D. Okla.
Chieftain Royalty Co. v. XTO Energy, Inc.	11-cv-00029-KEW	E.D. Okla.
City of Los Angeles v. Bankrate, Inc.	14-cv-81323 (DMM)	S.D. Fla.
Cline v Sunoco, Inc.	17-cv-313-JAG	E.D. Okla.
Cline v. TouchTunes Music Corp.	14-CIV-4744 (LAK)	S.D.N.Y.
Cobell v. Salazar	96-cv-1285 (TFH)	D.D.C.

CASE NAME	CASE NUMBER	LOCATION
Common Ground Healthcare Coop. v. United States	17-877C	F.C.C.
Connolly v. Umpqua Bank	C15-517 (TSZ)	W.D. Wash.
Corona v. Sony Pictures Entm't Inc.	14–CV–09600–RGK–E	C.D. Cal.
Courtney v. Avid Tech., Inc.	13-cv-10686-WGY	D. Mass.
DASA Inv., Inc. v. EnerVest Operating LLC	18-cv-00083-SPS	E.D. Okla.
Davis v. Carfax, Inc.	CJ-04-1316L	D. Okla.
Davis v. State Farm Ins.	19-cv-466	W.D. Ky.
Davis v. Yelp Inc.	18-cv-00400-EMC	N.D. Cal.
De Santiago v. California Respite Care, Inc.	CIVDS1807688	Cal. Super. Ct.
Dearth v. Hartford Fire Ins. Co.	16-cv-1603-Orl-37LRH	M.D. Fla.
DeFrees v. Kirkland and U.S. Aerospace, Inc.	CV 11-04574	C.D. Cal.
del Toro Lopez v. Uber Techs., Inc.	14-cv-6255	N.D. Cal.
Delgado v. America's Auto Auction	2019-CH-04164	Ill. Cir. Ct.
Delkener v. Cottage Health Sys.	30-2016-847934 (CU) (NP) (CXC)	Cal. Super. Ct.
DeMarco v. AvalonBay Communities, Inc.	15-cv-00628-JLL-JAD	D.N.J.
Deora v Nanthealth	17-cv-01825-TJH-MRWx	C.D. Cal.
De Santiago v. California Respite Care, Inc.	CIVDS1807688	Cal. Super. Ct.
Diaz v. Lost Dog Pizza, LLC	17-cv-02228-WJM-NYW	D. Colo.
Diel v Salal Credit Union	19-2-10266-7 KNT	Wash. Super. Ct.
Dixon v. Grunt Style, LLC	2019 CH 01981	Ill. Cir. Ct.
Dixon v. Zabka	11-cv-982	D. Conn.
Djoric v. Justin Brands, Inc.	BC574927	Cal. Super. Ct.
Doan v. CORT Furniture Rental Corp.	30-2017-00904345-CU-BT-CXC	Cal. Super. Ct.
Doan v. State Farm Gen. Ins. Co.	1-08-cv-129264	Cal. Super. Ct.
Donnenfield v. Petro, Inc.	17-cv-02310	E.D.N.Y.
Dougherty v. Barrett Bus. Serv., Inc.	17-2-05619-1	Wash. Super. Ct.
Doughtery v. QuickSIUS, LLC	15-cv-06432-JHS	E.D. Pa.
Dover v. British Airways, PLC (UK)	12-cv-5567	E.D.N.Y.
Dozier v. Club Ventures Invs. LLC	17BK10060	S.D.N.Y.
Duran v. DirecTV	4850 (1-14-CV-274709)	Cal. Super. Ct.
Dwyer v. Snap Fitness, Inc.	17-cv-00455-MRB	S.D. Ohio
Easley v. The Reserves Network, Inc.	16-cv-544	N.D. Ohio

CASE NAME	CASE NUMBER	LOCATION
Edwards v. Arkansas Cancer Clinic, P.A.	35CV-18-1171	Ark. Cir. Ct.
Edwards v. Hearst Commc'ns., Inc.	15-cv-9279 (AT) (JLC)	S.D.N.Y.
EEOC v. Patterson-UTI Drilling Co. LLC	5-cv-600 (WYD) (CBS)	D. Colo.
Erica P. John Fund, Inc. v. Halliburton Co.	02-cv-1152	N.D. Tex.
Espenshade v. Wilcox & Wilcox	BC647489	Cal. Super. Ct.
Essex v. The Children's Place, Inc.	15-cv-5621	D.N.J.
Expedia Hotel Taxes & Fees Litig.	05-2-02060-1 (SEA)	Wash. Super. Ct.
Family Med. Pharmacy LLC v. Impax Labs., Inc.	17-cv-53	S.D. Ala.
Family Med. Pharmacy LLC v. Trxade Group Inc.	15-cv-00590-KD-B	S.D. Ala.
Fanelli v. Total Renal Care, Inc.	19-2-10835-5 SEA	Wash. Super. Ct.
Farmer v. Bank of Am.	11-cv-00935-OLG	W.D. Tex.
Felix v. WM. Bolthouse Farms, Inc.	19-cv-00312-AWI-JLT	E.D. Cal.
Fielder v. Mechanics Bank	BC721391	Cal. Super. Ct.
Finerman v. Marriott Ownership Resorts, Inc.	14-cv-1154-J-32MCR	M.D. Fla.
Fitzgerald v. Lime Rock Res.	CJ-2017-31	Okla. Dist. Ct.
Folweiler v. Am. Family Ins. Co.	16-2-16112-0	Wash. Super. Ct.
Fosbrink v. Area Wide Protective, Inc.	17-cv-1154-T-30CPT	M.D. Fla.
Fresno County Employees Ret. Assoc. v. comScore Inc.	16-cv-1820 (JGK)	S.D.N.Y.
Frost v. LG Elec. MobileComm U.S.A., Inc.	37-2012-00098755-CU-PL-CTL	Cal. Super. Ct.
FTC v. Consumerinfo.com	SACV05-801 AHS (MLGx)	C.D. Cal.
Gazda v. Serve U Brands, Inc.	E2019009233	N.Y. Super. Ct.
Gehrich v. Howe	37-2018-00041295-CU-SL-CTL	N.D. Ga.
Gervasio v. Wawa, Inc.	17-cv-245 (PGS) (DEA)	D.N.J.
Gonzalez-Tzita v. City of Los Angeles	16-cv-00194	C.D. Cal.
Gormley v. magicJack Vocaltec Ltd.	16-cv-1869	S.D.N.Y.
Gragg v. Orange Cab Co.	C12-0576RSL	W.D. Wash.
Granados v. County of Los Angeles	BC361470	Cal. Super., Ct.
Grant v. Ballard Mgmt, Inc.	18-2-54890-0 SEA	Wash. Super. Ct.
Hahn v. Hanil Dev., Inc.	BC468669	Cal. Super. Ct.
Hall v. Dominion Energy	18-cv-00321-JAG	E.D. Va.
Halperin v. YouFit Health Clubs	18-cv-61722-WPD	S.D. Fla.

CASE NAME	CASE NUMBER	LOCATION
Hanks v. Lincoln Life & Annuity Co. of New York	16-cv-6399 PKC	S.D.N.Y.
Harris v. Amgen, Inc.	CV 07-5442 PSG (PLAx)	C.D. Cal.
Harris v. Chevron U.S.A., Inc.	15-cv-00094	W.D. Okla.
Harrison v. Strategic Experiential Group	RG16 807555	Cal. Super. Ct.
Hayes v. Saddle Creek Corp.	19-cv-01143-SMY	S.D. Ill.
Health Republic Ins. Co. v. United States	16-259C	F.C.C.
Hernandez v. Experian Info. Solutions, Inc.	05-cv-1070 (DOC) (MLGx)	C.D. Cal.
Hernandez v. Great Western Pacific Inc.	18-2-08788-1 SEA	Wash. Super. Ct.
Hernandez v. United States Cold Storage of California, Inc.	S-1500-CV-282297-SPC	Cal. Super. Ct.
Hernandez v. Wells Fargo Bank, N.A.	18-cv-07354	N.D. Cal.
Hines v. CBS Television Studios	17-cv-7882 (PGG)	S.D.N.Y.
Holt v. Murphy Oil USA, Inc.	17-cv-911	N.D. Fla.
Hopwood v. Nuance Commc'n, Inc.	4:13-cv-02132-YGR	N.D. Cal.
Horton v. Cavalry Portfolio Serv., LLC and Krejci v. Cavalry Portfolio Serv., LLC	13-cv-0307-JAH-WVG and 16-cv-00211-JAH-WVG	C.D. Cal.
Howard v. Southwest Gas Corp.	18-cv-01035-JAD-VCF	D. Nev.
Howell v. Checkr, Inc.	17-cv-4305	N.D. Cal.
Hufford v. Maxim Inc.	19-cv-04452-ALC-RWL	S.D.N.Y.
Huntzinger v. Suunto Oy	37-2018-27159 (CU) (BT) (CTL)	Cal. Super. Ct.
Ilano v. Wells Fargo	30-2019-0199146-CU-OE-CXC	Cal. Super. Ct.
In re Air Cargo Shipping Servs. Antitrust Litig.	06-md-1775 (JG) (VVP)	E.D.N.Y.
In re Akorn, Inc. Sec. Litig.	15-c-1944	N.D. Ill.
In re Am. Express Fin. Advisors Sec. Litig.	04 Civ. 1773 (DAB)	S.D.N.Y.
In re AMR Corp. (American Airlines Bankr.)	1-15463 (SHL)	S.D.N.Y.
In re Auction Houses Antitrust Litig.	00-648 (LAK)	S.D.N.Y.
In re AudioEye, Inc. Sec. Litig.	15-cv-163 (DCB)	D. Ariz.
In re Banner Health Data Breach Litig.	16-cv-02696	D. Ariz.
In re Blue Cross Blue Shield Antitrust Litig.	2:13-CV-20000-RDP	N.D. Ala.
In re Broiler Chicken Antitrust Litig.	16-cv-08637	N.D. Ill.
In re Classmates.com	C09-45RAJ	W.D. Wash.
In re ConAgra Foods Inc.	11-cv-05379-CJC-AGR	C.D. Cal.

CASE NAME	CASE NUMBER	LOCATION
In re CRM Holdings, Ltd. Sec. Litig.	10-cv-00975-RPP	S.D.N.Y.
In re Equifax Inc. Customer Data Sec. Breach Litig.	17-md-2800-TWT	N.D. Ga.
In re Equifax Inc. Sec. Litig.	17-cv-03463-TWT	N.D. Ga.
In re General Motors LLC Ignition Switch Litig.	2543 (MDL)	S.D.N.Y.
*In re Global Tel*Link Corp. Litig.*	14-CV-5275	W.D. Ark.
In re GoPro, Inc. Shareholder Litig.	CIV537077	Cal. Super. Ct.
In re Guess Outlet Store Pricing	JCCP No. 4833	Cal. Super. Ct.
In re Initial Pub. Offering Sec. Litig. (IPO Sec. Litig.)	No. 21-MC-92	S.D.N.Y.
In re Intuit Data Litig.	15-CV-1778-EJD	N.D. Cal.
In re J.P. Morgan Stable Value Fund ERISA Litig.	12-cv-02548-VSB	S.D.N.Y.
In re Legacy Reserves LP Preferred Unitholder Litig.	2018-225 (JTL)	Del. Ch.
In re LIBOR-Based Fin. Instruments Antitrust Litig.	11-md-2262 (NRB)	S.D.N.Y.
In re Mercedes-Benz Emissions Litig.	16-cv-881 (KM) (ESK)	D.N.J.
In re MyFord Touch Consumer Litig.	13-cv-3072 (EMC)	N.D. Cal.
In re Navistar MaxxForce Engines Mktg., Sales Practices and Products	14-cv-10318	N.D. Ill.
In re Novo Nordisk Sec. Litig.	17-cv-00209-BRM-LHG	D.N.J.
In re Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010	2179 (MDL)	E.D. La.
In re PHH Lender Placed Ins. Litig.	12-cv-1117 (NLH) (KMW)	D.N.J.
In re Pokémon Go Nuisance Litig.	16-cv-04300	N.D. Cal.
In re Polyurethane Foam Antitrust Litig.	10-md-196 (JZ)	N.D. Ohio
In re Pre-Filled Propane Tank Antitrust Litig.	14-md-02567	W.D. Mo.
In re Processed Egg Prod. Antitrust Litig.	08-MD-02002	E.D. Pa.
In re Resistors Antitrust Litig.	15-cv-03820-JD	N.D. Cal.
In re Resonant Inc. Sec. Litig.	15-cv-1970 (SJO) (MRW)	C.D. Cal.
In re Rockwell Med. Inc. Stockholder Derivative Litig.	19-cv-02373	E.D. N.Y.
In re Sheridan Holding Co. I, LLC	20-31884 (DRJ)	Bankr. S.D. Tex.
In re Signet Jewelers Ltd, Sec. Litig.	16-cv-06728-CM-SDA	S.D.N.Y.
In re Stericycle, Inc. Sec. Litig.	16-cv-07145	N.D. Ill.
In re Stryker Rejuvenate and ABG II Hip Implant Products Liab. Litig.	13-md-2441	D. Minn.
In re SunTrust Banks, Inc. ERISA Litig.	08-cv-03384-RWS	N.D. Ga.

CASE NAME	CASE NUMBER	LOCATION
In re Tenet Healthcare Corp. Sec.	CV-02-8462-RSWL (Rzx)	C.D. Cal.
In re The Engle Trust Fund	94-08273 CA 22	Fla. 11th Cir. Ct.
In re Ubiquiti Networks Sec. Litig.	18-cv-01620 (VM)	S.D.N.Y.
In re Unilife Corp. Sec. Litig.	16-cv-3976 (RA)	S.D.N.Y.
In re Vale S.A. Sec. Litig.	15 Civ. 09539 (GHW)	S.D.N.Y.
In re Washington Mut. Inc. Sec. Litig.	8-md-1919 (MJP)	W.D. Wash.
In re Webloyalty.com, Inc. Mktg. & Sales Practices Litig.	06-11620-JLT	D. Mass.
In re Wholesale Grocery Prod. Antitrust Litig.	9-md-2090 (ADM) (TNL)	D. Minn.
In re Williams Sec. Litig.	02-CV-72-SPF (FHM)	N.D. Okla.
In re Yahoo! Inc. Sec. Litig.	17-cv-373	N.D. Cal.
Ivery v. RMH Illinois, LLC and RMH Franchise Holdings, Inc.	17-CIV-1619	N.D. Ill.
Jerome v. Elan 99, LLC	2018-02263	Tx. Dist. Ct.
Jeter v. Bullseye Energy, Inc.	12-cv-411 (TCK) (PJC)	N.D. Okla.
Johnson v. MGM Holdings, Inc.	17-cv-00541	W.D. Wash.
Johnson v. Tractor Supply Co.	19-2-01975-1-KNT	Wash. Super. Ct.
Jones v. Encore Health Res.	19-cv-03298	S.D. Tex.
Jordan v. Things Remembered, Inc.	114CV272045	Cal. Super. Ct.
Kellgren v. Petco Animal Supplies, Inc.	13-cv-644 (L) (KSC)	S.D. Cal.
Kent v. R.L. Vallee, Inc.	617-6-15	D. Vt.
Kissel v. Code 42 Software Inc.	15-1936 (JLS) (KES)	C.D. Cal.
Kokoszki v. Playboy Enter., Inc.	19-cv-10302	E.D. Mich.
Komesar v. City of Pasadena	BC 677632	Cal. Super. Ct.
Konecky v Allstate	CV-17-10-M-DWM	D. Mont.
Kramer v. DuPont, USA	17L2	Ill. Cir. Ct.
Krueger v. Ameriprise Fin., Inc.	11-cv-02781 (SRN/JSM)	D. Minn.
Langan v. Johnson & Johnson Consumer Co.	13-cv-01471	D. Conn.
Larson v. Allina Health Sys.	17-cv-03835	D. Minn.
Lee v. Hertz Corp., Dollar Thrifty Auto. Grp. Inc.	CGC-15-547520	Cal. Super. Ct.
Linderman v. City of Los Angeles	BC650785	Cal. Super. Ct.
Lindsay v. Cutter Wireline Serv., Inc.	7-cv-01445 (PAB) (KLM)	D. Colo.

CASE NAME	CASE NUMBER	LOCATION
Linneman v. Vita-Mix Corp.	15-cv-748	S.D. Ohio
Lion Biotechnologies Sec. Litig.	17-cv-02086-SI	N.D. Cal.
Liotta v. Wolford Boutiques, LLC	16-cv-4634	N.D. Ga.
Lippert v. Baldwin	10-cv-4603	N.D. Ill.
Lloyd v. CVB Fin. Corp.	10-cv-6256 (CAS)	C.D. Cal.
Loblaw Card Program	Remediation Program	
Mabrey v. Autovest	CGC-18-566617	Cal. Super. Ct.
Machado v. Endurance Int'l Grp. Holdings Inc.	15-cv-11775-GAO	D. Mass.
Malin v. Ambry Gentics Corp.	30-2018-00994841-CU-SL-CXC	Cal. Super. Ct.
Martinez v. Rial de Minas, Inc.	16-cv-01947	D. Colo.
McClellan v. Chase Home Fin.	12-cv-01331-JGB-JEM	C.D. Cal.
McClintock v. Continuum Producer Serv., LLC	17-cv-00259-JAG	E.D. Okla.
McFarland v. Swedish Med. Ctr.	18-2-02948-1 SEA	Wash. Super. Ct.
McGann v. Schnuck Markets Inc.	1322-CC00800	Mo. Cir. Ct.
McKeon v. Integrity Pizza LLC	18-cv-932	D. Colo.
McKibben v. McMahon	14-2171 (JGB) (SP)	C.D. Cal.
McKnight Realty Co. v. Bravo Arkoma, LLC	17-CIV-308 (KEW)	E.D. Okla.
McNeal v. AccentCare, Inc.	4:15cv03304	N.D. Cal.
McNeill v. Citation Oil & Gas Corp.	17-CIV-121 (KEW)	E.D. Okla.
McWilliams v. City of Long Beach	BC361469	Cal. Super. Ct.
Mild v. PPG Indus., Inc.	18-cv-04231	C.D. Cal.
Miller v. Carrington Mortgage Serv., LLC	19-cv-00016-JDL	D. Me.
Millien v. Madison Square Garden	17-cv-04000	S.D.N.Y.
Milstead v. Robert Fiance Beauty Sch., Inc.	CAM-L-328-16	N.J. Super. Ct.
Moeller v. Advance Magazine Publishers, Inc.	15-cv-05671 (NRB)	S.D.N.Y.
Mohamed v. SkyHop Global LLC	18-2-54565-0-KNT	Wash. Super. Ct.
Mojica v. Securus Techs., Inc.	14-cv-5258	W.D. Ark.
Molnar v. 1-800-Flowers Retail, Inc.	BC 382828	Cal. Super. Ct.
Monteleone v. Nutro Co.	14-cv-00801-ES-JAD	D.N.J.
Moodie v. Maxim HealthCare Servs.	14-cv-03471-FMO-AS	C.D. Cal.
Morel v. Lions Gate Entm't Inc.	16-cv-1407 (JFC)	S.D.N.Y.

CASE NAME	CASE NUMBER	LOCATION
Moss v. United Airlines	16-cv-08496	N.D. Ill.
Muir v. Early Warning Services, LLC	16-cv-00521	D.N.J.
Mylan Pharm., Inc. v. Warner Chilcott Pub. Ltd.	12-3824	E.D. Pa.
Nasseri v. Cytosport, Inc.	BC439181	Cal. Super. Ct.
Nesbitt v. Postmates, Inc.	CGC-15-547146	Cal. Super. Ct.
New Orleans Tax Assessor Project	Tax Assessment Program	
New York v. Steven Croman	450545/2016	N.Y. Super. Ct.
NMPA Late Fee Program Groups I-IVA	Remediation Program	CRB
Noland-Moore v. City of Cleveland	18-cv-2730	N.D. Ohio
Noriesta v. Konica Minolta Bus. Solutions U.S.A., Inc.	19-cv-00620	C.D. Cal.
Nozzi v. Housing Authority of the City of Los Angeles	CV 07-0380 PA (FFMx)	C.D. Cal.
Nwabueza v. AT&T	C 09-01529 SI	N.D. Cal.
Nwauzor v. GEO Group, Inc.	17-cv-05769	W.D. Wash.
Ortega v. Borton & Sons, Inc.	17-2-03005-39	Wash. Super. Ct.
O'Donnell v. Fin. American Life Ins. Co.	14-cv-01071	S.D. Ohio
Ortez v. United Parcel Serv., Inc.	17-cv-01202 (CMA) (SKC)	D. Colo.
Paetzold v. Metro. Dist. Comm'n	X07-HHD-CV-18-6090558-S	Conn. Super. Ct.
Paggos v. Resonant, Inc.	15-cv-01970-SJO	C.D. Cal.
Palazzolo v. Fiat Chrysler Auto. NV	16-cv-12803	E.D. Mich.
Palmateer v. Les Schwab	17CV22189	Or. Cir. Ct.
Parker v. Time Warner Entm't Co.	239 F.R.D. 318	E.D.N.Y.
Parker v. Universal Pictures	16-cv-1193-CEM-DCI	M.D. Fla.
Parmelee v. Santander Consumer USA Holdings Inc.	16-cv-783-K	N.D. Tex.
Pauley v. CF Ent.	13-CV-08011-RGK-CW	C.D. Cal.
Pemberton v. Nationstar Mortgage LLC	14-cv-1024-BAS (MSB)	S.D. Cal.
Perez v. DIRECTV	8:16-cv-01440-JLS-DFM	C.D. Cal.
Perrigo Sec. Litig.	20-cv-00710-BJR	W.D. Wash.
Petersen v. Costco Wholesale Co.	13-cv-01292-DOC-JCG	C.D. Cal.
Peterson v. Apria Healthcare Group, Inc.	19-cv-00856	M.D. Fla.
Pickett v. Simos Insourcing Solutions Corp.	1:17-cv-01013	N.D. Ill.
Pierce v Anthem Ins. Cos.	15-cv-00562-TWP-TAB	S. D. Ind.

CASE NAME	CASE NUMBER	LOCATION
Podawiltz v. Swisher Int'l, Inc.	16CV27621	Or. Cir. Ct.
Press v. J. Crew Group, Inc.	56-2018-512503 (CU) (BT) (VTA)	Cal. Super. Ct.
Presson v. Recovery Connections Cmty.	18-cv-466	E.D.N.C.
Purcell v. United Propane Gas, Inc.	14-CI-729	Ky. 2nd Cir.
Ralph v. Get Fresh Produce, Inc.	2019-CH-02324	Ill. Cir. Ct.
Ramos v. Hopele of Fort Lauderdale, LLC	17-cv-62100	S.D. Fla.
Reirdon v. Cimarex Energy Co.	16-CIV-113 (KEW)	E.D. Okla.
Rhea v. Apache Corp.	14-cv-00433-JH	E.D. Okla.
Rice v. Insync	30-2014-00701147-CU-NP-CJC	Cal. Super. Ct.
Rice-Redding v. Nationwide Mut. Ins. Co.	18-cv-01203	N.D. Ga.
Rich v. EOS Fitness Brands, LLC	RIC1508918	Cal. Super. Ct.
Rodrigues v WCP Constr. Corp.	19-cv-10409-DJC	D. Mass.
Rollo v. Universal Prop. & Cas. Ins.	2018-027720-CA-01	Fla. Cir. Ct.
Roman v. Antelope Valley Newspapers, Inc.	BC382639	Cal. Super. Ct.
Rotatori v. TGI Fridays	14-0081-B	Mass. Super. Ct.
Roth v. Bellevue Club	19-2-07780-8	Wash. Super. Ct.
Routh v. SEIU Healthcare 775NW	14-cv-00200	W.D. Wash.
Rozeboom v. Dietz & Watson	17-cv-01266-RAJ	W.D. Wash.
Ruppel v. Consumers Union of United States, Inc.	16-cv-2444 (KMK)	S.D.N.Y.
Russett v. Nw. Mut. Life Ins. Co.,	19-cv-07414-KMK	S.D.N.Y.
Saccoccio v. JP Morgan Chase	13-cv-21107	S.D. Fla.
San Antonio Fire & Police Pension Fund v. Dole Food Co.	15-cv-1140 (LPS)	E.D. Del.
Sanchez v. Centene Corp.	17-cv-00806-AGF	E.D. Mo.
Sanders v. Global Research Acquisition, LLC	18-cv-00555	M.D. Fla.
Sanders v The CJS Solutions Group, LLC	17-cv-03809	S.D.N.Y.
Schlesinger v. Ticketmaster	BC304565	Cal. Super. Ct.
Schourup v. Private Label Nutraceuticals, LLC	2015cv01026	C.D. Cal.
Schwartz v. Intimacy in New York, LLC	13-cv-5735 (PGG)	S.D.N.Y.
Schwartz v. Opus Bank	16-cv-7991 (AB) (JPR)	C.D. Cal.
SEB Inv. Mgmt. AB v. Endo Int'l PLC	17-cv-3711-TJS	E.D. Pa.
Seegert v. P.F. Chang's China Bistro	37-2017-00016131-CU-MC-CTL	Cal. Super. Ct.

CASE NAME	CASE NUMBER	LOCATION
Shah v Zimmer Biomet Holdings, Inc.	16-cv-00815-PPS-MGG	N.D. Ind.
Soderstrom v. MSP Crossroads Apartments LLC	16-cv-233 (ADM) (KMM)	D. Minn.
Solano v. Amazon Studios LLC	17-cv-01587 (LGS)	S.D.N.Y.
Sonner v. Schwabe North America, Inc.	15-cv-01358 VAP (SPx)	C.D. Cal.
Soto v. Diakon Logistics (Delaware), Inc.	08-cv-33-L(WMC)	S.D. Cal.
Speed v. JMA Energy Co., LLC	CJ-2016-59	Okla. Dist. Ct.
Stanley v. Capri Training Ctr.	ESX-L-1182-16	N.J. Super. Ct.
Steele v. PayPal, Inc.	05-CV-01720 (ILG) (VVP)	E.D.N.Y.
Stewart v. Early Warning Serv., LLC	18-cv-3277	D.N.J.
Stillman v. Clermont York Assocs. LLC	603557/09E	N.Y. Super. Ct.
Stretch v. Montana	DV-04-713 (A)	Mont. 11th Dist. Ct.
Strickland v. Carrington Mortgage Services, LLC	16-cv-25237	S.D. Fla.
Strougo v. Lannett Co.	18-cv-3635	E.D. Pa.
Stuart v. State Farm Fire & Cas. Co.	14-cv-04001	W.D. Ark.
Sudunagunta v. NantKwest, Inc.	16-cv-01947-MWF-JEM	C.D. Cal.
Sullivan v Wenner Media LLC	16–cv–00960–JTN–ESC	W.D. Mich.
Swinton v. SquareTrade, Inc.	18-CV-00144-SMR-SBJ	S.D. Iowa
Szafarz v. United Parcel Serv., Inc.	SUCV2016-2094-BLS2	Mass. Super. Ct.
Terrell v. Costco Wholesale Corp.	16-2-19140-1-SEA	Wash. Super. Ct.
Thomas v. KIK Custom Products, Inc.	2019CH02471	Ill. Cir. Ct.
Tile Shop Stockholders Litig.	2019-0892-SG	Del. Chancery
Timberlake v. Fusione, Inc.	BC 616783	Cal. Super. Ct.
Tkachyk v. Traveler's Ins.	16-28-m (DLC)	D. Mont.
T-Mobile Remediation Program	Remediation Program	
Tolliver v. Avvo, Inc.	16-2-5904-0 (SEA)	Wash. Super. Ct.
Townes, IV v. Trans Union, LLC	04-1488-JJF	D. Del.
Townsend v. G2 Secure Staff	18STCV04429	Cal. Super. Ct.
Trepte v. Bionaire, Inc.	BC540110	Cal. Super. Ct.
Tschosik v. Diamond Freight Sys.	16-2-01247-1	Wash. Super. Ct.
Tyus v. Gen. Info. Solutions LLC	2017CP3201389	S.C. C.P.
United States v. City of Austin	14-cv-00533-LY	W.D. Tex.
United States v. City of Chicago	16-c-1969	N.D. Ill.

CASE NAME	CASE NUMBER	LOCATION
United States v. Consol. City of Jacksonville	170-17M-393	U.S. D.O.J.
United States v. Greyhound Lines, Inc.	16-67-RGA	D. Del.
USC Student Health Ctr. Settlement	18-cv-04258-SVW	C.D. Cal.
Vasquez v. Libre by Nexus, Inc.	17-cv-00755-CW	N.D. Cal.
Vasquez v. Rainier Hospitality LLC	19-2-14813-6 SEA	Wash. Super. Ct.
Viesse v. Saar's Inc.	17-2-7783-6 (SEA)	Wash. Super. Ct.
Wahl v. Yahoo! Inc.	17-cv-2745 (BLF)	N.D. Cal.
Walton v. AT&T Servs., Inc.	15-cv-3653 (VC)	N.D. Cal.
Weber v. KASA Delivery LLC	16-2-13761-0 SEA	Wash. Super. Ct.
WellCare Sec. Litig.	07-cv-01940-VMC-EAJ	M.D. Fla.
Williams v. Children's Mercy Hosp.	1816-CV 17350	Mo. Cir. Ct.
Williams v. Naples Hotel Group, LLC	18-cv-422-Orl-37-DCI	M.D. Fla.
Williams v. Weyerhaeuser Co.	995787	Cal. Super. Ct.
Wills v. Starbucks Corp.	17-cv-03654	N.D. Ga.
Wilson v. LSB Indus., Inc.	15-cv-07614-RA-GWG	S.D.N.Y.
Wood v. AmeriHealth Caritas Serv.	19-2194	E.D. Pa.
Wornicki v. Brokerpriceopinion.com, Inc.	13-cv-03258 (PAB) (KMT)	D. Colo.
Wright v. Lyft, Inc.	14-cv-00421-BJR	W.D. Wash.
Yates v. Checkers	17-cv-09219	N.D. Ill.
Yeske v. Macoupin Energy	2017-L-24	Ill. Cir. Ct.
Yi v. Kroger Co.	14-2-19935-0 SEA	Wash. Super. Ct.
Yoakum v. ABB Motors and Mech., Inc.	20-cv-23-JJV	E.D. Ark.
Young v. World Wide Tech., LLC	2019-L-001728	Ill. 13th Cir. Ct.

EXHIBIT B

TO KEOUGH DECLARATION

LEGAL NOTICE BY ORDER OF THE UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF GEORGIA

If you have purchased or leased in the United States a Mercedes-Benz vehicle originally painted with "590 Mars Red" paint, you could get benefits from a class action settlement.

Para una notificación en español, visite www.[settlementwebsite].com

Mercedes Mars Red Settlement
c/o [SETTLEMENT ADMIN.]
[ADDRESS]
[ADDRESS]

[QR/printedID]

[MAILING BARCODE]
[NAME]
[ADDRESS1]
[ADDRESS2]
[CITY], [STATE], [ZIP]

A proposed Settlement has been reached in a class action lawsuit known as *Pinon et al. v. Mercedes-Benz USA, LLC et al.*, U.S.D.C., N.D. Ga. Case No. 18-CV-03984, claiming that Mercedes-Benz vehicles with Mars Red or Fire Opal (collectively, "590 Mars Red") paint may experience peeling, flaking, or bubbling of the exterior clearcoat. Defendants deny any wrongdoing. The Settlement resolves the case and provides benefits to Class Members. **This notice is a summary. For more information, visit www.[settlementwebsite].com**.

WHO IS INCLUDED: All current owners, former owners, current lessees, and former lessees of Mercedes-Benz vehicles purchased or leased in the United States originally painted 590 Mars Red.

SETTLEMENT BENEFITS: The Settlement provides two types of benefits: reimbursement for Qualified Past Repairs and coverage for Qualified Future Repairs relating to bubbling, peeling or flaking of the exterior clearcoat. The amount of reimbursement and coverage depends on how many miles or years have passed since the vehicle's in-service date. Subject to restrictions, coverage is up to 15 years or 150,000 miles, whichever comes first. To get Qualified Future Repairs, simply take your vehicle to a Mercedes Authorized Repair Center. If your vehicle already is 15 years old or more or has 150,000 miles or more and meets certain conditions, you should file a claim to seek Qualified Future Repairs. If you have already paid for a qualifying repair or need a qualifying repair now (and get the qualifying repair made), you need to file a claim for Qualified Past Repairs. Details and terms and conditions are at www.[settlementwebsite].com.

YOUR OPTIONS: You can exclude yourself ("opt out"), object to the Settlement, file a claim, or do nothing. The deadline to opt out or object is [Month Day], 2021. If you do not opt out, and the Court approves the Settlement, you will release your claims against Defendants. The Court will hold a hearing on [Month Day], 2021 to decide whether to approve the Settlement. You may attend.

MORE INFORMATION: Read the detailed Notice, Motions for Approval and Attorneys' Fees, and Settlement Agreement at www.[settlementwebsite].com.

EXHIBIT C

TO KEOUGH DECLARATION

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA

If you have purchased or leased in the United States a Mercedes-Benz vehicle originally painted "590 Mars Red," you could get benefits from a class action settlement

A federal court authorized this notice. It is not a solicitation from a lawyer.

- The Settlement will provide current owners, former owners, current lessees, and former lessees of Mercedes-Benz vehicles purchased or leased in the United States originally painted Mars Red or Fire Opal (collectively, "590 Mars Red") with reimbursement for Qualified Past Repairs and coverage for Qualified Future Repairs addressing peeling, flaking, or bubbling of the vehicle's paint or clearcoat not caused by external influences such as automobile accidents, scratches, or road debris.[1]

- Your legal rights are affected whether you act or do not act. Read this notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THE SETTLEMENT	
SUBMIT A CLAIM	Submitting a claim is the only way to get reimbursed for Qualified Past Repairs. For repairs that occurred before [NOTICE DATE], your claim must be submitted by mail and postmarked by [DATE] or by submitting the completed electronic Reimbursement Claim Form online at [www.settlementwebsite].com by [DATE]. For repairs that occur between [NOTICE DATE] and the Effective Date of this Settlement, your claim must be submitted by mail and postmarked or submitted electronically at [www.settlementwebsite].com within 60 days of the repair. *See* page ___. Submitting a claim is also the only way to receive a Qualified Future Repair if your vehicle has 150,000 miles or more or is 15 years or more from the original in-service date as of [NOTICE DATE], and you were previously denied warranty or goodwill coverage for a qualifying repair at a time the vehicle had both fewer than 15 years from the original in-service date and fewer than 150,000 miles. Your claim must be submitted postmarked by [DATE]. *See* page ___.
OBTAIN COVERAGE FOR FUTURE REPAIRS	If you need a Qualified Future Repair after the Effective Date of the Settlement and your vehicle both is fewer than 15 years from the original in-service date and has fewer than 150,000 miles, simply take your vehicle to an authorized dealer. You do not need to do anything right now to ensure coverage under the extended warranty. *See* page ___.
EXCLUDE YOURSELF (OPT OUT)	Choosing this option is the only way to ever be a part of any other lawsuit against Defendants about the legal claims in this case. However, it means you will not receive any repair or payment as part of this Settlement. Requests for exclusion must be postmarked by [DATE].
OBJECT	

[1] All capitalized terms shall have the same meaning ascribed to them in the Class Action Settlement Agreement and Release ("Settlement" or "Settlement Agreement").

	Write to the Court about why you do not like the Settlement. The deadline to file an objection is [DATE].
GO TO A HEARING	Ask to speak in Court about why you do or do not support the proposed Settlement or any of its provisions. The Fairness Hearing will be held on [DATE].
DO NOTHING	If you do nothing, you will not be entitled to receive a payment for reimbursement of Qualified Past Repairs, but you may still qualify for coverage of Qualified Future Repairs. You will give up rights to sue Defendants about the legal claims in this case.

QUESTIONS? Read on or visit www.[settlementwebsite].com.

Para una notificación en español, visite www.[settlementwebsite].com

WHAT THIS NOTICE CONTAINS

BASIC INFORMATION

1. Why did I receive a notice?

You have been identified as a potential Class Member who may own or lease or may have owned or leased a Subject Vehicle that is covered by this Settlement. You have legal rights and options that you may exercise before the Court decides whether to approve the Settlement. This notice has been approved by the Court and summarizes the proposed Settlement. For the precise terms and conditions of the Settlement, please review the Settlement Agreement, available at www.[settlementwebsite].com. The lawsuit is known as *Pinon et al. v. Mercedes-Benz USA, LLC and Daimler AG*, United States District Court for the Northern District of Georgia, Case No. 18-CV-03984-MHC.

2. What is this lawsuit about?

The Plaintiffs allege that the "590 Mars Red" paint available as an original, exterior color option for certain models of Mercedes-Benz vehicles is defective in that it may experience peeling, flaking, or bubbling of the exterior paint or clearcoat. Defendants Daimler AG and Mercedes-Benz USA, LLC deny the allegations in the lawsuit and deny they acted improperly or did anything wrong.

3. What is a class action?

In a class action lawsuit, one or more people called class representatives sue on behalf of other people alleged to have similar claims. If the court certifies a class, the people together are a Class or Class Members. The people who sued—and all the Class Members like them—are called the Plaintiffs. The companies they sued are called the Defendants. One court resolves the issues for everyone in the Class, except for those people who choose to exclude themselves from the Class.

4. Why is there a Settlement?

The Court did not decide in favor of Plaintiffs or Defendants. Instead, both sides agreed to a Settlement they believe is fair, reasonable, and adequate, after considering the risks and costs of continued litigation. The Plaintiffs and Class Counsel believe the proposed Settlement confers substantial benefits on the Class and have determined that the Settlement is in the best interest of the Class and represents a fair, reasonable, and adequate resolution of the lawsuit.

Defendants deny the claims in the lawsuit; deny all allegations of wrongdoing, fault, liability, or damage to the named Plaintiffs and the Class; deny that the Subject Vehicles' 590 Mars Red paint is defective; and deny that they acted improperly or wrongfully in any way. Defendants nevertheless value their relationship with their customers and recognize the expense and time that would be required to defend the lawsuit through trial and have taken this into account in agreeing to this Settlement.

WHO IS IN THE SETTLEMENT

To see if you will get benefits from the Settlement, you first must determine if you are a Class Member.

5. How do I know if I am part of the Settlement?

If the Court approves the Settlement, everyone who fits the following description and has not opted out of the Settlement will be a Class Member: *All current owners, former owners, current lessees, and former lessees of any Mercedes-Benz vehicle originally painted with 590 Mars Red paint and purchased or leased in the United States*.

Excluded from the Class are: (a) persons who have settled with, released, or otherwise had claims adjudicated on the merits against Defendants that are substantially similar to the Litigation Claims (*i.e.*, alleging that 590 Mars Red paint is inadequate, of poor or insufficient quality or design, or defective, due to peeling, flaking, bubbling, fading, discoloration, or poor adhesion of the paint or clearcoat); (b) Defendants and their officers, directors and employees, as well as their corporate affiliates and the corporate affiliates' officers, directors and employees; (c) counsel to any of the parties; and (d) the Honorable Mark H. Cohen, the Honorable James Holderman (ret.), and members of their respective immediate families.

6. Which vehicles are included?

A Subject Vehicle is defined as any Mercedes-Benz originally painted with 590 Mars Red paint and purchased or leased in the United States. 590 Mars Red paint was offered as an original, exterior color option for the following Mercedes-Benz vehicle types in the United States: C-Class (model years 2004-2015); GLK-Class (model years 2010-2015); CLS-Class (model years 2006-2007, 2009, 2014); CLK-Class (model years 2004-2009); S-Class (model years 2008, 2015, 2017); SL-Class (model years 2004-2009, 2011-2017); CL-Class (model years 2005-2006, 2013-2014); SLS-Class (model years 2014-2015); E-Class (model years 2005-2006, 2010-2017); G-Class (model years 2005, 2011-2017); GT-Class (model years 2016-2018); SLC-Class (model years 2017); SLK-Class (model years 2005-2016) and Maybach 57 (model year 2008).

7. I am still not sure if I'm included.

If you are still unsure whether you are included, you can email the Settlement Administrator at info@[settlementwebsite].com.

THE SETTLEMENT BENEFITS—WHAT YOU GET

8. What does the Settlement provide?

The Settlement provides two benefits to Class Members: reimbursement for Qualified Past Repairs and coverage for Qualified Future Repairs to address peeling, flaking, or bubbling of the Subject Vehicle's exterior paint or clearcoat. To find out how much of the cost for repairs will be reimbursed or covered, the following time and mileage periods apply.

Period One is defined as the time period during which the Subject Vehicle has or had fewer than seven years (84 months) or 105,000 miles from the Subject Vehicle's original in-service date, whichever occurred first. Qualifying Past Repairs that occurred during Period One will be reimbursed at 100% of the out-of-pocket cost paid subject to certain limitations in the Settlement Agreement, and the cost of Qualifying Future Repairs during Period One will be covered for 100% of the cost of the repair defined in the Settlement Agreement.

Period Two is defined as the time period from the end of Period One until the Subject Vehicle has or had fewer than ten years (120 months) or 150,000 miles from the Subject Vehicle's original in-service date, whichever occurred first. Qualifying Past Repairs that occurred during Period Two will be reimbursed at 50% of the out-of-pocket cost paid subject to certain limitations in the Settlement Agreement, and the cost of Qualifying Future Repairs during Period Two will be covered for 50% of the cost of the repair defined in the Settlement Agreement.

Period Three is defined as the time period from the end of Period Two until the Subject Vehicle has or had fewer than fifteen years (180 months) or 150,000 miles from the Subject Vehicle's original in-service date, whichever occurred first. Qualifying Past Repairs that occurred during Period Three will be reimbursed at 25% of the out-of-pocket cost paid subject to certain limitations in the Settlement Agreement, and the cost of

Qualifying Future Repairs during Period Three will be covered for 25% of the cost of the repair defined in the Settlement Agreement.

The cost for past repairs occurring after the end of Period Three will not be reimbursed.

The cost for future repairs occurring after the end of Period Three will not be covered unless you presented the Subject Vehicle to an authorized Mercedes-Benz dealer or body repair facility or provided notice to Defendants and were denied warranty or goodwill coverage for a qualifying repair at a time the vehicle had both fewer than 15 years and fewer than 150,000 miles, whichever occurred first ("Presentment Date"). In such case, the Presentment Date will be used for purposes of calculating whether your Subject Vehicle qualifies in Period One, Period Two, or Period Three.

Qualified Past Repairs: A Qualified Past Repair means a repair that occurred before the Effective Date of the Settlement related to repainting any non-plastic exterior surface of a Subject Vehicle because of peeling, flaking, or bubbling of the exterior clearcoat not caused by external influences such as automobile accidents, scratches, or road debris. Qualified Past Repairs shall be limited to refinishing of affected areas only, in accordance with Defendants' Technical Service Bulletin, LI98.00-P-058914 (viewable at www.[settlementwebsite].com).

To qualify for reimbursement of Qualified Past Repairs, you must submit a Reimbursement Claim Form. For information on how to make a claim for Qualified Past Repairs, including the limitations and proof requirements that apply, see question 9.

Qualified Future Repairs: A Qualified Future Repair means a repair performed in accordance with Defendants' Technical Service Bulletin, LI98.00-P-058914 (viewable at www.[settlementwebsite].com and attached to the Settlement Agreement as Exhibit A), by an Authorized Service Center after the Effective Date of the Settlement to repaint any non-plastic exterior surface of a Subject Vehicle because of peeling, flaking, or bubbling of the exterior clearcoat not caused by external influences such as automobile accidents, scratches, or road debris. Coverage for Qualified Future Repairs applies only to current owners and lessees. Qualified Future Repairs shall be limited to refinishing of affected areas only, in accordance with Defendants' Technical Service Bulletin, LI98.00-P-058914.

A Qualified Future Repair Claim Form is not required for coverage of Qualified Future Repairs if the Subject Vehicle is, as of the Effective Date, both fewer than 15 years from the original in-service date and fewer than 150,000 miles.

If your vehicle has more than 15 years from the original in-service date or more than 150,000 miles and you were denied warranty or goodwill coverage for a qualifying repair at a time the vehicle had both fewer than 15 years and fewer than 150,000 miles, and you wish to receive a Qualified Future Repair, you must submit a Qualified Future Repair Claim Form and meet all claim requirements.

If your vehicle needs a qualifying repair after [NOTICE DATE] but prior to the Effective Date, please take your vehicle to be repaired, retain your payment receipts for any qualifying repair performed, and make a claim for reimbursement as a Qualified Past Repair within 60 days of the repair.

For further details regarding Qualified Future Repairs and how you can receive coverage for them, including the limitations and proof requirements that apply, see question 10.

9. How do I get reimbursed for Qualified Past Repairs?

Any Class Member who wishes to make a reimbursement claim for a Qualified Past Repair must submit a completed and hand-written or electronically signed Reimbursement Claim Form (available at www.[settlementwebsite].com[/claimform], along with the following items of proof:

(a) Itemized repair order or invoice or other documentation showing that the Subject Vehicle received a qualified repair (*e.g.*, the repair invoice must show that part of the vehicle has been repainted) and the cost of the qualified repair. A repair shall not qualify for reimbursement if the reason for the repair described in any related repair order is for repairs due to an automobile accident, scratches, road debris, or other external influence that is clearly unrelated to the alleged defect in the 590 Mars Red paint and the Symptoms Alleged (*e.g.*, chemical burn, tree sap, bird droppings, etc.);

(b) Proof of your payment for the repair, which could include a credit card statement, an invoice showing a zero balance, a receipt showing payment, or other such proof; and

(c) Proof of your ownership or leasing of the Subject Vehicle at the time of the repair.

The amount of reimbursement you may receive for Qualified Past Repairs varies depending on the time period during which the Qualified Past Repair occurred, as outlined in question 8, and you cannot make a claim for reimbursement of an expense if you have already been reimbursed for it.

If a Qualified Past Repair was performed by an Independent Service Provider, the reasonable repair cost shall not exceed 10% of what the same repair would have cost if it were performed at an Authorized Service Center.

You must submit a Reimbursement Claim Form to qualify for reimbursement for Qualified Past Repairs.

For a Qualified Past Repair that occurred prior to [NOTICE DATE], a Reimbursement Claim Form must be submitted to the Settlement Administrator postmarked by [DATE] or submitted online at [www.settlementwebsite].com by completing the electronic Reimbursement Claim Form by [DATE]. For repairs that occur after [NOTICE DATE] but before the Effective Date of this Settlement, you must submit a Reimbursement Claim Form postmarked or online at [www.settlementwebsite].com within 60 days of the date of the repair.

You may download a Reimbursement Claim Form from the website or contact the Settlement Administrator at info@[settlementwebsite].com to request that a Reimbursement Claim Form be mailed to you. You may also access the online Reimbursement Claim Form at [www.settlementwebsite].com[/claimform]. You may be asked for additional information. Follow all instructions on the Reimbursement Claim Form and make sure to inform the Settlement Administrator of any changes in your address after you have submitted your Reimbursement Claim Form.

10. How do I get coverage for Qualified Future Repairs?

Any Class Member with a Subject Vehicle that, at the Effective Date of the Settlement, is both fewer than 15 years from the original in-service date and fewer than 150,000 miles and who wishes to have a Qualified Future Repair covered by the Settlement must bring their Subject Vehicle to an Authorized Service Center. To determine coverage, a technician will confirm that the vehicle meets the age and mileage requirements; that the exterior clearcoat on a panel is peeling, flaking or exhibiting bubbles under the surface; and that such conditions are not caused by external influences such as automobile accidents, scratches, road debris, chemical burn, tree sap, bird droppings, etc.

For a Subject Vehicle needing a Qualified Future Repair that, as of [NOTICE DATE], is 15 years (180 months) or more from the Subject Vehicle's original in-service date or has 150,000 miles or more, whichever occurs first, a Class Member wishing to receive such a repair must submit a Qualified Future Repair Claim Form accompanied by documentary evidence showing that (i) he or she presented the Subject Vehicle to an authorized Mercedes-Benz dealer or body repair facility for a qualifying repair or provided notice to Defendants at a time when the vehicle had fewer than 15 years (180 months) and 150,000 or fewer miles, and (ii) that he or she was denied warranty or goodwill coverage for such repair at the time. The Qualified Future Repair Claim Form and required documentation must be submitted to the Settlement Administrator by mail postmarked by [DATE] or online at [www.settlementwebsite].com by [DATE]. If the claim is

approved, the Class Member shall arrange for a Qualified Future Repair to be performed within 90 days of notice of said approval. The percentage of coverage provided by Defendants shall be determined by the age and mileage of the Subject Vehicle at the time it was originally presented for the qualifying repair or notice was given to Defendants, using the coverage periods set forth in Question 8.

11. When would I get my payment or be able to have my vehicle repaired?

Qualified Past Repairs. Reimbursements for Qualified Past Repairs will be paid only if the Court approves the Settlement and that approval becomes final (the Effective Date). The Effective Date is 75 days after the date of the Court's final approval of the Settlement, or, if there are appeals of the Settlement approval, 14 days after all appellate rights with respect to that Final Order and Judgment have expired or have been exhausted in a manner that conclusively affirms the Final Order and Judgment. Under the Settlement, the deadline for the Settlement Administrator to determine the validity of a reimbursement claim is 90 days after the Effective Date. If the Settlement Administrator approves your claim, payment will be made within 30 days of the approval decision. If the Settlement Administrator denies your claim or a portion of your claim, you will have 30 days to dispute such denial (measured from the postmark date of the denial notice). Such a dispute will be decided by the Third-Party Neutral selected pursuant to the Settlement, who will independently determine the validity of the claim. If the Third-Party Neutral approves your claim, payment will be made within 30 days of notice of the decision approving your claim.

Qualified Future Repairs. Subject Vehicles will be eligible for Qualified Future Repairs beginning on the Effective Date, after which you can simply bring your Subject Vehicle to an Authorized Service Center for repair. If you need a qualifying repair prior to the Effective Date, please take your Subject Vehicle to be repaired, retain your payment receipts for any qualifying repair performed, and make a claim for reimbursement as a Qualified Past Repair.

If you are required to submit a claim form to qualify for a Qualifying Future Repair for the reasons described in Question 10 and the Settlement Administrator denies your claim, you will have 30 days to dispute such denial (measured from the postmark date of the denial notice). Such a dispute will be decided by the Third-Party Neutral selected pursuant to the Settlement, who will independently determine the validity of the claim. If the claim is approved, the Class Member shall arrange for a Qualified Future Repair to be performed within 90 days of notice of said approval. The decision of the Third-Party Neutral is final and non-appealable.

If an Authorized Service Center denies your request for a Qualified Future Repair, you may dispute such denial by informing Class Counsel or Defendants of the alleged wrongful denial within 30 days of the denial. Class Counsel, Defense Counsel, and Defendants shall work in good faith and make best efforts to resolve any such dispute. If they cannot resolve the dispute, the dispute may be submitted to a Third-Party Neutral for a decision, who will independently determine the validity of the claim. If the Third-Party Neutral approves your repair request, the Authorized Service Center will make the repair. The decision of the Third-Party Neutral is final and non-appealable.

12. What am I giving up to stay in the Class?

If the Court approves the Settlement and you have not excluded yourself, you are staying in the Class, and that means you will release and forever discharge Defendants and other entities described in the Settlement Agreement from each and every claim of liability that was or could have been made relating to the Litigation Claims alleging that 590 Mars Red paint is inadequate, of poor or insufficient quality or design, or defective, due to peeling, flaking, bubbling, fading, discoloration, or poor adhesion of the paint or clearcoat. It also means that all of the Court's orders will apply to you and legally bind you. If you sign a Reimbursement Claim Form or Qualified Future Repair Claim Form, you will agree to a Release of claims that describes exactly the legal claims that you give up if you get Settlement benefits. For the precise terms of the Release, please review the Settlement Agreement, which is available at www.[settlementwebsite].com.

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you do not want a payment from this Settlement, but you want to keep the right to sue or continue to sue Defendants, on your own, about the legal issues in this case, then you must take steps to get out. This is called excluding yourself, sometimes referred to as "opting out" of the Settlement Class.

13. How do I get out of the Settlement?

Any Class Member who wants to be excluded from the Class must submit a written request for exclusion to the Settlement Administrator at the address provided below. Your request must be postmarked on or before [DATE] and must include: (1) the Class Member's full name, current address, and telephone number; (2) the Subject Vehicle Identification Number (VIN) and dates of ownership or lease for the Subject Vehicle; (3) a dated, handwritten signature; and (4) a written statement that the Class Member has reviewed the Class Notice and wishes to be excluded from the Settlement.

Mercedes Mars Red Settlement
c/o [NAME OF SETTLEMENT ADMIN.]
[ADDRESS]
[ADDRESS]

14. If I do not exclude myself, can I sue Defendants for the same thing later?

No. Unless you exclude yourself, you will be bound by the Final Order and Judgment, and you give up the right to sue Defendants for the claims that this Settlement resolves. If you have a pending lawsuit, you must exclude yourself from this class to continue your own lawsuit.

15. If I exclude myself, can I get money from the Settlement?

No. If you exclude yourself, you cannot receive any payments or covered future repairs, but you retain the right to bring, maintain, or be part of a different lawsuit against Defendants.

THE LAWYERS REPRESENTING YOU

16. Do I have a lawyer in the case?

The Court has appointed W. Lewis Garrison, Jr., Taylor C. Bartlett, James F. McDonough, III, and K. Steven Jackson of Heninger Garrison Davis, LLC to represent you and other Class Members. Together, the lawyers are called Class Counsel. You will not be charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

17. How will the lawyers be paid?

Class Counsel will ask the Court for attorneys' fees up to $4,750,000, up to $100,000 for expenses, and an amount not to exceed $30,000 total for Class Representative Service Awards. The Court may award less than these amounts. The fees and expenses that the Court approves will be paid by Defendants. Defendants have agreed not to oppose fees and expenses up to the specified amounts. The costs to administer the Settlement will also be paid by Defendants. Class Counsel's Motion for Attorneys' Fees and Costs will be available on the Settlement Website once it has been filed.

OBJECTING TO THE SETTLEMENT

You can tell the Court that you do not agree with the Settlement or some part of it.

18. How do I tell the Court that I do not like the Settlement?

If you are a Class Member, you can object to the Settlement if you don't like any part of it. You can ask the Court to deny approval by filing an objection. You cannot ask the Court to order a different settlement; the Court can only approve or reject the Settlement. If the Court denies approval, no Settlement payments will be sent out, and the lawsuit will continue. If that is what you want to happen, you must object.

All objections must be in writing and must be filed with the Court at:

Clerk of the Court
United States Courthouse
75 Ted Turner Drive, NW
Suite 2211
Atlanta, Georgia 30303

Your objection must be filed not later than [DATE], or it will not be considered. Any objection to the proposed Settlement must include the following:

- The Class Member's full name, current address, and telephone number;
- The Subject Vehicle Identification Number (VIN) and the dates of ownership or lease of the Subject Vehicle;
- A statement that the objector has reviewed the Settlement Class definition and understands that s/he is a Class Member and has not opted out of the Settlement Class;
- A complete statement of all legal and factual bases for any objection that the objector wishes to assert;
- A statement of whether the Settlement Class Member intends to appear at the final approval hearing;
- Copies of any documents or witnesses that support the objection; and
- A dated, handwritten signature.

If you file a timely, written objection, you may, but are not required to, appear at the final approval hearing, either in person or through your own attorney. If you appear through your own attorney, you are responsible for hiring and paying that attorney.

Any Class Member who does not file a timely written objection to the Settlement or who otherwise fails to comply with these requirements shall be foreclosed from seeking any adjudication or review of the Settlement by appeal or otherwise.

19. What is the difference between objecting and excluding?

Objecting is simply telling the Court that you do not like something about the Settlement. You can object only if you stay in the Class. Excluding yourself is telling the Court that you do not want to be part of the Class. If you exclude yourself, you have no basis to object because the case no longer affects you.

THE COURT'S FAIRNESS HEARING

The Court will hold a hearing to decide whether to approve the Settlement. You may attend and you may ask to speak, but you do not have to.

20. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Fairness Hearing at [TIME] on [DATE], at the United States District Court for the Northern District of Georgia, 75 Ted Turner Drive, SW, Atlanta, Georgia 30303 or through remote means such as video teleconferencing or telephone conferencing. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. The Court will listen to people who have asked to speak at the hearing. The Court may also decide how much to pay Class Counsel. After the hearing, the Court will decide whether to approve the Settlement. We do not know how long these decisions will take.

21. Do I have to come to the hearing?

No. Class Counsel will answer any questions Judge Cohen may have, but you are welcome to come at your own expense. If you send an objection, you do not have to come to Court to talk about it. As long as you submitted your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it is not necessary for your objection to be considered.

IF YOU DO NOTHING

22. What happens if I do nothing at all?

If you do nothing, you will get no money from the Settlement. And, unless you exclude yourself, you won't be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Defendants about the legal issues in this case ever again.

However, if you do nothing, you may still qualify for coverage for Qualified Future Repairs. For details regarding Qualified Future Repairs, see questions 8 and 10 or visit www.[settlementwebsite].com.

GETTING MORE INFORMATION

23. Are there more details about the Settlement?

This notice summarizes the proposed Settlement. More details are in the Settlement Agreement. You can get a copy of the Settlement Agreement and other important case documents, at www.[settlementwebsite].com.

24. How do I get more information?

This notice provides a summary of the basic terms of the Settlement. For the complete terms and conditions, please consult the Settlement Agreement. You can access the Settlement Agreement, other important case documents, answers to frequently asked questions, and online Reimbursement and Qualified Future Repair Claim Forms at www.[settlementwebsite].com. You may email the Settlement Administrator at xxxxxxxxxxxx or call them at xxxxxxxxxxxxxxx. You should check that website regularly for updates on the case.

You may also contact one of the following attorneys appointed by the Court to serve as Class Counsel:

K. Steven Jackson
W. Lewis Garrison, Jr.
Taylor C. Bartlett
James F. McDonough, III
Heninger Garrison Davis, LLC
2224 1st Avenue North
Birmingham, AL 35203

Tel: (205) 326-3336

PLEASE DO NOT CONTACT THE COURT OR COUNSEL FOR THE DEFENDANTS REGARDING THIS NOTICE.

EXHIBIT D

TO KEOUGH DECLARATION

Pinon et al. v. Mercedes-Benz USA, LLC and Daimler AG,
United States District Court for the Northern District of Georgia, Case No. (18-CV-03984)

Mercedes Mars Red Settlement:
Instructions for Claiming Reimbursement for Qualified Past Repairs

To submit a Reimbursement Claim Form for reimbursement of Qualified Past Repairs, please carefully review and follow the below instructions. Please take note that this Claim Form must be accompanied by certain required items of proof described below. Please only fill out and submit a Claim Form if you meet the requirements for reimbursement described below.

WHO:

You may only file a claim if you are a Class Member. You are a Class Member if you fit the following description and do not opt out of the Settlement: *You are a current owner, former owner, current lessee, or former lessee of a Mercedes-Benz vehicle purchased or leased in the United States and originally painted Mars Red or Fire Opal (collectively, "590 Mars Red").*

Excluded from the Class are: (a) persons who have settled with, released, or otherwise had claims adjudicated on the merits against Defendants that are substantially similar to the Litigation Claims (*i.e.*, alleging that 590 Mars Red paint is inadequate, of poor or insufficient quality or design, or defective, due to peeling, flaking, bubbling, fading, discoloration, or poor adhesion of the paint or clearcoat); (b) Defendants and their officers, directors and employees, as well as their corporate affiliates and the corporate affiliates' officers, directors and employees; (c) counsel to any of the parties; and (d) the Honorable Mark H. Cohen, the Honorable James Holderman, and members of their respective immediate families.

WHAT:

Only Qualified Past Repairs are eligible for reimbursement: A Qualified Past Repair is a repair that occurred before the Effective Date of the Settlement related to repainting any non-plastic exterior surface of a Subject Vehicle because of peeling, flaking, or bubbling of the exterior clearcoat not caused by external influences such as automobile accidents, scratches, or road debris. Qualified Past Repairs are limited to refinishing of affected areas only, in accordance with Defendants' Technical Service Bulleting, LI98.00-P-058914 (viewable at www.[settlementwebsite].com and attached to the Settlement Agreement as Exhibit A).

WHEN:

To request reimbursement for Qualified Past Repairs that occurred before [NOTICE DATE], you must submit a Reimbursement Claim Form postmarked by [DATE] or submit the completed electronic Reimbursement Claim Form online at [www.settlementwebsite] by [DATE].

To request reimbursement for Qualified Past Repairs that occurred after [NOTICE DATE] but before the Effective Date of the Settlement, you must submit a Reimbursement Claim Form postmarked within 60 days of the date of repair or submit the completed electronic Reimbursement Claim Form online at [www.settlementwebsite].com.

* *If the vehicle had more than 150,000 miles or was more than fifteen years past its original in-service date when the repair was made, the repair does not qualify for reimbursement.*

The Effective Date is 75 days after the date of the Court's final approval of the Settlement, or, if there are appeals of the Settlement approval, 14 days after the date on which any appeals of the approval of the Settlement have been resolved in favor of the Settlement.

HOW:

Any Class Member who wishes to request reimbursement for a Qualified Past Repair must submit a completed and signed Reimbursement Claim Form via mail or by completing the electronic Reimbursement Claim Form at [www.settlementwebsite].com, along with the items of proof listed below in this section.

You may submit a claim by mailing this Reimbursement Claim Form to the Settlement Administrator at the address printed below:

Mercedes Mars Red Settlement
c/o [SETTLEMENT ADMIN.]
[ADDRESS]
[ADDRESS]

If you wish to make claims for repairs to more than one vehicle, please use a separate Reimbursement Claim Form for each vehicle.

If you wish to make claims for more than one repair/service to the same vehicle, please attach additional pages and answer all the questions in Section II for each claimed repair/service.

Your reimbursement claim for a Qualified Past Repair must include a completed and hand-written or electronically signed Reimbursement Claim Form and the following items of proof:

(a) An itemized repair order, invoice, or other documentation showing that the Subject Vehicle received a qualified repair (e.g., the repair invoice must show that part of the vehicle has been repainted) and the cost of the qualified repair. A repair shall not qualify for reimbursement if the reason for the repair described in any related repair order is for repairs due to an automobile accident, scratches, road debris, or other external influence that is unrelated to the alleged Mars Red paint defect (e.g., chemical burn, tree sap, or bird droppings);

(b) Proof of your payment for the repair, which could include a credit card receipt or statement, an invoice showing a payment, a receipt showing cash or other form of payment, or other such proof; and

(c) Proof of your ownership or leasing of the Subject Vehicle at the time of the repair.

HOW MUCH:

The amount of reimbursement you may receive for Qualified Past Repairs varies depending on the coverage period during which the Qualified Past Repair occurred, as shown below.

Period One is defined as the time period during which the Subject Vehicle has or had fewer than seven years (84 months) or 105,000 miles from the Subject Vehicle's original in-service date, whichever occurred first. Qualifying Past Repairs that occurred during Period One will be reimbursed at 100% of the out-of-pocket cost paid subject to certain limitations in the Settlement Agreement.

Period Two is defined as the time period from the end of Period One until the Subject Vehicle has or had fewer than ten years (120 months) or 150,000 miles from the Subject Vehicle's original in-service date, whichever occurred first. Qualifying Past Repairs that occurred during Period Two will be reimbursed at 50% of the out-of-pocket cost paid subject to certain limitations in the Settlement Agreement.

Period Three is defined as the time period from the end of Period Two until the Subject Vehicle has or had fewer than fifteen years (180 months) or 150,000 miles from the Subject Vehicle's original in-service date, whichever occurred first. Qualifying Past Repairs that occurred during Period Three will be reimbursed at 25% of the out-of-pocket cost paid subject to certain limitations in the Settlement Agreement.

If the vehicle had more than 150,000 miles or was more than fifteen years past its in-service date when the repair was made, the repair does not qualify for reimbursement under the Settlement.

If the repair was performed by an Independent Service Center, the reasonable repair cost shall not exceed 10% of what the same repair would have cost if it were performed at an Authorized Service Center.

You are only eligible to be reimbursed for actual out-of-pocket costs. If any part of your repair cost was covered by MBUSA, an Authorized Mercedes-Benz Service Center, or any other form of coverage such as insurance or an extended warranty, you will not be reimbursed for the portion of the cost you did not pay out-of-pocket.

* * *

If you believe your claim for a Qualifying Past Repair is wrongfully denied or should have been approved for a greater amount, you may notify the Settlement Administrator that you believe your claim was wrongfully decided and you will be afforded an opportunity to present your reasons to a Third Party Neutral, who will make a final and non-appealable decision as to whether your claim should have been approved or decided differently.

If you have questions about how to complete your claim, contact the Settlement Administrator at info@[settlementwebsite].com.

You may be asked for additional information. Follow all instructions on the Reimbursement Claim Form and make sure to inform the Settlement Administrator of any changes in your address after you submit your Reimbursement Claim Form.

Mercedes Mars Red Settlement:
Reimbursement Claim Form for Reimbursement of Qualified Past Repairs

I. CONTACT INFORMATION

Full Name

Mailing Address – Line 1

Mailing Address – Line 2 (If Applicable)

City | State | Zip Code

Telephone Number | Email Address

II. VEHICLE INFORMATION

Vehicle Identification Number (VIN)

Vehicle Model | Vehicle Model Year

Dates you owned/leased the Vehicle (start/end) | Date of service*

Mileage at time of service* | Amount paid for repairs

Was any part of the cost covered (e.g., in the form of warranty or extended warranty coverage, insurance, "goodwill" from the dealership, or other payment assistance)?

☐ **YES** ☐ **NO**

If you answered "yes" to the previous question, list the source(s) of payment and amount(s)received:

Was the repair made by an Authorized Mercedes-Benz Service Center?
(See https://www.mbusa.com/en/owners/service-maintenance/schedule-service for a list)

☐ **YES** ☐ **NO**

Name & Address of Service Provider

Please list and describe the documents you are attaching to support your claim:

III. CERTIFICATION

By signing this form, I swear under penalty of perjury that:

1. I am a Settlement Class Member and the current owner, former owner, current lessee, or former lessee of the vehicle identified above and am the rightful owner of the claim described in this Reimbursement Claim Form.

2. The documents I have submitted in support of this claim are true and accurate copies.

3. The information provided in this Reimbursement Claim Form is true and correct to the best of my knowledge.

By signing this form, I also confirm my agreement to the Release detailed in Section 6 of the Settlement Agreement and consent to the dismissal of any pre-existing action or proceeding relating to the "Mars Red" paint in Subject Vehicles, whether brought by me or by others on my behalf.

If more than one person has rights to the claims asserted, the Reimbursement Claim Form must be signed by all persons.

Signature: _____ Date: _____

Signature: _____ Date: _____

Signature: _____ Date: _____

EXHIBIT E

TO KEOUGH DECLARATION

Pinon et al. v. Mercedes-Benz USA, LLC and Daimler AG,
United States District Court for the Northern District of Georgia, Case No. (18-CV-03984)

Mercedes Mars Red Settlement
Instructions for Seeking Qualified Future Repairs

To submit a Qualified Future Repair Claim Form to request a Qualified Future Repair, please carefully review and follow the below instructions. Please take note that this Qualified Future Repair Claim Form must be accompanied by certain required items of proof described below. Please only fill out and submit a Qualified Future Repair Claim Form if you meet the requirements described below.

If you are a Class Member and your Subject Vehicle has 150,000 miles or more or is 15 years or more from the original in-service date as of [NOTICE DATE], you will only be eligible for a Qualified Future Repair if you were denied warranty or goodwill coverage for a qualifying repair when your Subject Vehicle had fewer than 15 years and fewer than 150,000 miles. To request a Qualified Future Repair in such circumstance, you must submit a Qualified Future Repair Claim Form.

If you are a Class Member and your Subject Vehicle needs a Qualified Future Repair after the Effective Date of the Settlement and both is fewer than 15 years from the original in-service date and has fewer than 150,000 miles at the time such repair is needed, you do not need to submit a Qualified Future Repair Claim Form. You can bring your Subject Vehicle to an Authorized Service Center to request a Qualified Future Repair. (*See* https://www.mbusa.com/en/owners/service-maintenance/schedule-service for a list.)

The deadline to file a claim is _____.

If you are a Class Member and your Subject Vehicle needs a qualifying repair after [NOTICE DATE] but prior to the Effective Date and both is fewer than 15 years from the original in-service date and has fewer than 150,000 miles at the time a qualifying repair is made, please take your Subject Vehicle to be repaired, retain your payment receipts, and make a claim for reimbursement as a Qualified Past Repair. The deadline to file such a claim is 60 days from the date of repair.

WHO:

You may only file a claim if you are a Class Member. You are a Class Member if you fit the following description and do not opt out of the Settlement: *You are a current owner, former owner, current lessee, or former lessee of a Mercedes-Benz vehicle purchased or leased in the United States originally painted Mars Red or Fire Opal (collectively, "590 Mars Red")*.

Excluded from the Class are: (a) persons who have settled with, released, or otherwise had claims adjudicated on the merits against Defendants that are substantially similar to the Litigation Claims (*i.e.*, alleging that 590 Mars Red paint is inadequate, of poor or insufficient quality or design, or defective, due to peeling, flaking, bubbling, fading, discoloration, or poor adhesion of the paint or clearcoat); (b) Defendants and their officers, directors and employees, as well as their corporate affiliates and the corporate affiliates' officers, directors and employees; (c) counsel to any of the parties; and (d) the Honorable Mark H. Cohen, the Honorable James Holderman, and members of their respective immediate families.

WHAT:

Only Qualified Future Repairs are covered by the extended warranty: A Qualified Future Repair is a repair that will occur after the Effective Date of the Settlement related to repainting any non-plastic exterior surface of a Subject Vehicle because of peeling, flaking, or bubbling of the exterior clearcoat not caused by external influences such as automobile accidents, scratches, or road debris. Qualified Future Repairs are limited to refinishing of affected areas only, in accordance with Defendants' Technical Service Bulletin, LI98.00-P-058914 (viewable at www.[settlementwebsite].com and attached to the Settlement Agreement as Exhibit A).

Qualified Future Repair Claim Form and Documentation Required: If your Subject Vehicle needs a Qualified Future Repair but, as of [NOTICE DATE], is more than 15 years (180 months) after the Subject Vehicle's original in-service date or has more than 150,000 miles, whichever occurs first, you may submit a claim in order to seek a Qualified Future Repair. To do so, you must submit a completed Qualified Future Repair Claim Form accompanied by documentary evidence showing that (i) you presented the Subject Vehicle to an authorized Mercedes-Benz dealer or body repair facility for a qualifying repair or provided notice to Defendants Mercedes-Benz USA, LLC or Daimler AG ("Defendants") of the need for such a repair at a time when the vehicle had less than 15 years (180 months) and 150,000 or fewer miles, and (ii) you were denied warranty or goodwill coverage for such repair at the time.*

If your Subject Vehicle needs a qualifying repair after [NOTICE DATE] but prior to the Effective Date, please take your Subject Vehicle to be repaired, retain your payment receipts for any qualifying repair performed, and make a claim for reimbursement as a Qualified Past Repair within 60 days of the repair.

No Qualified Future Repair Claim Form or Documentation Required: If your vehicle needs a Qualified Future Repair after the Effective Date of the Settlement and both is fewer than 15 years from the original in-service date and has fewer than 150,000 miles at the time such repair is needed, you do not need to submit a Qualified Future Repair Claim Form. You can bring your Subject Vehicle to an Authorized Service Center to request a Qualified Future Repair. (*See* https://www.mbusa.com/en/owners/service-maintenance/schedule-service for a list.)

The Effective Date is 75 days after the date of the Court's final approval of the Settlement, or, if there are appeals of the Settlement approval, 14 days after the date on which any appeals of the approval of the Settlement have been resolved in favor of the Settlement.

WHEN:

The Qualified Future Repair Claim Form and requisite documentation must be submitted to the Settlement Administrator postmarked by [DATE]or submitted online at [www.settlementwebsite].com by completing the electronic Qualified Future Repair Claim Form by [DATE].

If your claim is approved, you must arrange for a Qualified Future Repair to be performed at an Authorized Service Provider within 90 days of notice of said approval.

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* *If the vehicle had more than 150,000 miles or was more than fifteen years past its original in-service date when first presented to an authorized Mercedes-Benz dealer or body repair facility for a qualifying repair or when Defendants were first notified of the need for such a repair, the vehicle does not qualify for a future repair.*

HOW:

To submit a claim for a Qualified Future Repair, you must either submit your claim using the electronic Qualified Future Repair Claim Form at [www.settlementwebsite].com or mail a completed and signed Qualified Future Repair Claim Form and accompanying documentation to the Settlement Administrator at the address printed below:

Mercedes Mars Red Settlement
c/o [SETTLEMENT ADMIN.]
[ADDRESS]
[ADDRESS]

Your claim for a Qualified Future Repair must include a completed and hand-written or electronically signed Qualified Future Repair Claim Form and the following items of proof:

(a) Documentary evidence showing that you presented the Subject Vehicle to an authorized Mercedes-Benz dealer or body repair facility for a qualifying repair or provided notice to Defendants at a time when the vehicle had less than 15 years (180 months) and 150,000 or fewer miles; and

(b) Documentary evidence showing that you were denied warranty or goodwill coverage for such repair at the time.

If you wish to make a claim for more than one vehicle, please use a separate Qualified Future Repair Claim Form for each vehicle.

HOW MUCH:

If your claim is approved, the percentage of coverage you may receive for your Qualified Future Repair will be based on the age and mileage of the Subject Vehicle on the date you were originally denied warranty or goodwill coverage for the repair, as shown below.

Period One is defined as the time period during which the Subject Vehicle has or had fewer than seven years (84 months) or 105,000 miles from the Subject Vehicle's original in-service date, whichever occurred first. If you presented your Subject Vehicle for the qualifying repair or provided Defendants notice of the need for such repair during Period One, the Qualifying Future Repair will be covered at 100% of the cost of the repair defined in the Settlement Agreement.

Period Two is defined as the time period from the end of Period One until the Subject Vehicle has or had fewer than ten years (120 months) or 150,000 miles from the Subject Vehicle's original in-service date, whichever occurred first. If you presented your Subject Vehicle for the qualifying repair or provided Defendants notice of the need for such repair during Period Two, the Qualifying Future Repair will be covered at 50% of the cost of the repair defined in the Settlement Agreement.

Period Three is defined as the time period from the end of Period Two until the Subject Vehicle has or had fewer than fifteen years (180 months) or 150,000 miles from the Subject Vehicle's original in-service date, whichever occurred first. If you presented your Subject Vehicle for the qualifying repair or provided Defendants notice of the need for

such repair during Period Three, the Qualifying Future Repair will be covered at 25% of the cost of the repair defined in the Settlement Agreement.

* * *

If you are required to submit a Qualified Future Repair Claim Form to qualify for a Qualifying Future Repair as described above and you believe your claim is wrongfully denied by the Settlement Administrator, you may notify the Settlement Administrator that you believe your claim was wrongfully denied.

If you bring your Subject Vehicle to an Authorized Service Center to request coverage for a future repair after the Effective Date of the Settlement and are, in your opinion, wrongfully denied coverage by the Authorized Service Center, you can contact Class Counsel or Defendants for further assistance concerning your dispute.

Class Counsel, Defense Counsel, and Defendants shall work in good faith and make best efforts to resolve any such dispute. If they cannot resolve the dispute, the dispute may be submitted to a Third-Party Neutral for a decision, who will independently determine the validity of the claim. If the Third-Party Neutral approves your repair request, the Authorized Service Center will make the repair. The decision of the Third-Party Neutral is final and non-appealable.

If you have questions about how to complete your claim, contact the Settlement Administrator at info@[settlementwebsite].com.

You may be asked for additional information. Follow all instructions on the Qualified Future Repair Claim Form and make sure to inform the Settlement Administrator of any changes in your address after you submit your Qualified Future Repair Claim Form.

Mercedes Mars Red Settlement: Qualified Future Repair Claim Form for Seeking Qualified Future Repairs[†]

I. CONTACT INFORMATION

Full Name

Mailing Address – Line 1

Mailing Address – Line 2 (If Applicable)

City | State | Zip Code

Telephone Number | Email Address

II. VEHICLE INFORMATION

Vehicle Identification Number (VIN)

Vehicle Model | Vehicle Model Year

Date you purchased or leased the Vehicle

Did you present your vehicle to an authorized Mercedes-Benz dealer or body repair facility for a qualifying repair or provide notice to Mercedes-Benz USA, LLC or Daimler AG of the need for

[†] If you are a Class Member and your Subject Vehicle needs a Qualified Future Repair after the Effective Date of the Settlement and both is fewer than 15 years from the original in-service date and has fewer than 150,000 miles at the time such repair is needed, you do not need to submit a Claim Form. You can bring your Subject Vehicle to an Authorized Service Center to request a Qualified Future Repair. (*See* https://www.mbusa.com/en/owners/service-maintenance/schedule-service for a list.)

If your vehicle needs a qualifying repair after [NOTICE DATE] but prior to the Effective Date, please take your vehicle to be repaired, retain your payment receipts for any qualifying repair performed, and make a claim for reimbursement as a Qualified Past Repair within 45 days of the repair.

such a repair at a time when the vehicle had both less than 15 years (180 months) and 150,000 or fewer miles?

☐ **YES** ☐ **NO**

Name & address of Mercedes-Benz dealer or body repair facility (if applicable)

Were you denied warranty or goodwill coverage for a qualifying repair when you presented your vehicle to an authorized Mercedes-Benz dealer or body repair facility or notified Mercedes-Benz USA, LLC or Daimler AG of the need for a qualifying repair?

☐ **YES** ☐ **NO**

If your answer to both of the above questions is "Yes," please provide (i) the date you presented your vehicle to an authorized Mercedes-Benz dealer or body repair facility or notified Mercedes-Benz USA, LLC or Daimler AG of the need for a qualifying repair, (ii) the mileage of your vehicle at such time:

Please list and describe the documents you are attaching to support your claim:

III. CERTIFICATION

By signing this form, I swear under penalty of perjury that:

1. I am a Settlement Class Member and the current owner, former owner, current lessee, or former lessee of the vehicle identified above and am the rightful owner of the claim described in this Qualified Future Repair Claim Form.

2. The documents I have submitted in support of this claim are true and accurate copies.

3. The information provided in this Qualified Future Repair Claim Form is true and correct to the best of my knowledge.

By signing this form, I also confirm my agreement to the Release detailed in Section 6 of the Settlement Agreement and consent to the dismissal of any pre-existing action or proceeding relating to the "590 Mars Red" paint in Subject Vehicles, whether brought by me or by others on my behalf.

If more than one person has rights to the claims asserted, the Qualified Future Repair Claim Form must be signed by all persons.

Signature: _____ Date: _____

Signature: _____ Date: _____

Signature: _____ Date: _____

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

EMILY PINON, GARY C. KLEIN, KIM BROWN, JOSHUA FRANKUM, DINEZ WEBSTER, and TODD BRYAN, on behalf of themselves and all others similarly situated, **Plaintiffs,** **v.** **MERCEDES-BENZ USA, LLC, and DAIMLER AG,** **Defendants.**	**CASE NO: 1:18-CV-03984-MHC**

[PROPOSED] ORDER GRANTING PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT, CERTIFICATION OF A NATIONWIDE SETTLEMENT CLASS, DIRECTION OF CLASS NOTICE, APPOINTMENT OF CLASS REPRESENTATIVES AND CLASS COUNSEL, AND ENJOINING PARALLEL LITIGATION

Before the Court is Plaintiffs' Unopposed Motion For Preliminary Approval Of Proposed Class Action Settlement Agreement And Preliminary Certification Of Nationwide Settlement Class And Incorporated Memorandum Of Law ("Motion").

WHEREAS, a proposed Class Action Settlement Agreement and Release (the "Settlement") has been reached between Plaintiffs' Counsel on behalf of a defined

proposed nationwide Settlement Class of all current and former owners and lessees of Mercedes-Benz vehicles originally painted Mars Red or Fire Opal (collectively, "590 Mars Red") and purchased or leased in the United States ("Subject Vehicles"),[1] which resolves all claims alleged against Defendants pertaining to the Subject Vehicles in this action and in *Ponzio, et al v. Mercedes-Benz USA, LLC, et al.*, Case No. 1:18-CV-12544 (D.N.J.);

WHEREAS, the Court, for purposes of this Order, adopts all defined terms as set forth in the Class Action Settlement Agreement and Release;

WHEREAS, this matter has come before the Court pursuant to Plaintiff's Motion;

WHEREAS, Defendants Daimler AG and Mercedes-Benz USA, LLC (collectively, "Defendants") do not oppose the Court's entry of the proposed Preliminary Approval Order;

[1] 590 Mars Red paint was offered as an exterior color option for the following types of Mercedes-Benz vehicle types in the United States: C Class (model years 2004-2015), CLS (model years 2006-2007, 2009, 2014), CLK (model years 2004-2009), S Class (model years 2008, 2015, 2017), SL Class (model years 2004-2009, 2011-2017), GLK Class (model years 2010-2015), CL (model years 2005-2006, 2013-2014), SLS (model years 2014-2015), E Class (model years 2005-2006, 2010-2017), GT (model years 2016-2018), G Class (model years 2005, 2011-2017), SLC (model year 2017), SLK Class (model years 2005-2016), and Maybach 57 (model year 2008)

WHEREAS, the Court finds that it has jurisdiction over the Action and each of the Parties for purposes of settlement and asserted jurisdiction over the Class Representatives for purposes of considering and effectuating this Settlement;

WHEREAS, this Court has considered all of the presentations and submissions related to the Motion and, having presided over and managed this Action, with the facts, contentions, claims and defenses as they have developed in these proceedings, and is otherwise fully advised of all relevant facts in connection therewith.

IT IS HEREBY ORDERED AS FOLLOWS:

I. PRELIMINARY APPROVAL OF THE CLASS ACTION SETTLEMENT

1. The proposed Settlement appears to be the product of intensive, thorough, serious, informed, and non-collusive mediation overseen by the Honorable James F. Holderman (Ret.) of JAMS; has no obvious deficiencies; does not improperly grant preferential treatment to the Class Representatives or segments of the Class; and appears to be fair, reasonable, and adequate, such that notice of the Settlement should be directed to the Class Members, and a Final Approval Hearing should be set.

2. Accordingly, the Motion is GRANTED.

II. THE CLASS, CLASS REPRESENTATIVES, AND CLASS COUNSEL

3. For purposes of this Class Action Settlement only and conditioned upon the Settlement receiving final approval following a Fairness Hearing, the Court certifies a nationwide "Class" or "Settlement Class" including all current owners, former owners, current lessees, and former lessees of Subject Vehicles who purchased or leased their Subject Vehicle in the United States. The following entities and individuals are excluded from the Settlement Class:

a. Persons who have settled with, released, or otherwise had claims adjudicated on the merits against Defendants that are substantially similar to the Litigation Claims (*i.e.*, alleging that 590 Mars Red paint is inadequate, of poor or insufficient quality or design, or defective, due to peeling, flaking, bubbling, fading, discoloration, or poor adhesion of the paint or clearcoat);

b. Defendants and their officers, directors and employees, as well as their corporate affiliates and the corporate affiliates' officers, directors and employees;

c. Counsel to any of the parties; and

d. The Honorable Mark H. Cohen, the Honorable James Holderman (Ret.), and members of their respective immediate families.

III. PRELIMINARY FINDINGS

4. The Court finds that it will likely be able to approve, under Rule 23(e)(2), the proposed nationwide Settlement Class as defined above, consisting of current and former owners and lessees of over 72,500 Subject Vehicles.

5. The Court furthermore finds that it will likely be able to certify the class for purposes of judgment on the proposal, because the Settlement Class likely meets the numerosity requirement of Rule 23(a)(1); meets the commonality and predominance requirements of Rule 23(a)(2) and (b)(3); finds that the claims of the proposed Settlement Class Representatives are typical of the claims of the Class under Rule 23(a)(3), and that they have and will fairly and adequately represent the interests of the Class under Rule 23(a)(4); finds that a class action is superior to other available methods for the fair and efficient adjudication of the controversy as it relates to the proposed Settlement under Rule 23(b)(3), considering the extent and nature of any litigation concerning the controversy already commenced by Settlement Class Members, the desirability or undesirability of continuing the litigation of these claims in this forum or elsewhere, and the difficulties likely to be encountered in the management of the class action as it relates to the Settlement; and based on the foregoing, the Court hereby preliminarily certifies the Settlement Class.

6. The Court preliminarily finds that proposed Settlement Class Representatives will fairly and adequately represent the interests of the Class under

Rule 23(a)(4), have done so, and are adequate under Rule 23(e)(2)(a) and, therefore, designates as Settlement Class Representatives Plaintiffs Emily Pinon, Gary C. Klein, Kim Brown, Joshua Frankum, Dinez Webster and Todd Bryan.

7. The Court preliminarily finds that proposed Class Counsel will fairly and adequately represent the interests of the Class under Rule 23(a)(4), have done so, and are adequate under Rule 23(g)(1) and (4), and, therefore, hereby appoints W. Lewis Garrison, Jr., James F. McDonough, III, Taylor C. Bartlett, and Travis Lynch of Heninger Garrison Davis LLC and K. Stephen Jackson of Jackson & Tucker, PC as class counsel under Rule 23(g)(3) ("Class Counsel").

IV. NOTICE TO CLASS MEMBERS

8. Under Rule 23(c)(2), the Court finds that the content, format, and method of disseminating the Notice Plan, as set forth in the Motion, the Declaration of the Settlement Administrator (Declaration of Jennifer M. Keough Regarding Proposed Notice Plan), JND Class Action Administration ("JND"), and the Settlement Agreement and Release, including postcard notice disseminated through direct U.S. Mail to all known Class Members and establishment of a website, is the best notice practicable under the circumstances and satisfies all requirements provided in Rule 23(c)(2)(B) and due process. The Court approves such notice, and hereby directs that such notice be disseminated in the manner set forth in the

proposed Settlement Agreement to Class Members under Rule 23(e)(1). The Court hereby preliminarily designates JND Class Action Administration as the Settlement Administrator. This Court also approves the Postcard Notice, the Long Form Notice, the Reimbursement Claim Form, and the Qualified Future Repair Claim Form in substantially the form as attached as Exhibits B to E to the Declaration of Jennifer M. Keough Regarding Proposed Notice Plan.

V. SCHEDULE AND PROCEDURES FOR DISSEMINATING NOTICE, FILING CLAIMS, REQUESTING EXCLUSION FROM THE CLASS, FILING OBJECTIONS TO THE CLASS ACTION SETTLEMENT, AND FILING THE MOTION FOR FINAL APPROVAL

Proposed Date	Court Adopted Date (if altered)	Event
35 days after Court enters the Preliminary Approval Order	_____, 2021	Notice mailed to Class Members ("Notice Date")
35 days after Court enters the Preliminary Approval Order	_____, 2021	Settlement website available to Class Members
30 days after Court enters the Preliminary Approval Order	_____, 2021	Deadline to file Motion for Attorneys' Fees, Costs, and Class Incentive Awards
60 days after Notice Date	_____, 2021	Deadline to Submit a Claim or Object to or Opt Out of Settlement
30 calendar days before the Final Approval Hearing	_____, 2021	Last day to file Motion for Final Approval of Settlement

At least 140 days after entry of Preliminary Approval Order	_____, 2021	Final Approval Hearing

1. The Court adopts the above schedule, finding that it is similar to those used in other class action settlements and provides due process to Class Members.

2. The Court will rule upon Class Counsel's motion for an award of attorneys' fees, litigation costs and expenses and Class Representative incentive awards at the Fairness Hearing. As set forth in the Settlement Agreement, all such awards shall be paid in addition to and independent of the benefits to Settlement Class Members.

3. Any Settlement Class Member who has not filed a timely and proper written Request to Opt-Out and who wishes to object to the fairness, reasonableness, or adequacy of the Proposed Settlement must file with the Court a statement of objection no later than 60 days after the Notice Date. Each such statement of objection must be in writing and include (a) the Settlement Class Member's full name, current address, and telephone number; (b) the Subject Vehicle Identification Number ("VIN") associated with the vehicle giving rise to standing to make an objection, and the dates of ownership or leasing of said vehicle; (c) a statement that the objector has reviewed the Settlement Class definition and understands that he or

she is a Settlement Class Member, and has not opted out and does not plan to opt out of the Settlement Class; (d) a complete statement of all legal and factual bases for any Objection that the objector wishes to assert; (e) a statement of whether the Settlement Class Member intends to appear at the final approval hearing; (f) copies of any documents or identification of any witnesses that support the objection; and (g) a dated, handwritten signature. A Settlement Class Member who does not submit a timely and proper objection in accordance with this Settlement Agreement and Class Notice, and as otherwise ordered by the Court, will not be treated as having filed a valid objection to the Settlement. The Class Notice will inform the Settlement Class of this requirement. Settlement Class members may so object either on their own or through an attorney hired at their own expense. If a Settlement Class Member hires an attorney to represent him or her, the attorney must file a notice of appearance with the Clerk of the Court no later than 14 days before the Fairness Hearing.

4. Any Settlement Class member who timely files a proper written objection may appear at the Fairness Hearing in support of the objection, provided the Settlement Class Member or his/her attorney files a notice of intention to appear at the hearing no later than 14 days before the Fairness Hearing. A Settlement Class Member who appears at the Fairness Hearing will be permitted to argue only those

matters that were set forth in a written objection filed by such Class Member. No Settlement Class member will be permitted to raise matters at the Fairness Hearing that the Settlement Class member could have raised in such a written objection, but failed to do so, and all objections to the Settlement that are not set forth in such written objection are deemed waived. Any Settlement Class Member who fails to comply with the applicable provisions of the Settlement Agreement and the Class Notice and as otherwise ordered by the Court will be barred from appearing at the Fairness Hearing. The Parties may serve and file responses to written objections at least 14 days prior to the Fairness Hearing, or as otherwise directed by the Court.

5. Any Settlement Class Member who fails to comply with the provisions of the preceding paragraphs of this Section will waive and forfeit any and all rights he or she may have to appear separately and/or object to the Settlement, and will be bound by all the terms of the Settlement Agreement and by all proceedings, orders and judgments in this action. A Settlement Class Member's objection to the Settlement will not affect his or her rights to participate in the Settlement relief.

6. Any Settlement Class Member that wishes to be excluded from the Settlement Class must submit to the Settlement Administrator a written Request to Opt Out by U.S. Mail and postmarked no later than 60 days from the Notice Date. The Request to Opt Out must be in writing and contain (a) the Person's name; (b)

his or her current address and telephone number; (c) his or her Subject Vehicle Identification Number ("VIN") and the dates of ownership or lease for such Subject Vehicle; (d) a dated, handwritten signature; and (e) a written statement that such Person has reviewed the Class Notice and wishes to be excluded from the Settlement.

7. Anyone who does not complete and submit a valid Request to Opt Out in the manner and by the deadline specified above will automatically become a Settlement Class Member and be bound by all the terms of the Settlement Agreement and by all proceedings, orders and judgments in this action.

VI. FINAL APPROVAL HEARING

1. The Final Approval Hearing shall take place on _____, 2021 at ___:00 a.m. at the United States District Court for the Northern District of Georgia, 2388 Richard B. Russell Federal Building and United States Courthouse, 75 Ted Turner Drive, SW Atlanta, GA 30303-3309, before the Honorable Mark H. Cohen, to determine whether the proposed Class Settlement is fair, reasonable, and adequate, whether it should be finally approved by the Court, and whether the Released Claims should be dismissed with prejudice under the Settlement.

VII. OTHER PROVISIONS

1. Class Counsel and Defendants are authorized to take, without further Court approval, all necessary and appropriate steps to implement the Settlement, including the approved Notice Program.

2. The deadlines set forth in this Preliminary Approval Order, including, but not limited to, adjourning the Final Approval Hearing, may be extended by Order of the Court, for good cause shown, without further notice to the Class Members, except that notice of any such extensions shall be included on the Settlement Website. Class Members should check the Settlement Website regularly for updates and further details regarding extensions of these deadlines. Opt Outs and objections must meet the deadlines and follow the requirements set forth in the approved notice in order to be valid.

3. Class Counsel and Defendants' Counsel are hereby authorized to use all reasonable procedures in connection with approval and administration of the Settlement that are not materially inconsistent with the Preliminary Approval Order or the Class Action Settlement, including making, without further approval of the Court, minor changes to the Settlement, to the form or content of the Class Notice, or to any other exhibits that the Parties jointly agree are reasonable or necessary.

VIII. PRELIMINARY INJUNCTION OF PARALLEL PROCEEDINGS

1. All Settlement Class Members are hereby preliminary enjoined from filing, commencing, pursuing, intervening in, participating in, maintaining, enforcing, or prosecuting individually, as class members or otherwise, directly or indirectly through a representative or otherwise, receiving any benefits from, or organizing or soliciting the participation in, directly or indirectly, any lawsuit (including putative class actions), arbitration, remediation, administrative or regulatory proceeding or order in any jurisdiction, asserting any claims based on or relating to the claims or causes of action or the facts alleged or pursued in this action, the *Ponzio* action, or released by the Settlement Agreement and from organizing Settlement Class Members into a separate class for purposes of pursuing as a purported class action any lawsuit (including by seeking to amend a pending complaint to include class allegations) or seeking class certification in a pending action asserting any claims related to and released by the Settlement Agreement.

2. Pending the final determination of whether the Settlement should be approved, all discovery, pre-trial proceedings and briefing schedules are stayed, except such actions as may be necessary to implement the Settlement Agreement and this Order. If the Settlement is terminated or final approval does not for any reason occur, the stay will be immediately terminated.

3. If the Settlement is not finally approved by the Court for any reason, including pursuant to Section 7.2 of the Settlement Agreement, the Settlement and all proceedings in connection with the Settlement will be without prejudice to the right of the Settlement Class Representatives or the Defendants to assert any right or position that could have been asserted if the Settlement Agreement or Motion for Preliminary Approval had never been reached or proposed to the Court. In such an event, the Parties will return to the *status quo ante* in the action as of November 9, 2020 pursuant to Section 7.2 of the Settlement Agreement. Findings related to the certification of the Settlement Class for settlement purposes, or any briefing or material submitted seeking certification of the Settlement Class, will not be considered in connection with any subsequent class certification decision.

4. In no event shall this Order, the Settlement, or the Settlement Agreement, whether or not consummated, any of its provisions or any negotiations, statements, or court proceedings relating to them in any way be construed as, offered as, received as, used as, or deemed to be evidence of any kind in this action, any other action, or in any judicial, administrative, regulatory or other proceeding, except in a proceeding to enforce the Settlement Agreement. Without limiting the foregoing, neither the Settlement Agreement nor any related negotiations, statements or court proceedings shall be construed as, offered as, received as, used as, or

deemed to be evidence or an adjudication, admission or concession of any liability or wrongdoing whatsoever on the part of any person or entity including, but not limited to, the Parties or as a waiver by the Parties of any applicable claims or defenses.

IX. CONTINUING JURISDICTION

1. For the benefit of the Settlement Class Members and as provided in the Settlement Agreement, the Court shall maintain continuing jurisdiction over the implementation, interpretation, and enforcement of the Settlement Agreement.

IT IS SO ORDERED.

DATED: _____

_____
THE HONORABLE MARK H. COHEN
UNITED STATES DISTRICT JUDGE