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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE: VOLKSWAGEN “CLEAN
DIESEL” MARKETING, SALES
PRACTICES, AND PRODUCTS
LIABILITY LITIGATION

MDL No. 2672 CRB (JSC)

The Honorable Charles R. Breyer

This Document Relates to:
Audi CO₂ Cases

**AMENDED ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
SETTLEMENT AND DIRECTION OF
NOTICE UNDER RULE 23(e)**

Before the Court is Plaintiffs’ Motion for Preliminary Approval of Class Settlement and Direction of Notice under Rule 23(e).

WHEREAS, a proposed Class Action Settlement Agreement (the “Settlement”) has been reached between Court-appointed Lead Counsel and the Plaintiffs’ Steering Committee (“PSC”) on behalf of a proposed Settlement Class of owners and lessees of certain Audi, Volkswagen, Porsche, and Bentley branded vehicles (the “Class Vehicles”) which resolves certain claims against Defendants pertaining to the represented fuel economy and emissions for the Class Vehicles;

WHEREAS, the total possible compensation available to the Class under the Settlement (“Settlement Value”) is \$96,543,645.00;

1 WHEREAS, the Court, for the purposes of this Order, adopts all defined terms as set forth
2 in the Settlement;

3 WHEREAS, this matter has come before the Court pursuant to Plaintiffs' Motion for
4 Preliminary Approval of the Class Action Settlement and Direction of Notice Under Fed. R. Civ.
5 P. 23(e) (the "Motion");

6 WHEREAS, Defendants do not oppose the Court's entry of the proposed Preliminary
7 Approval Order;

8 WHEREAS, the Court finds that it has jurisdiction over the Action and each of the Parties
9 for purposes of Settlement and asserts jurisdiction over the Settlement Class Representatives for
10 purposes of considering and effectuating this Settlement;

11 WHEREAS, the Court held a Preliminary Approval Hearing on October 4, 2019; and

12 WHEREAS, this Court has presided over and managed these MDL proceedings as
13 Transferee Judge since the December 8, 2015 Transfer Order, including the subset of cases
14 commenced in November 2016 and styled as the "Audi CO2 Cases";

15 WHEREAS, this Court has considered all of the presentations and submissions related to
16 the Motion as well as the facts, contentions, claims and defenses as they have developed in these
17 proceedings, and is otherwise fully advised of all relevant facts in connection therewith.

18 **IT IS HEREBY ORDERED AS FOLLOWS:**

19 **I. PRELIMINARY APPROVAL OF THE CLASS ACTION SETTLEMENT**

20 1. The proposed Settlement appears to be the product of intensive, thorough, serious,
21 informed, and non-collusive negotiations; has no obvious deficiencies; does not improperly grant
22 preferential treatment to the Settlement Class Representatives or segments of the Class; and
23 appears to be fair, reasonable, and adequate, such that notice of the Settlement should be directed
24 to the Class Members, and a Final Approval Hearing should be set.

25 2. Accordingly, the Motion is GRANTED.

26 **II. THE CLASS, CLASS REPRESENTATIVES, AND CLASS COUNSEL**

27 3. The "Class" or "Settlement Class" means a nationwide class, including Puerto Rico, of
28 all persons (including individuals and entities) who own, owned, lease, or leased a Class Vehicle

1 in the United States or its territories as of August 30, 2019, the date of the Motion for Preliminary
2 Approval of the Settlement. The following entities and individuals are excluded from the Class:

3 (a) Defendants' officers, directors and employees and participants in
4 Volkswagen's Internal Lease Program, and/or Porsche Associate Lease Program; Defendants'
5 affiliates and affiliates' officers, directors and employees; Defendants' distributors and
6 distributors' officers, directors and employees;

7 (b) Judicial officers and their immediate family members and associated court
8 staff assigned to this case; and

9 (c) All those otherwise in the Class who or which timely and properly exclude
10 themselves from the Class as provided in the Class Action Agreement.

11 4. Plaintiffs' Lead Counsel, appointed by the Court in Pretrial Order No. 7, has
12 applied for appointment as Interim Settlement Class Counsel, and the proposed Settlement Class
13 Representatives are those named as Plaintiffs in the Amended Consolidated Consumer Class
14 Action Complaint.

15 **III. PRELIMINARY FINDINGS**

16 5. The Court is thoroughly familiar with the standards applicable to certification of a
17 settlement class, and has applied them in several recent settlements in this MDL. *See, e.g., In re*
18 *Volkswagen "Clean Diesel" Mktg., Sales Practices, & Prod. Liab. Litig.*, No. MDL 2672 CRB
19 (JSC), 2018 WL 6198311, at *1 (N.D. Cal. Nov. 28, 2018) (ADR Settlement); *In re Volkswagen*
20 *"Clean Diesel" Mktg., Sales Practices, & Prod. Liab. Litig.*, No. 2672 CRB (JSC), 2017 WL
21 672820, at *6 (N.D. Cal. Feb. 16, 2017) (Bosch consumer cases); *In re Volkswagen "Clean*
22 *Diesel" Mktg., Sales Practices, & Prod. Liab. Litig.*, No. MDL 2672 CRB (JSC), 2017 WL
23 672727, at *12 (N.D. Cal. Feb. 16, 2017) (3.0-liter consumer cases); *In re: Volkswagen "Clean*
24 *Diesel" Mktg., Sales Practices, & Prod. Liab. Litig.*, No. 2672 CRB (JSC), 2016 WL 6091259, at
25 *6 (N.D. Cal. Oct. 18, 2016) (Franchise dealer cases); *In re: Volkswagen "Clean Diesel" Mktg.,*
26 *Sales Practices, & Prod. Liab. Litig.*, No. 2672 CRB (JSC), 2016 WL 4010049, at *9 (N.D. Cal.
27 July 26, 2016) (2.0-liter consumer cases), *aff'd* 895 F.3d 597, 606–09 (9th Cir. 2018). *See also In*
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1 *re Hyundai & Kia Fuel Econ. Litig.*, 926 F.3d 539, 556–67 (9th Cir. 2019) (detailing the standard
2 for certifying a settlement class).

3 6. Applying these standards, the Court finds that it will likely be able to approve,
4 under Rule 23(e)(2), the proposed Settlement Class, as defined above, because the Class and its
5 representatives likely meet all relevant requirements of Rule 23(a) and Rule 23(b)(3).

6 **IV. NOTICE TO CLASS MEMBERS**

7 7. The Court is also familiar with the evolving methods of class notice, and has
8 observed their effectiveness as utilized in previous class settlements in this litigation. *See* ¶ III.5,
9 *supra*. As applied here, the Court finds that the content, format, and method of disseminating
10 Notice—set forth in the Motion, the Declaration of Cameron Azari, and the Settlement
11 Agreement and Release—satisfies Rule 23(c)(2) and all contemporary notice standards. The
12 Court approves the notice program, and hereby directs that such notice be disseminated in the
13 manner set forth in the proposed Settlement Agreement and Azari Declaration to Class Members
14 under Rule 23(e)(1).

15 8. For purposes of identifying current and former owners and lessees of Class
16 Vehicles, R.L. Polk & Company is hereby authorized to provide the names, most current mailing
17 addresses, most current email addresses, dates of purchase, lease or registration, and dates of sale
18 or other disposition (if any) of such owners and lessees to Interim Class Counsel, Defendants and
19 their designee(s). Any governmental agency in possession of names, mailing addresses, email
20 addresses, dates of purchase, lease or registration, or dates of sale or other disposition (if any) of
21 current and former Class Vehicle owners or lessees is hereby authorized and directed to release
22 that information to R.L. Polk & Company upon request.

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1 **V. SCHEDULE**

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Date	Event
October 4, 2019	Claims Period begins
October 15, 2019	Class Notice Program begins
December 13, 2019	Motions for Final Approval and Attorneys' Fees and Expenses filed
January 17, 2020	Objection and Opt-Out Deadline
January 24, 2020	Deadline to File or Postmark Notice of Intention to Appear at the Final Approval Hearing
February 7, 2020	Reply Memoranda in Support of Final Approval and Fee/Expense Application filed
February 28, 2020	Final Approval Hearing
March 29, 2020	Claims Period ends (assumes final approval on February 28, 2020)

20 **VI. FINAL APPROVAL HEARING**

21 9. The Final Approval Hearing shall take place on February 28, 2020 at 10:00 a.m. at

22 the United States District Court for the Northern District of California, United States Courthouse,

23 450 Golden Gate Avenue, San Francisco, California 94102, before the Honorable Charles R.

24 Breyer, to determine whether the proposed Class Settlement is fair, reasonable, and adequate,

25 whether it should be finally approved by the Court, and whether the Released Claims should be

26 dismissed with prejudice under the Settlement and the Notice Program.

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1 **VII. OTHER PROVISIONS**

2 10. Plaintiffs' Lead Counsel is hereby appointed as Interim Settlement Class Counsel
3 under rule 23(g)(3) ("Interim Class Counsel"). Interim Class Counsel and Defendants are
4 authorized to take, without further Court approval, all necessary and appropriate steps to
5 implement the Settlement, including the approved Notice Program.

6 11. The dates and deadlines set forth in this Preliminary Approval Order, including,
7 but not limited to, adjourning the Final Approval Hearing, may be extended by Order of the Court
8 without further notice to the Class Members, except that notice of any such extensions shall be
9 included on the Settlement Website. Class Members should check the Settlement Website
10 regularly for updates and further details regarding extensions of these deadlines. Exclusions and
11 Objections must meet the deadlines and follow the requirements set forth in the approved notice
12 in order to be valid.

13 12. Interim Class Counsel and Defendants' Counsel are hereby authorized to use all
14 reasonable procedures in connection with approval and administration of the Settlement that are
15 not materially inconsistent with the Preliminary Approval Order or the Class Action Settlement,
16 including making, without further approval of the Court, minor changes to the Settlement, to the
17 form or content of the Class Notice, or to any other exhibits that the Parties jointly agree are
18 reasonable or necessary.

19 13. The Court shall maintain continuing jurisdiction over these proceedings for the
20 benefit of the Class as defined in this Order.

21 **IT IS SO ORDERED.**

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23 DATED: October 4, 2019

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25 THE HONORABLE CHARLES R. BREYER
26 UNITED STATES DISTRICT JUDGE