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9 Attorneys for Plaintiffs

10 **UNITED STATES DISTRICT COURT**

11 **CENTRAL DISTRICT OF CALIFORNIA**

12 TOWNSEND VANCE and
13 ZACHARY HAINES, individually
and on behalf of all others similarly
situated,

14 Plaintiffs,

15 v.

16 MAZDA MOTOR OF AMERICA,
INC. D/B/A MAZDA NORTH
17 AMERICAN OPERATIONS,
MAZDA MOTOR CORPORATION,
18 FCA US LLC. DENSO
CORPORATION, and DENSO
19 INTERNATIONAL AMERICA, INC,

20 Defendants.

Case No. 8:21-cv-01890-CJC-KES

CLASS ACTION

**UNOPPOSED MOTION FOR
ENTRY OF AN ORDER
PRELIMINARILY APPROVING
CLASS ACTION SETTLEMENT,
CONDITIONALLY CERTIFYING
THE SETTLEMENT CLASS,
DIRECTING NOTICE TO THE
CLASS, AND SCHEDULING
FAIRNESS HEARING**

Hearing Date: June 10, 2024
Time: 1:30 p.m.

District Judge Cormac J. Carney
Courtroom 9B, Santa Ana
Magistrate Judge Karen E. Scott
Courtroom 6D, Santa Ana

Complaint Filed: November 16, 2021
Trial Date: Not Set

JURY TRIAL DEMANDED

1 Plaintiffs Townsend Vance and Zachary Haines (together, “Plaintiffs”), by
2 and through their counsel, hereby respectfully submit the following unopposed
3 motion for the Court to:

4 1) grant preliminary approval of the proposed settlement memorialized
5 in the Parties’ Settlement Agreement, together with all exhibits thereto, filed
6 contemporaneously herewith;

7 2) preliminarily certify the proposed Class for settlement purposes only;

8 3) approve the form and content of, and direct the distribution of, the
9 proposed Class Notice, annexed to the Settlement Agreement as Exhibits 4, 5, 6,
10 and 7;

11 4) authorize and direct the Parties to retain JND Legal Administration
12 as the Settlement Administrator;

13 5) appoint W. Daniel Miles III of Beasley, Allen, Crow, Methvin, Portis
14 & Miles, P.C. and Timothy G. Blood of Blood Hurst & O’Reardon, LLP as Class
15 Counsel;

16 6) appoint Townsend Vance and Zachary Haines as Class
17 Representatives;

18 7) schedule a date and procedure for a Final Fairness Hearing on the
19 proposed settlement, not earlier than one hundred twenty-three (123) days after
20 preliminary approval is granted;

21 8) set forth procedures and deadlines for Class Members to file
22 objections to the proposed settlement; appear at the Final Fairness Hearing; and
23 request exclusion from the proposed Class;

24 9) issue a preliminary injunction; and

25 10) issue related relief.

26 Plaintiffs bring this motion on the grounds that: (a) the proposed settlement
27 is fair, adequate, and reasonable; (b) the proposed forms and methods of notice
28 satisfy due process and are reasonably calculated to reach the Class Members and

1 apprise them of the essential terms of the Settlement Agreement and their rights
2 with respect thereto; and (c) the proposed Class satisfies requirements for class
3 certification of Rules 23(a) and (b)(3).

4 This motion is based on the contemporaneously-filed memorandum of law
5 in support of preliminary approval submitted by Plaintiffs; the Settlement
6 Agreement; the Joint Declaration of W. Daniel “Dee” Miles, III and Timothy G.
7 Blood, together with all exhibits attached thereto; and all pleadings, records, and
8 papers on file with the Court in this action.

9
10 Dated: May 3, 2024

Respectfully submitted,
BLOOD HURST & O’REARDON, LLP
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Counsel for Plaintiffs and Proposed Classes

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CERTIFICATE OF SERVICE

I hereby certify that on May 3, 2024, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the Electronic Mail Notice List, and I hereby certify that I have mailed the foregoing document or paper via the United States Postal Service to the non-CM/ECF participants indicated on the Electronic Mail Notice List.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on May 3, 2024.

s/ Timothy G. Blood

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15 TOWNSEND VANCE and
16 ZACHARY HAINES, individually
17 and on behalf of all others similarly
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19 Plaintiffs,

20 v.

21 MAZDA MOTOR OF AMERICA,
22 INC. D/B/A MAZDA NORTH
23 AMERICAN OPERATIONS,
24 MAZDA MOTOR CORPORATION,
25 FCA US LLC. DENSO
26 CORPORATION, and DENSO
27 INTERNATIONAL AMERICA, INC.,

28 Defendants.

Case No. 8:21-cv-01890-CJC-KES

CLASS ACTION

**MEMORANDUM IN SUPPORT OF
PLAINTIFFS' UNOPPOSED
MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT**

Hearing Date: June 10, 2024
Time: 1:30 p.m.

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1 Pursuant to Federal Rule of Civil Procedure 23(e), Plaintiffs, on behalf of
2 themselves and the proposed Class (defined below), respectfully submit this
3 memorandum in support of Plaintiffs’ Unopposed Motion for Preliminary
4 Approval of Class Action Settlement (the “Motion for Preliminary Approval”).
5 The proposed settlement (“Settlement”) resolves all economic loss Class claims
6 against Defendants Mazda Motor of America, Inc., operating as Mazda North
7 American Operations (“Mazda”), and Denso International America, Inc.
8 (“Denso”) (collectively, “Defendants”, and together with Plaintiffs, the
9 “Parties”).¹

10 **I. INTRODUCTION**

11 Plaintiffs, on behalf of themselves and the proposed Class, have secured a
12 Settlement that, if approved, will confer valuable benefits to current, former and
13 future owners and lessees of approximately 603,000 Mazda vehicles that are
14 equipped with certain low-pressure Denso Fuel Pumps, which Plaintiffs allege are
15 defective.² The Settlement is the result of over two-and-a-half years of litigation
16 and good-faith, arm’s-length negotiations among experienced counsel.

17 Plaintiffs allege³ that Mazda marketed and sold its vehicles as safe, reliable
18 and durable without disclosing to consumers that the vehicles were equipped with
19 a dangerously defective fuel pump, a critical component that supplies fuel to the
20 vehicles’ fuel injection system while the engine is in operation. These fuel pumps,
21 all of which were manufactured by Denso, can cause the affected vehicles to run
22

23 ¹ Defendants Mazda Motor Corporation and Denso Corporation, which own
24 Mazda Motor of America, Inc., and Denso International America, Inc.,
25 respectively, were voluntarily dismissed from this action. ECF 74, 93. Defendant
FCA US LLC, was voluntarily dismissed from this action. ECF 101.

26 ² Unless specifically defined herein, capitalized terms have the same meanings
27 ascribed to them in the Settlement Agreement, cited as “SA.” SA, § II.

28 ³ While Defendants do not oppose the relief sought in this Motion, they dispute
the factual underpinnings of Plaintiffs’ claims and expressly deny all liability.

1 rough, unexpectedly stall, fail to accelerate, lurch and even to lose all engine power
2 while in operation, increasing the risk of a crash (“Denso Fuel Pumps”). ¶¶ 1-37,
3 78-170. ⁴ Starting April 2020, Denso recalled these Fuel Pumps, which were
4 installed in vehicles of various auto manufacturers, and ultimately recalled over
5 3.6 million Fuel Pumps, some of which were installed in Mazda vehicles. On
6 November 21, 2021, Mazda issued its own recall of over 121,000 of its vehicles
7 fitted with those Denso Fuel Pumps.

8 In the Settlement, Mazda agrees to implement a Customer Support Program
9 (“CSP”) that will provide 15 years of coverage for repair and replacement of the
10 original Denso Fuel Pumps in over 482,000 Additional Vehicles that were not
11 recalled, and an Extended New Parts Warranty (“Extended Warranty”) of 15 years,
12 or 150,000 miles, whichever comes first, for repair and replacement of Fuel Pumps
13 in the Recalled Vehicles. The extended coverage is coupled with other concrete
14 benefits that ensure Class Members can take advantage of the Customer Service
15 Program and Extended New Parts Warranty conveniently and without incurring
16 future costs, including free loaner vehicles that Class Members may keep for 24
17 hours or longer, and free towing if their vehicle is inoperable or unsafe to drive.
18 Defendants also agreed to fund and implement a user-friendly out-of-pocket
19 claims process under which Class Members with valid claims will be reimbursed
20 for their past Fuel Pump-related repairs and associated rental vehicles and towing
21 costs, with no cap. The Settlement also provides for a robust Notice Program, also
22 funded by Defendants, informing Class Members of the proposed Settlement and
23 their right to opt out or object to the Settlement.

24 Plaintiffs submit the Settlement, described in detail below, is fair,
25 reasonable and adequate, and merits this Court’s preliminary approval.⁵ In

26 _____
27 ⁴ All references to “¶” or “¶¶” are to Plaintiffs’ Second Amended Class Action
28 Complaint (ECF Doc. 39).

⁵ See Joint Declaration of W. Daniel “Dee” Miles III and Timothy G. Blood in

1 December 2022, a substantively similar settlement involving Denso Fuel Pumps
2 against a different auto manufacturer was approved by the Eastern District of New
3 York.⁶

4 **II. RELEVANT FACTS AND PROCEDURAL HISTORY**

5 On April 27, 2020, Denso issued a recall for 2,020,000 Denso Fuel Pumps
6 it manufactured between September 1, 2017, and October 6, 2018. ¶¶ 3-6.⁷ The
7 fuel pump is critical to vehicle operation because it lifts gasoline from the fuel tank
8 and delivers it to the engine where it is ignited in the combustion chamber and
9 generates vehicle propulsion. ¶¶ 4, 78-83. Denso issued the recall because the
10 impeller in its low-pressure Fuel Pumps can deform and interfere with the body of
11 the Fuel Pump, causing it to become inoperative, which can result in engine stalls
12 and similar symptoms, and poses a safety risk. Denso expanded its recall on June
13 11, 2020, and again on November 17, 2020, to include more pumps over a longer
14 time-period (pumps manufactured between June 26, 2017, to June 28, 2019). ¶¶ 7-
15 11. The June 2020 recall affected approximately 2,156,057 vehicles across various
16 manufacturers including Mazda, Toyota, Honda, and Subaru. ¶¶ 7-8. The
17 November 2020 recall included an additional 1,517,721 Fuel Pumps manufactured
18 as early as June 26, 2017, and as late as June 28, 2019. ¶ 10.

19 Mazda initiated a recall on November 12, 2021, for 121,038 vehicles with
20 Denso Fuel Pumps. ¶ 171. On November 17, 2021, Plaintiffs filed a 105-page
21 complaint (ECF Doc. 1) alleging Defendants’ recalls failed to include all affected
22 vehicles and the recall repair was inadequate. ¶¶ 171-202. Plaintiffs alleged
23

24 Support of Plaintiffs’ Motion for Preliminary Approval (“Joint Declaration” or
25 “Joint Decl.”).

26 ⁶ *Cheng, et al. v. Toyota Motor Corp. et al.*, Case No. 1:20-cv-00629-JRC (E.D.N.Y.),
27 ECF 192, 193.

28 ⁷ All references to “¶” or “¶¶” are to Plaintiffs’ Second Amended Class Action
Complaint (ECF Doc. 39).

1 Defendants knew of the defective Fuel Pump at least as early as 2016 but continued
2 to manufacture the defective Fuel Pumps for use in Class vehicles. ¶¶ 132-143.
3 Plaintiffs further alleged Defendants concealed the defect from Plaintiffs and the
4 Class while falsely touting the safety and reliability of the Denso Fuel Pumps and
5 the Class Vehicles. ¶¶ 144-170. Plaintiffs asserted class claims for violation of
6 consumer protection statutes, strict product liability, breach of warranty, negligent
7 recall, and fraudulent omission. Plaintiffs sought damages and equitable relief
8 individually and on behalf of Class members, each of whom purchased or leased
9 a Class Vehicle. *See* ECF 1, Prayer for Relief.

10 On November 23, 2021, Plaintiffs filed their First Amended Class Action
11 Complaint (“FAC”) and added FCA US LLC (“FCA”) as a defendant. Plaintiffs
12 alleged that vehicles designed and manufactured as part of a joint venture between
13 Mazda and FCA (e.g., the Fiat 124 Spider) were also fitted with Denso Fuel Pumps
14 and should have been recalled. ¶¶ 1-37, 66.

15 On December 15, 2021, Plaintiffs and Defendants filed a joint stipulation to
16 extend Defendants’ time to respond to the FAC, ECF Doc. 34, and, on December
17 23, 2021, the Parties filed a stipulation to extend the time for Plaintiffs to file a
18 Second Amended Class Action Complaint (“SAC”). ECF Doc. 35. On December
19 27, 2021, the Court granted the Parties’ stipulation to extend the time to file the
20 SAC and entered a briefing schedule. ECF Doc. 36. On January 19, 2022, Plaintiffs
21 filed their SAC. ECF Doc. 39. The SAC further refined Plaintiffs’ allegations and
22 brought an additional claim for violation of Alabama’s Deceptive Trade Practices
23 Act. ¶¶ 245—256.

24 On February 15, 2022, counsel for all Parties held a conference regarding
25 Plaintiffs’ allegations in the SAC pursuant to L.R. 7-3 and filed a stipulation to
26 continue Defendants’ deadline to respond to Plaintiffs’ SAC until March 16, 2022.
27 ECF Doc. 57.

28

1 On March 16, 2022, Defendants separately moved to dismiss, and/or strike
2 allegations of Plaintiffs' Second Amended Class Action Complaint (ECF Doc. 64,
3 66, 69, 71), which Plaintiffs opposed (ECF Doc. 84, 85, 86 87). On the same day,
4 the Court issued an order for Plaintiffs to show cause regarding lack of prosecution
5 of Mazda Motor Corporation and Denso Corporation, the corporate parents of
6 Defendants Mazda and Denso, located in Japan. ECF Doc. 72. Plaintiffs entered
7 into a tolling agreement with Denso Corporation and voluntarily dismissed it as a
8 defendant on March 22, 2022, ECF Doc. 74, and filed their response to the order
9 to show cause requesting thirty days to negotiate a tolling agreement with Mazda
10 Motor Corporation. ECF Doc. 75.

11 On April 19, 2022, Plaintiffs served their first Requests for Production on
12 Mazda Motor of America, Inc., Denso International America, Inc., and FCA US,
13 LLC.

14 On April 20, 2022, Plaintiffs filed their oppositions to Defendants' motions
15 to dismiss and motion to strike nationwide class allegations, ECF Docs. 84-87,
16 and, on May 13, 2022, Defendants filed their reply memoranda. ECF Docs. 89-92.

17 On May 19, 2022, Plaintiffs voluntarily dismissed their claims against
18 Mazda Motor Corporation (ECF Doc. 93), and voluntarily dismissed FCA US
19 LLC on July 6, 2022. ECF Doc. 101.

20 On July 7, 2022, the Parties filed a stipulation to continue the hearings on
21 Defendants' motions to dismiss and/or to strike Plaintiffs' SAC, continue the
22 scheduling conference and related deadlines, and requested a status conference.
23 ECF Doc. 104. On July 8, 2022, the Court issued an order granting the stipulation
24 and directed the Parties to file a joint status report no later than July 25, 2022, if a
25 further status conference was necessary. ECF Doc. 105. On July 25, 2022, the
26 Parties, as directed by the Court, filed their joint status report informing the Court
27 that, after having met and conferred, they agreed that a further status conference
28 was not necessary. ECF Doc. 106.

1 Between July 2022 and October 2022, the Parties continued to meet and
2 confer, narrowing the issues in the litigation, and, on October 14, 2022, filed a
3 stipulation informing the Court of the Parties’ preliminary settlement discussions
4 and requesting that all deadlines be continued. ECF Doc. 107. During this same
5 period, the Parties, who had begun formal discovery, agreed to exchange informal
6 information as part of settlement discussions. ECF Doc. 107, ¶ 15.

7 **III. SETTLEMENT NEGOTIATIONS AND CONFIRMATORY**
8 **DISCOVERY**

9 The negotiations culminating in this Settlement were complex, conducted
10 in good faith and at arms’ length over a period of one-and-a-half years by informed
11 and experienced counsel. Plaintiffs, with the goal of obtaining immediate valuable
12 benefits for Class Members, and Defendants began to explore the possibility of an
13 early resolution even while Defendants’ motions to dismiss and strike were being
14 litigated, and the Parties were engaged in fact discovery.

15 Between October 2022 and December 2022, the Parties met four times (in
16 person and via electronic meetings) to discuss settlement and additional meetings
17 were planned for early the next year. ECF 112-1, ¶ 15. Indeed, extensive
18 negotiations concerning the scope and substantive terms of Settlement went on for
19 many months through January 2024. *See, e.g.*, ECF Doc. 115, ¶ 10; ECF Doc. 118,
20 ¶ 10; ECF Doc. 120, ¶ 12; ECF Doc. 122. During this time, Mazda produced, and
21 Class Counsel processed and reviewed, 6,609 pages of documents relating to the
22 design and operation of the Denso Fuel Pumps, warranty data, sales data, failure
23 modes effect and analysis attributed to the Fuel Pumps, Defendants’ investigation
24 into the defect, the Recall, and the defect countermeasure development and
25 implementation. The Parties also exchanged multiple rounds of correspondence
26 regarding complex warranty data and failure analysis which helped inform the
27 scope of Settlement. The informal information produced by Defendants added to
28 Class Counsel’s already extensive knowledge of the Denso Fuel Pumps gained

1 through their representation of plaintiffs in similar lawsuits against Toyota, Honda,
2 and Subaru. Joint Decl., ¶¶ 36, 38-39. On September 7, 2022, the parties in the
3 Toyota litigation entered into a settlement agreement resolving the case on terms
4 substantially similar to those in the proposed Settlement here, which was finally
5 approved by Magistrate Judge James Cho of the Eastern District of New York on
6 December 20, 2022.⁸

7 Additionally, Plaintiffs' independent automotive engineering expert
8 sourced and inspected over 350 Denso Fuel Pumps, and analyzed, among other
9 things, the pumps' operation, specifications, and the density of the impeller. Joint
10 Decl., ¶¶ 7, 28-29, 34. Plaintiffs' automotive expert also thoroughly tested and
11 analyzed the Countermeasure Fuel Pumps and concluded they function as
12 intended. *Id.*

13 The Parties also jointly moved the Court for appointment of Patrick A.
14 Juneau as Settlement Special Master to preside over and assist with settlement-
15 related issues, including settlement negotiations and settlement implementation.
16 On March 11, 2024, the Court appointed Mr. Juneau as Settlement Special Master.
17 ECF Doc. 128.

18 After the Parties reached agreement on the substantive terms of the
19 Settlement significant work remained. Joint Decl., ¶¶ 22-29. Numerous drafts of
20 the Settlement Agreement and related exhibits were exchanged, which Class
21 Counsel carefully negotiated and refined before a final agreement could be
22 reached. As a result of Counsel's efforts, the Parties were successful in reaching a
23 Settlement that provides concrete substantial benefits to over 603,000 Class
24 Members.

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28 ⁸ *Cheng, et al. v. Toyota Motor Corp. et al.*, Case No. 1:20-cv-00629-JRC (E.D.N.Y.),
ECF Doc. 162.

1 **IV. THE SETTLEMENT**

2 The Settlement Agreement filed with the Court, including exhibits, sets
3 forth all of the terms of the Settlement and controls. The Settlement is summarized
4 below.

5 **A. The Class**

6 The proposed Settlement Class is comprised of all individuals or legal
7 entities who, at any time as of the entry of the Preliminary Approval Order, own
8 or owned, purchase(d) or lease(d) Covered Vehicles in any of the fifty States, the
9 District of Columbia, Puerto Rico, and all other United States territories and/or
10 possessions.⁹

11 The Covered Vehicles include eight Mazda models spanning over five
12 model years listed in Exhibits 1 and 2 to the Settlement Agreement. The proposed
13 Class Representatives are Plaintiffs Townsend Vance and Zachary Haines.

14 **B. The Settlement Benefits**

15 In consideration for the dismissal of the Action with prejudice and a full and
16 complete release of claims by all Plaintiffs, Class Representatives, and Class
17 Members, Defendants agreed to provide the following Settlement benefits.

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22 ⁹ Excluded from the Class are: (a) Mazda, its officers, directors and employees; its
23 affiliates and affiliates' officers, directors and employees; its distributors and
24 distributors' officers, directors and employees; and Mazda Dealers and Mazda
25 Dealers' officers and directors; (b) Denso, its officers, directors and employees; its
26 affiliates and affiliates' officers, directors and employees; its distributors and
27 distributors' officers, directors and employees; (c) Plaintiffs' Counsel; and
28 (d) judicial officers and their immediate family members and associated court staff
assigned to this case. In addition, persons or entities are not Class Members once
they timely and properly exclude themselves from the Class, as provided in this
Settlement Agreement, and once the exclusion request is finally approved by the
Court. SA, § II.A., ¶ 10.

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1. Customer Support Program

As set forth above, under the CSP, Mazda will provide prospective coverage for repairs to correct defects in materials or workmanship in the Fuel Pumps for Additional Vehicles that were not recalled.¹⁰ The Additional Vehicles include 482,066 Mazda vehicles. SA, Ex. 1. A Class Member’s rights under the CSP are transferred with the Additional Vehicle. Coverage for the original Fuel Pumps continues for 15 years from the Date of First Use, which is the date the Additional Vehicle was originally sold or leased by a Mazda dealer. SA, §§ II.A., ¶ 17, III.A. If any Additional Vehicle is covered by a future or expanded recall for the same or similar impeller issues in a Denso low-pressure fuel pump, it will be entitled to the same relief provided to Recalled Vehicles under the Extended New Parts Warranty, (SA, § III.A., ¶ 3), such that Class Members with recalled Additional Vehicles shall receive no less relief than provided in this Settlement Agreement. Class Members who currently own or lease, or previously owned or leased, Additional Vehicles may also be eligible to seek reimbursement of covered expenses under the Out-of-Pocket Claims Process, subject to the Claim Submission Period and other terms and conditions of that program. *Id.*

If the Settlement is approved, implementation of the CSP will begin no later than 30 days after the Final Effective Date of the Settlement. SA, § III.A., ¶ 1. If the Court grants preliminarily approval, Defendants, at their discretion, after

¹⁰ Salvaged Vehicles, inoperable vehicles, and vehicles with titles marked flood-damages are not eligible for this benefit. SA, § III.C., ¶ 2.

1 consulting with Class Counsel, may implement the CSP prior to the Final Effective
2 Date. SA, § III.

3 **2. Extended New Parts Warranty**

4 The Extended New Parts Warranty for the Countermeasure Fuel Pump kit
5 replaced on the Recalled Vehicles will last for 15 years, measured from the
6 replacement date, and up to 150,000 miles, whichever occurs first, and is
7 transferable with the vehicle. SA, § III.B., ¶ 1.

8 **3. Loaner Vehicles and Towing During Repair**

9 As part of the Settlement, Mazda will offer and provide upon request a free
10 loaner vehicle to eligible Class Members whose Covered Vehicles are undergoing
11 repair/replacement under the CSP or the Extended New Parts Warranty. SA, §§
12 III.A-B. If a Class Member has a demonstrable need for a loaner vehicle similar to
13 her Covered Vehicle, Mazda, through its dealers, will use good-faith efforts to
14 provide one. *Id.* Class Members may return the Loaner Vehicle up to 24 hours after
15 they drop off their Covered Vehicle at the Mazda Dealer, or 24 hours after they
16 are informed by the Mazda Dealer that the repair on their Covered Vehicle has
17 been completed, whichever is later. *Id.* If the Covered Vehicle is inoperable or is
18 exhibiting a dangerous condition, the Class Member may contact a Mazda Dealer
19 to arrange for towing to the nearest Mazda Dealer. *Id.*, §§ III.A, ¶ 2; III.B, ¶ 2.

20 **4. Out-of-Pocket Claims Process**

21 The Settlement also provides for an Out-of-Pocket Claims Process under
22 which Class Members, who do not opt out of the Settlement, may submit claims
23 for out-of-pocket expenses incurred to repair or replace a Fuel Pump in their
24 Covered Vehicles, as well as reasonable rental vehicle and towing costs, that were
25 not otherwise reimbursed and that were either (a) incurred prior to the entry of the
26 Preliminary Approval Order, or (b) incurred after the entry of the Preliminary
27

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1 Approval Order and before the Final Effective Date. SA, § III.C.¹¹ To be eligible
2 for relief, Class Members must complete and timely submit Claim Forms, with
3 Supporting Documentation, to the Settlement Administrator within the Claim
4 Submission Period. Claim Forms can be mailed or submitted online at the
5 settlement website. SA, § III.C., ¶¶ 2, 3.

6 By agreement of the Parties and subject to Court approval, the Out-of-
7 Pocket Claims Process will be administered by JND Legal Administration
8 (“JND”), at Defendants’ expense. SA, § II.A., ¶¶ 43, 45. JND has extensive
9 experience in claims administration and has administered the claims in some of
10 the largest class action settlements providing for reimbursement of claims.¹²

11 Claims submitted by Class Members will be received by the Settlement
12 Administrator, who will administer the review and processing of the Claims. SA,
13 § III.C., ¶ 4. If a Claim is determined to be deficient, the Settlement Administrator
14 will mail, and, if available, email a notice of deficiency to the Class Member,
15 requesting the Class Member complete and/or correct the deficiencies for
16 resubmission within 60 days of the date of the notice. SA, § III.C., ¶ 5. Deficient
17 claims that are not corrected/completed will be denied. *Id.*

18 The Settlement Administrator will use reasonable efforts to complete review
19 of timely and completed Claim Forms within 60 days of receipt. *Id.* Approved
20 Claims that are accepted for payment will be paid by the Settlement Administrator,
21 using reasonable efforts, within 60 days after the later of receipt of the Claim or
22 the date of issuance of the Final Order and Final Judgment. SA, § III.C., ¶ 5.a.

23
24 _____
25 ¹¹ For costs that were incurred after the entry of the Preliminary Approval Order
26 and before the Final Effective Date, the Class Member must provide proof they
27 were denied coverage by a Mazda dealer prior to incurring the cost. SA, § III.C.,
28 ¶ 1.

¹² See Declaration of Jennifer M. Keough Re: Settlement Notice Program
 (“Keough Decl.”), ¶¶ 5-11, filed contemporaneously herewith.

1 If a Class Member's Claim is rejected for payment, in whole or in part, the
2 Settlement Administrator will notify Class Counsel, Mazda's Counsel, and
3 Denso's Counsel of the rejection of the Claim and the reason(s) why within 60
4 days of the rejection. SA, § III.C., ¶ 5.b. While the decision of the Settlement
5 Administrator will be final, Class Counsel, Mazda's Counsel, and Denso's
6 Counsel may resolve any denied Claims, jointly recommend payment of rejected
7 Claims or payment of a reduced claim amount, in which case the Settlement
8 Claims Administrator will instruct Defendants' Counsel to pay the Claims in full
9 or in part, as the case may be. *Id.* If Class Counsel, Mazda's Counsel, and Denso's
10 Counsel disagree with the Settlement Administrator's initial determination, they
11 shall so notify the Settlement Administrator, with explanation, and the Settlement
12 Administrator will make the final determination as to whether the Claim shall be
13 paid. *Id.* If a Claim is rejected in full or in part, the Settlement Administrator will
14 be directed to mail a notice of rejection letter to the Class Member and email notice
15 to the Class member if an e-mail address was provided. *Id.*

16 The Settlement Administrator will provide status reports to Class Counsel,
17 Mazda's Counsel and Denso's Counsel every 6 months until the distribution of the
18 last check, including copies of all rejection notices. SA, § III.C., ¶ 6.

19 For any checks that are uncashed by Class Members after 90 days, the
20 Settlement Administrator will seek to contact the Class Members with the
21 uncashed checks and have them promptly cash the checks, including, but not
22 limited to, by reissuing checks. SA, § III.C., ¶ 8. The Settlement Administrator
23 will void any checks, including re-issued checks, that are uncashed by Class
24 Members after 6 months from the date the check is issued. *Id.*

25 **5. Reconsideration Procedure for Denial of Coverage**

26 As part of the Settlement, Class Members and/or subsequent purchasers or
27 lessors of a Covered Vehicle who are denied coverage for repairs under the CSP
28 or Extended Warranty may take their vehicle to a second Mazda Dealer for an

1 independent determination. SA, § III.D., ¶ 1. If the second Mazda Dealer
2 determines the vehicle qualifies for a repair and/or replacement of the fuel pump
3 kit, the Class Member and/or subsequent purchaser or lessor will be provided the
4 benefits as provided in the Settlement Agreement. *Id.*

5 **6. Settlement Oversight**

6 In addition to the reconsideration procedure, under the Settlement, if a Class
7 Member, after exhausting all other means of resolution available, still has a dispute
8 relating to entitlement to any benefit under the CSP, the Extended New Parts
9 Warranty, the Loaner/Towing Program, and/or the Out-of-Pocket Claims Process,
10 the dispute may be referred to Settlement Special Master, Class Counsel, Mazda's
11 Counsel and Denso's Counsel within 15 days of the denial of the benefit. SA,
12 § III.F., ¶ 1. Counsel may make a joint recommendation or separately relay their
13 positions on the dispute to the Settlement Administrator within 30 days. *Id.* The
14 Settlement Administrator will make the final determination concerning the dispute
15 and provide written notice, with directions for implementation, to the Parties, or
16 Settlement Administrator within 30 days. Defendants' Counsel, and/or the
17 Settlement Administrator, will implement the Settlement Administrator's
18 determination within 30 days. However, if the determination was to allow, in full
19 or in part, a previously denied Claim, the Settlement Administrator will pay the
20 Claim in the next distribution of checks for allowed Claims. *Id.*

21 During the 12 months after the Final Effective Date, the Settlement
22 Administrator, with cooperation of Defendants' Counsel, will provide quarterly
23 reports to Class Counsel concerning the implementation of and Class Member
24 participation in the CSP. SA, § III.F., ¶ 2.

25 **C. Release and Waiver**

26 In consideration for the Settlement, Class Representatives, Plaintiffs and
27 each Class Member, on behalf of themselves and any other legal or natural persons
28

1 who may claim by, through or under them, will be subject to the following release
2 and waiver of rights:

3 [T]o fully, finally, and forever release, relinquish, acquit, and
4 discharge the Released Parties from any and all claims, demands,
5 suits, petitions, liabilities, causes of action, rights, and damages of
6 any kind and/or type regarding the subject matter of the Action,
7 including, but not limited to, compensatory, exemplary, punitive,
8 expert and/or attorneys' fees or by multipliers, whether past, present,
9 or future, mature, or not yet mature, known or unknown, suspected or
10 unsuspected, contingent or non-contingent, derivative or direct,
11 asserted or un-asserted, whether based on federal, state or local law,
12 statute, ordinance, regulation, code, contract, common law, violations
13 of any state's deceptive, unlawful, or unfair business or trade
14 practices, false, misleading or fraudulent advertising, consumer fraud
15 or consumer protection statutes, any breaches of express, implied or
16 any other warranties, RICO, or the Magnuson-Moss Warranty Act, or
17 any other source, or any claim of any kind arising from, related to,
18 connected with, and/or in any way involving the Action, the Covered
19 Vehicles' Fuel Pumps, and/or associated parts that are, or could have
20 been, defined, alleged, or described in the Class Action Complaint,
21 the Action, or any amendments of the Class Action Complaint
22 ("Released Claims"); provided, however, that notwithstanding the
23 foregoing, Class Representatives and the other Class Members are not
24 releasing claims for personal injury, wrongful death or physical
25 property damage (except to the Fuel Pump in the Covered Vehicle
26 itself) from the Covered Vehicle.

27 SA, § VII.B. This Release, which will be made part of the Final Order and Final
28 Judgment, will be attached to the Long Form Notice, and will be available on the
Settlement Website.

D. Attorneys' Fees, Costs and Expenses and Service Awards

After agreeing to the principal terms set forth in the Agreement, Class
Counsel and Defendants' counsel began negotiating the amount of attorneys' fees,
costs and expenses that, following application to the Court and subject to Court
approval, would be paid as the fee award and costs award to Class Counsel. Class
Counsel will make an application for an award of attorneys' fees in an amount not
to exceed Fifteen Million Dollars (\$15,000,000). Class Counsel will make an
application for reimbursement of Plaintiffs' Counsel's reasonable out-of-pocket

1 expenses in an amount not to exceed Two Hundred Thousand Dollars (\$200,000).
2 While Defendants have agreed to pay Class Counsel fees and costs reasonably
3 incurred, they reserve the right to oppose the amounts sought by Class Counsel.

4 Additionally, Class Counsel will also ask the Court to award Class
5 Representative service awards, in an amount not to exceed Five Thousand Dollars
6 (\$5,000) each, for the time and effort spent representing Class Members. As with
7 the fee application, Defendants agree to pay a reasonable award to the individual
8 named Plaintiffs/Class Representatives but reserve the right to oppose the amount
9 requested.

10 If the Court grants Class Counsel's application for Attorneys' Fees, Costs
11 and Expenses, and Class Representative service awards, any awarded amounts will
12 be paid by Defendants and will be in addition to amounts made available for relief
13 to Class Members by the Settlement Agreement. SA, § VIII.A.

14 **E. The Claims Process and Notice Program**

15 As described in Section VII below, as part of the Settlement Agreement,
16 Defendants will fund and JND will design and implement a Notice Program (*see*
17 SA, Ex. 4) to reach Class Members with clear, plainly stated information about
18 their rights, options, and deadlines in connection with this Settlement. SA, Ex. 4.

19 The Parties propose that JND serve as Settlement Administrator to provide
20 notice; administer and make determinations regarding claim forms; process
21 settlement payments; make distributions; and provide other services necessary to
22 implement the Settlement. SA, § II.A., ¶ 44; § III.D. The costs of the Settlement
23 Administrator will be paid by Defendants. SA, § IV.A., ¶ 1.

24 The Parties have designed an out-of-pocket claims process that places
25 minimum burdens on Class Members who are eligible to receive cash from the
26 Settlement. To be eligible for reimbursement for the Out-of-Pocket Claims Process
27 qualifying Class Members are required to timely complete and submit a Claim
28 Form with Supporting Documentation. SA, § III.C., ¶ 3. and Ex. 8.

1 **V. PRELIMINARY APPROVAL IS APPROPRIATE**

2 **A. The Rule 23 Requirements for Class Certification Are Met**

3 At the preliminary approval stage, “if a class has not [yet] been certified, the
4 parties must ensure that the court has a basis for concluding that it likely will be
5 able, after the final hearing, to certify the class.” Fed. R. Civ. P. 23, Adv. Comm.
6 Notes to 2018 Amendment. All the requirements of Rule 23(a) must be met, and
7 “at least one of the three requirements listed in Rule 23(b).” *Wal-Mart Stores, Inc.*
8 *v. Dukes*, 564 U.S. 338, 345 (2011).¹³ As described below, the proposed Settlement
9 Class here meets the requirements of both Rule 23(a) and Rule 23(b)(3) and should
10 be conditionally certified for settlement purposes only.

11 **1. Rule 23(a) Is Satisfied**

12 **a. The Class Is Sufficiently Numerous**

13 Rule 23(a)(1) requires that “the class is so numerous that joinder of all
14 members is impracticable.” Fed. R. Civ. P. 23(a)(1). “As a general matter, courts
15 have found that numerosity is satisfied when class size exceeds 40 members.”
16 *Moore v. Ulta Salon, Cosmetics & Fragrance, Inc.*, 311 F.R.D. 590, 602-03 (C.D.
17 Cal. Nov. 16, 2015). Here, the Rule 23(a)(1) numerosity requirement is met where
18 the Settlement Class includes over 600,000 Covered Vehicles.

19 **b. There Are Common Questions of Law and Fact**

20 Rule 23(a)(2) requires that “there are questions of law or fact common to
21 the class.” Fed. R. Civ. P. 23(a)(2). Commonality is “construed permissively” and
22 a single question of law or fact common to the class may suffice. *Hanlon v.*
23 *Chrysler Corp.*, 150 F.3d 1011, 1019 (9th Cir. 1998). Indeed, “one significant
24 issue common to the class may be sufficient to warrant certification.” *Wal-Mart*
25 *Stores, Inc.*, 564 U.S. at 369.

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27
28 ¹³ Unless otherwise stated all internal quotations, citations and emphasis omitted.

1 In vehicle defect cases, commonality is often found when the most
2 significant question concerns the existence of a defect. *See, e.g., Wolin v. Jaguar*
3 *Land Rover N. Am., LLC*, 617 F.3d 1168, 1172 (9th Cir. 2010) (commonality was
4 “easily satisfied” where prospective class members’ claims involved the same
5 defect and common questions included whether the defect existed and whether the
6 defendant concealed it); *Keegan v. Am. Honda Motor Co.*, 284 F.R.D. 504, 524
7 (C.D. Cal. 2012) (finding commonality where plaintiffs alleged a common defect
8 and holding “[t]he fact that some vehicles have not yet manifested premature or
9 excessive tire wear is not sufficient, standing alone, to defeat commonality”);
10 *Chamberlan v. Ford Motor Co.*, 223 F.R.D. 524, 526 (N.D. Cal. 2004) (finding
11 commonality satisfied where Ford knew there was a risk the plastic intake
12 manifolds would crack prematurely, but concealed it from ordinary consumers).

13 Here, the commonality requirement is easily satisfied where the claims of
14 all prospective Class Members involve the same issues central to this case. These
15 include, among others, whether the Covered Vehicles have a safety-related defect;
16 whether and when Defendants knew of the defect; whether Defendants
17 misrepresented the safety and quality of the Covered Vehicles and Fuel Pumps;
18 whether Defendants’ alleged misrepresentations and omissions were misleading
19 to reasonable consumers, and, if misleading, whether they were material; the
20 presence and quantum of Class Members’ damages, and whether equitable relief
21 is warranted, among others. The commonality requirement is satisfied.

22 **c. The Class Representatives’ Claims Are Typical of**
23 **Other Class Members**

24 Rule 23(a)(3) requires “the claims or defenses of the representative parties
25 are typical of the claims or defenses of the class.” Fed. R. Civ. P. 23(a)(3). “The
26 purpose of the typicality requirement is to assure that the interest of the named
27 representative aligns with the interests of the class.” *Wolin*, 617 F.3d at 1175. Like
28 commonality, the typicality requirement is interpreted “permissive[ly,]” and

1 “requires only that the representative’s claims are reasonably co-extensive with
2 those of absent class members; they need not be substantially identical.” *Rodriguez*
3 *v. Hayes*, 591 F.3d 1105, 1124 (9th Cir. 2010). “Typicality refers to the nature of
4 the claim or defense of the class representative, and not to the specific facts from
5 which it arose or the relief sought.” *Ellis v. Costco Wholesale Corp.*, 657 F.3d 970,
6 984 (9th Cir. 2011). The “focus should be on the defendants’ conduct and
7 plaintiff’s legal theory, not the injury caused to the plaintiff.” *Costello v. Chertoff*,
8 258 F.R.D. 600, 608 (C.D. Cal. 2009).

9 Typicality is met here as Plaintiffs and Settlement Class Members all
10 own(ed) or lease(d) a Covered Vehicle, and their claims arise from the same
11 common course of conduct by Defendants, their claims and legal theories, arise
12 from the same course of events and rely on the same or similar legal grounds.
13 Specifically, that Defendants engaged in deceptive conduct in violation of
14 consumer protection laws and breached express and implied warranties by selling
15 fuel pumps and vehicles with defects, failing to inform consumers of the defects,
16 and failing to properly repair the defects pursuant to warranties. Plaintiffs allege
17 their vehicles have the same Denso Fuel Pump as all Covered Vehicles thus their
18 claims are typical of the claims of every Class Member.

19 **d. Proposed Class Representatives Will Fairly and**
20 **Adequately Represent Class Members**

21 Rule 23(a)(4) is satisfied if “the representative parties will fairly and
22 adequately protect the interests of the class.” Fed. R. Civ. P. 23(a)(4). The
23 adequacy inquiries are: (1) whether plaintiffs’ counsel is qualified, experienced
24 and capable of prosecuting the action vigorously on behalf of the class, and (2)
25 whether the named plaintiffs and their counsel have any conflicts of interest with
26 other class members. *Ellis*, 657 F.3d at 985. To defeat adequacy, a conflict must
27 be “actual,” not merely “speculative.” *Cummings v. Connell*, 316 F.3d 886, 896
28 (9th Cir. 2003). The first prong analyzes the capabilities and performance of Class

1 Counsel based upon factors set forth in Rule 23(g). The core analysis for the
2 second prong is whether Plaintiffs have interests antagonistic to those of the Class.

3 Here, the proposed Class Representatives retained the services of highly
4 qualified Plaintiffs' counsel with extensive experience in class action and complex
5 litigation, including those involving vehicle defects. Joint Decl., ¶¶ 1-4, 36-42.
6 Class Counsel has, and will continue to, vigorously prosecute the interests of
7 proposed Class Members, which to date has culminated in a Settlement that
8 confers valuable benefits on the Settlement Class. *Id.*, ¶¶ 5-38. As described in
9 their concurrently filed declarations and as set forth below, proposed Class
10 Counsel are well-qualified to represent the proposed Class and should be
11 appointed Class Counsel under Rule 23(g). As such, the requirements of Rule
12 23(a)(4) are satisfied.

13 Moreover, the proposed Class Representatives have demonstrated that they
14 have and will continue to diligently represent the class, and that there is no conflict
15 or antagonism between the proposed Class Representatives and the other Class
16 Members. Rather, the proposed Class Representatives have brought substantively
17 identical claims and seek the same relief for themselves and the proposed Class
18 and thus have the same incentive to obtain the best possible result through
19 prosecution and settlement of their claims. *See generally, Banh v. Am. Honda*
20 *Motor Co., Inc.*, No. 2:19-CV-05984-RGK-AS, 2021 WL 3468113, at *4 (C.D.
21 Cal. June 3, 2021). The requirements of Rule 23(a)(4) are plainly satisfied.

22 **2. Rule 23(b)(3) Is Satisfied**

23 Rule 23(b)(3) requires that (1) “questions of law or fact common to the
24 members of the class predominate over any questions affecting only individual
25 members of the class” and (2) “that a class action is superior to other available
26 methods for the fair and efficient adjudication of the controversy.” Fed. R. Civ. P.
27 23(b)(3). Both requirements are satisfied here.

28 **a. Common Issues of Fact and Law Predominate**

1 Predominance exists where “a common nucleus of facts and potential
2 remedies dominate th[e] litigation.” *Chamberlan*, 402 F.3d at 962. “Because no
3 precise test can determine whether common issues predominate, the Court must
4 pragmatically assess the entire action and the issues involved.” *Negrete v. Allianz*
5 *Life Ins. Co. of N. Am.*, 287 F.R.D. 590, 607 (C.D. Cal. 2012). “Implicit in the
6 satisfaction of the predominance test is the notion that the adjudication of common
7 issues will help achieve judicial economy.” *Id.*

8 The Supreme Court has explained that “Rule 23(b)(3), [], does *not* require a
9 plaintiff seeking class certification to prove that each elemen[t] of [her] claim [is]
10 susceptible to classwide proof” but rather that “common questions *predominate*
11 over any questions affecting only individual [class] members.” *Amgen Inc. v.*
12 *Conn. Ret. Plans & Trust Funds*, 133 S. Ct. 1184, 1196 (2013) (emphasis in
13 original). Thus, the presence of certain issues not suitable for class-wide
14 adjudication, such as affirmative defenses peculiar to some individuals, does not
15 defeat predominance. *Tyson Foods, Inc. v. Bouaphakeo*, 577 U.S. 442, 453 (2016).

16 Courts routinely hold the predominance requirement is satisfied in
17 automobile defect class actions. *See, e.g., Banh v. Am. Honda Motor Co., Inc.*, No.
18 2:19-CV-05984-RGK-AS, 2021 WL 3468113, at *5 (C.D. Cal. June 3, 2021)
19 (finding predominance satisfied where plaintiffs alleged the infotainment system
20 was defective and Defendant’s knowledge of those defects is a question common
21 to the claims of all class members); *Wolin*, 617 F.3d at 1173 (common issues
22 predominated, including whether Land Rover was aware of the alleged defect,
23 whether it had a duty to disclose the defect, and whether it violated consumer
24 protection laws by not disclosing the defect); *Skeen v. BMW of N. Am., LLC*, No.
25 2:13-cv-1531-WHW-CLW, 2016 U.S. Dist. LEXIS 97188, at *20 (D.N.J. July 26,
26 2016) (common questions of law or fact concerning defective timing chain
27 tensioner predominated over any questions affecting only individual class
28 members); *Keegan*, 284 F.R.D. at 532-34 (predominance satisfied where common

1 evidence would establish the nature of the defect, its effect on class vehicles,
2 defendant’s knowledge of the defect and its failure to disclose); *Chamberlan*, 223
3 F.R.D. at 526-527 (common questions predominate such as “whether the design
4 of the plastic intake manifold was defective, whether Ford was aware of the alleged
5 design defects, whether Ford had a duty to disclose its knowledge, whether it failed
6 to do so, whether the facts that Ford allegedly failed to disclose were material, and
7 whether the alleged failure to disclose violated the CLRA.”).

8 Common issues predominate here. The salient evidence necessary to
9 establish Plaintiffs’ claims is common to the Class Representatives and all
10 members of the Class. Specifically, whether the Covered Vehicles were
11 manufactured with Denso Fuel Pumps, whether Defendants knew, but failed to
12 disclose that the fuel pumps were defective, and instead represented that the fuel
13 pumps and the Mazda vehicles were safe and reliable. For all, Plaintiffs would
14 present the same evidence of Defendants’ marketing and promised warranties, and
15 the same evidence of the alleged defect. *See, e.g., Wolin*, 617 F.3d at 1172-73
16 (common defects were susceptible to proof by generalized evidence). As the Ninth
17 Circuit put it, “[w]hen common questions present a significant aspect of the case
18 and they can be resolved for all members of the class in a single adjudication, there
19 is clear justification for handling the dispute on a representative rather than on an
20 individual basis.” *Hanlon*, 150 F.3d at 1022.

21 **b. Class Treatment Is Superior**

22 “[T]he purpose of the superiority requirement is to assure that the class
23 action is the most efficient and effective means of resolving the controversy.”
24 *Wolin*, 617 F.3d at 1175. Rule 23(b)(3)’s non-exclusive factors are: “(A) the
25 interest of members of the class in individually controlling the prosecution or
26 defense of separate actions; (B) the extent and nature of any litigation concerning
27 the controversy already commenced by or against members of the class; (C) the
28 desirability or undesirability of concentrating the litigation of the claims in the

1 particular forum; [and] (D) the difficulties likely to be encountered in the
2 management of a class action.” *Local Joint Exec. Bd. of Culinary/Bartender Trust*
3 *Fund v. Las Vegas Sands, Inc.*, 244 F.3d 1152, 1163 (9th Cir. 2001) (citing Fed.
4 R. Civ. P. 23(b)(3)).

5 A class action is the superior way to adjudicate Class Members’ claims
6 against Defendants. Were Class Members left to pursue their claims individually,
7 the cost of litigation would far exceed the loss to each Class Member, making
8 individual actions impracticable. *Phillips Petroleum Co. v. Shutts*, 472 U.S. 797,
9 809 (1985) (“Class actions . . . permit the plaintiffs to pool claims which would be
10 uneconomical to litigate individually. . . [In such a case,] most of the plaintiffs
11 would have no realistic day in court if a class action were not available.”).

12 The cost to repair or replace the Denso Fuel Pump is too low to incentivize
13 Class Members to pay an attorney to litigate their claims individually and weighs
14 in favor of concentrating the claims in a single forum. This is especially true here
15 given the high cost of marshaling the evidence (expert and otherwise) necessary
16 to litigate the claims at issue, the disparity in resources between the typical Class
17 Member and well-funded, litigation-savvy defendants like Mazda and Denso. *See,*
18 *e.g., Hartless v. Clorox Co.*, 273 F.R.D. 630, 639 (S.D. Cal. 2011) (observing that
19 cost of securing expert testimony would render individual lawsuits cost
20 prohibitive), *aff’d*, 473 Fed. Appx. 716 (9th Cir. 2012). Certification thus
21 conserves both individual and judicial resources.

22 Further, where a court is deciding the certification question in the settlement
23 context, it need not consider manageability issues because “the proposal is that
24 there be no trial,” and thus manageability considerations are no hurdle to
25 certification for purposes of settlement. *Amchem Prods. v. Windsor*, 521 U.S. 591,
26 620 (1997). And where, as here, the parties agreed on a proposed settlement, “the
27 desirability of concentrating the litigation in one forum is obvious.” *Monterrubio*
28 *v. Best Buy Stores, L.P.*, 291 F.R.D. 443, 452 (E.D. Cal. 2013).

1 **3. The Class is Ascertainable**

2 Although ascertainability is not a requirement, the proposed Settlement
3 Class is ascertainable. *Briseno v. ConAgra Foods, Inc.*, 844 F.3d 1121, 1133 (9th
4 Cir. 2017) (“[T]he language of Rule 23 neither provides nor implies that
5 demonstrating an administratively feasible way to identify class members is a
6 prerequisite to class certification . . .”). A class is ascertainable if it can “be
7 ascertained by reference to objective criteria.” *Moore*, 311 F.R.D. at 609. Here,
8 the proposed Settlement Class is ascertainable from Defendants’ own records.

9 Defendants have already identified the year, make, model, production dates,
10 and Vehicle Identification Numbers (“VIN”) of Covered Vehicles manufactured
11 with the Denso Fuel Pumps. *See, e.g.*, SAC, Exhibits 1-2.

12 Class membership is easily verified using the unique VINs assigned to all
13 Covered Vehicles. As vehicle owners must register their vehicles, this information
14 can and will be used to identify current names and addresses for Class Members.
15 Upon issuance of a preliminary approval order, JND will provide VIN numbers
16 for the Covered Vehicles to Experian, an automotive data provider, to collect Class
17 Member contact information, as well as coordinate with appropriate State agencies
18 (e.g., DMVs) to obtain registration and contact information. SA, Ex. 4 (Notice
19 Plan) at 2.

20 **B. The Proposed Settlement Merits Preliminary Approval**

21 Rule 23 provides that “[t]he claims, issues, or defenses of a certified class –
22 or a class proposed to be certified for purposes of settlement – may be settled . . .
23 only with the court’s approval.” Fed. R. Civ. P. 23(e). A district court may approve
24 a settlement agreement “after a hearing and only on finding that it is fair,
25 reasonable, and adequate” Fed. R. Civ. P. 23(e)(2). The Ninth Circuit
26 recognizes a “strong judicial policy that favors settlements, particularly where
27 complex class action litigation is concerned.” *In re Syncor ERISA Litig.*, 516 F.3d
28 1095, 1101 (9th Cir. 2008).

1 Approval is a matter within the sound discretion of the district court and
2 requires a two-step process—preliminary approval followed by a later final
3 approval. *Spann v. J.C. Penney Corp.*, 314 F.R.D. 312, 319 (C.D. Cal. Jan. 25,
4 2016). At the preliminary approval stage, the court “evaluate[s] the terms of the
5 settlement to determine whether they are within a range of possible judicial
6 approval.” *Id.* In making this decision, district courts must consider whether:

- 7 (A) the class representatives and class counsel have adequately
8 represented the class;
9 (B) the proposal was negotiated at arm’s length;
10 (C) the relief provided for the class is adequate, taking into
11 account:
12 (i) the costs, risks, and delay of trial and appeal;
13 (ii) the effectiveness of any proposed method of distributing
14 relief to the class, including the method of processing
15 class-member claims;
16 (iii) the terms of any proposed award of attorney’s fees,
17 including timing of payment; and
18 (iv) any agreement required to be identified under Rule
19 23(e)(3); and
20 (D) the proposal treats class members equitably relative to each
21 other.

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

23 Rule 23(e) largely overlaps factors the Ninth Circuit has long considered for
24 settlement approval:¹⁴ “(1) the strength of the plaintiff’s case; (2) the risk, expense,
25 complexity, and likely duration of further litigation; (3) the risk of maintaining

26 _____
27 ¹⁴ As the comments of the Advisory Committee explain, “[t]he goal of [the]
28 amendment [was] not to displace any factor” that would have been relevant prior
to the amendment, but rather to address inconsistent ‘vocabulary’ that had arisen
among the circuits and ‘to focus the court and the lawyers on the core concerns’
of the fairness inquiry.” Advisory Committee Comments to 2018 Amendments to
Rule 23.

1 class action status throughout the trial; (4) the amount offered in settlement; (5) the
2 extent of discovery completed and the stage of the proceedings; (6) the experience
3 and views of counsel; (7) the presence of a governmental participant; and (8) the
4 reaction of the class members of the proposed settlement.” *In re Bluetooth*
5 *Headseat Prods. Liab. Litig.*, 654 F.3d 935, 946 (9th Cir. 2011). As set forth below,
6 the proposed Settlement likely satisfies all of the Rule 23(e)(2) factors and Ninth
7 Circuit factors, and should be preliminarily approved as fair, reasonable, and
8 adequate.

9 **1. Rule 23(e)(2)(A): The Proposed Class Representatives and**
10 **Class Counsel Adequately Represented the Class**

11 Proposed Class Representatives, Townsend Vance and Zachary Haines, and
12 Class Counsel submit that, at final approval, Rule 23(e)(2)(A) will be satisfied
13 because they have diligently represented and pursued the best interests of the
14 proposed Class as evident by the superb result of the Settlement.¹⁵ After extensive
15 pre-filing due diligence, Plaintiffs crafted a comprehensive class action complaint
16 asserting claims against Mazda and Denso, the supplier of the Denso Fuel Pumps.
17 In support of this effort, Plaintiffs spent considerable time communicating with
18 Class Counsel (via phone calls and emails) to provide detailed information relating
19 to their purchase and operation of their Covered Vehicles and their experience with
20 the Denso Fuel Pumps in their vehicles. This information was critical to Class
21 Counsel’s drafting the initial complaint and negotiating settlement. At all times,
22 Plaintiffs have remained committed to vigorously pursuing litigation on behalf of
23

24
25 ¹⁵ Rule 23(e)(2)(A) requires the Court to consider whether “the class
26 representatives and class counsel have adequately represented the class.” Fed. R.
27 Civ. P. 23(e)(2)(A). “The adequacy inquiry is ‘redundant of the requirements of
28 Rule 23(a)(4) and Rule 23(g), respectively.’” *In re BofI Holding, Inc. Sec. Litig.*,
No. 3:15-CV-02324-GPC-KSC, 2022 U.S. Dist. LEXIS 188621, at *14-15 (S.D.
Cal. Oct. 13, 2022).

1 the Settlement Class, including, if necessary, sitting for a deposition and testifying
2 at trial.

3 As described above, *supra* § V.A.1.d., Class Counsel have adequately
4 represented the Settlement Class. Prior to filing this lawsuit, Class Counsel
5 conducted a comprehensive investigation into the underlying facts of this case.
6 They thoroughly studied the Mazda and Denso recall notices, and brought their
7 automotive engineering expertise to reviewing and analyzing recall-related
8 information on the NHTSA website and other public sources. Counsel also
9 conferred extensively with Covered Vehicle owners who consulted them about
10 their own experiences with their vehicles' Fuel Pumps. Counsel carefully studied
11 the customer complaints and reports on the NHTSA website as well as other
12 publicly available information as part of this inquiry. Counsel retained and
13 conferred with their independent automotive expert to better understand the causes
14 of the Fuel Pump problems experienced by Class Members. *See* Joint Dec., ¶¶ 7-
15 8, 18, 20-22, 28-29.

16 Counsel also conducted legal research to determine the viability of asserting
17 a variety of claims against Defendants, including claims under various states'
18 consumer protection statutes. Counsel examined Defendants' marketing and
19 advertising materials in various media outlets to assess whether they made material
20 misrepresentations and/or omissions regarding the Covered Vehicles. *Id.*, ¶¶ 7-8.

21 This investigation and analysis lead to Plaintiffs amending their complaint
22 to refine their allegations concerning the scope and adequacy of the Recall, add
23 FCA as a defendant, and bring a claim for violation of Alabama's Deceptive Trade
24 Practices Act, Ala. Code §§ 8-19-1, *et seq.* After filing the Second Amended Class
25 Action Complaint ("SACC"), Class Counsel served document requests on
26 Defendants.

27 Throughout the litigation, Class Counsel also continued to monitor the
28 NHTSA website and other public sources for relevant updated information, and

1 conferred extensively with their automotive consultant, as he tested and analyzed
2 hundreds of recalled Fuel Pumps and, after the Recall remedy began to be rolled
3 out, the Countermeasure Fuel Pumps. As a result of these efforts, Plaintiffs and
4 Class Counsel had a well-developed understanding of the strengths and
5 weaknesses of their claims as they engaged in settlement negotiations and
6 ultimately reached agreement on the substantive terms of the proposed Settlement.

7 On March 16, 2022, Defendants each moved separately to dismiss and/or
8 strike Plaintiffs' SACC. *See* ECF Nos. 64, 66, 69, 71. Plaintiffs vigorously
9 opposed each motion, (ECF Nos. 85, 85, 87), and simultaneously negotiated
10 Tolling and Discovery Agreements with Denso and Mazda's corporate parent
11 entities and engaged in multiple meet and confers to streamline the litigation. ECF
12 Doc. 93, 101, 104. During this same period, Class Counsel, informed by motion
13 to dismiss rulings in another class action involving the very same Denso Fuel
14 Pumps at issue here¹⁶, sought to explore the possibility of an early resolution with
15 Mazda and Denso, with the goal of securing a favorable early settlement that
16 would avoid risky protracted litigation and benefit the Class. ECF Doc. 107. As
17 described above, Class Counsel, through their hard fought, well informed, arms'
18 length negotiations with Mazda's and Denso's counsel, successfully resolved this
19 litigation in a manner that provides immediate benefits to all Class Members and
20 avoids the costs, risks and delay of continued litigation. Joint Decl. at ¶¶ 20-38.

21 **a. The Settlement Was Negotiated at Arms' Length by**
22 **Informed Counsel**

23 Because the Settlement was negotiated at arms' length by informed and
24 capable counsel, Rule 23(e)(2)(B) is met.

25 _____
26 ¹⁶ *See Cohen v. Subaru of Am., Inc.*, No.: 1:20-cv-08442-JHR-AMD, 2022 U.S.
27 Dist. LEXIS 42511, at *21-47 (D.N.J. Mar. 10, 2022) (dismissing numerous
28 claims against Subaru); *Cohen v. Subaru of Am., Inc.*, No.: 1:20-cv-08442-JHR-
AMD, 2022 U.S. Dist. LEXIS 42496, at *18-87 (D.N.J. Mar. 10, 2022)
(dismissing numerous claims against Denso).

1 As described above, *supra* §§ II-III, the negotiations were at arms’ length,
2 in good faith, and intensive, lasting more than a year and a half. *See Aquino v. 99*
3 *Cents Only Stores LLC*, No. 2:22-cv-01966-SPG-AFM, 2024 U.S. Dist. LEXIS
4 6950, at *12-13 (C.D. Cal. Jan. 2, 2024) (finding this factor “weighs in favor of
5 approval” where “the Parties [] spent a substantial amount of time negotiating the
6 specific terms of the Settlement Agreement.”)

7 The Settlement was negotiated with the benefit of significant confirmatory
8 discovery produced by Mazda and Denso coupled with Class Counsel’s extensive
9 knowledge of the Denso Fuel Pump. *Hellyer v. Smile Brands Inc.*, No. 8:21-cv-
10 01886-DOC-ADS, 2024 U.S. Dist. LEXIS 8099, at *7-8 (C.D. Cal. Jan. 16, 2024)
11 (granting final approval of class action settlement finding “[b]ased on the stage of
12 the proceedings—including Rule 12(b)(6) and Rule 12(f) motions—and the
13 amount of investigation and confirmatory discovery conducted during settlement
14 negotiations, the Parties have developed a perspective on the strengths and
15 weaknesses of their respective cases to ‘make an informed decision about
16 settlement’”).

17 Further, Class Counsel have substantial experience serving as class counsel
18 in class action litigation involving vehicle defects, including those involving the
19 same Denso Fuel Pump against Toyota, Honda and Subaru. Joint Decl., ¶¶ 36-42.
20 As such, Class Counsel are well-positioned to assess the benefits of the proposed
21 Settlement balanced against the strengths and weaknesses of Plaintiffs’ claims and
22 Defendants’ defenses. *Nat’l Rural Telecomms. Coop. v. DIRECTV, Inc.*, 221
23 F.R.D. 523, 528 (C.D. Cal. 2004) (“‘Great weight’ is accorded to the
24 recommendation of counsel, who are most closely acquainted with the facts of the
25 underlying litigation.”).

26 Lastly, there are no indicia of collusion or self-dealing. *In re Bluetooth*
27 *Headset Prods. Liab. Litig.*, 654 F.3d at 946-947. There is no “clear sailing
28 provision” and Class Counsel will not seek fees that exceed the 25% of the

1 common fund benchmark used in the Ninth Circuit. *Id.* at 942; SA, § VIII.A.; Joint
2 Decl., ¶ 39.

3 **b. The Relief Provided Is Adequate**

4 Under Rule 23(e)(2)(c), a court’s assessment of whether a proposed
5 settlement is adequate takes into account: (i) the costs, risks, and delay of trial and
6 appeal; (ii) the effectiveness of any proposed method of distributing relief to the
7 class, including the method of processing class-member claims; (iii) the terms of
8 any proposed award of attorney’s fees, including timing of payment; and (iv) any
9 agreement required to be identified under Rule 23(e)(3). Fed. R. Civ. P.
10 23(e)(2)(C)(i)-(iv). These factors support granting preliminary approval.

11 **i. The Benefits of the Proposed Settlement,
12 Weighed Against the Costs, Risks, and Delay of
13 Trial and Appeal, Favor Preliminary Approval**

14 The proposed Settlement, if approved, confers significant immediate
15 benefits to the Class that outweigh the costs, risks, and delay of continued
16 litigation, which strongly supports preliminary approval.

17 The CSP and the Extended New Parts Warranty provide prospective
18 coverage for the Fuel Pumps in the Covered Vehicles with the precise goal of
19 ensuring that their fuel pumps function as intended in the future, and no longer
20 pose any risks to, or require repair costs to be borne by, Class Members. SA, III.A-
21 B. Under the CSP, Mazda will pay to repair Denso Fuel Pumps in Additional
22 Vehicles – those not covered by Mazda’s Recall. SA, § III.A. This benefit transfers
23 with the Additional Vehicles to subsequent owners and lessees and continues for
24 15 years from the date the vehicle was originally sold or leased by a Mazda dealer.
25 *Id.* And under the Extended New Parts Warranty, Mazda will extend the warranty
26 on the Countermeasure Fuel Pump kit applied to Recalled Vehicles (those subject
27 to Mazda’s Recall), for 15 years, measured from the replacement date, up to
28

1 150,000 miles, whichever occurs first. SA, § III.B. This benefit is transferred with
2 the Recalled Vehicle. *Id.*

3 Both the CSP and the Extended New Parts Warranty provide additional
4 relief in the form of the Loaner/Towing Program. Under this program, Class
5 Members whose fuel pumps are being replaced may receive a complimentary
6 Loaner Vehicle and if the vehicle is inoperable or too dangerous to drive may
7 receive a complimentary tow to a Mazda dealer. Additionally, under the
8 Reconsideration Procedure, any purchaser or lessee of a Covered Vehicle that is
9 denied coverage for repairs under the CSP or Extended New Parts Warranty
10 program may take the Covered Vehicle to a second Mazda Dealer for an
11 independent determination. SA, §§ III.A., ¶ 2; III.B., ¶ 2.

12 The Settlement also provides Class Members with an Out-of-Pocket Claims
13 Process that allows them to submit claims to recover previously unreimbursed out-
14 of-pocket expenses incurred to repair or replace a Fuel Pump on Covered Vehicles.
15 This may include reimbursement for rental vehicles, towing, and unreimbursed
16 repairs or part replacements upon providing Supporting Documentation. SA,
17 § III.C., ¶ 2. Taken together, the above provides Class Members with substantial
18 relief that equals or exceeds what they could expect by continuing with litigation
19 particularly given the complexity and risks inherent to litigation of this type.

20 Indeed, courts regularly approve automobile repair and reimbursement-
21 centered settlements, such as this one, finding they provide valuable benefits and
22 merit approval. *In re ZF-TRW Airbag Control Units Prods. Liab. Litig.*, No. LA
23 ML 19-2905 JAK (MRWx), 2023 U.S. Dist. LEXIS 212611, at *12-13 (C.D. Cal.
24 Nov. 28, 2023) (granting final approval to settlement that covered recall repairs
25 and associated out-of-pocket losses such as rental car expenses and towing
26 charges); *Ryan-Blaufuss v. Toyota Motor Corp., et al.*, No. 8:18-cv-00201-JLS-
27 KES, 2023 U.S. Dist. LEXIS 18830, at *6-7, 21-22 (C.D. Cal. Feb. 3, 2023)
28 (granting final approval to class action settlement under which defendant agreed

1 to repair or replace defective Intelligent Power Modules, reimburse class members
2 for related out-of-pocket expenses, including towing charges, and loaner vehicles);
3 *Brightk Consulting Inc. v. BMW of N. Am., LLC*, No.: SACV 21-02063-CJC
4 (JDEx), 2023 U.S. Dist. LEXIS 38391, at *3-4 (C.D. Cal. Jan. 3, 2023) (granting
5 preliminary approval to settlement that required defendant to repair damage caused
6 by a defect in vehicles’ front console cupholder that allowed liquid to leak and
7 damage components below the console and to reimburse class members’ for
8 associated out-of-pocket costs); *Zakikhani v. Hyundai Motor Co., et al.*, No. 8:20-
9 cv-01584-SB-JDE, 2022 U.S. Dist. LEXIS 215046, at *15-16 (C.D. Cal. Oct. 20,
10 2022) (granting preliminary approval to settlement that provided for the repair of
11 a defective Anti-Lock Brake System (ABS) module in class vehicles, extended
12 warranties that covered all future costs arising from the defect, and reimbursed
13 class members for out-of-pocket expenses already incurred); *Conti v. Am. Honda*
14 *Motor Co.*, No.: CV 19-02160-CJC (GJSx), 2022 U.S. Dist. LEXIS 1561, at *6-
15 10 (C.D. Cal. Jan. 4, 2022) (granting final approval to settlement that extended the
16 warranty on class vehicles to cover costs to repair a defective Infotainment System
17 (which controls vehicle safety, navigation, communications, entertainment, and
18 climate control features) and other related costs, including transportation and
19 battery recharging costs); *Aarons v. BMW of N. Am., LLC*, No. CV 11-7667 PSG
20 (CWx), 2014 U.S. Dist. LEXIS 118442, at *7-10 (C.D. Cal. April 29, 2014)
21 (holding settlement that reimbursed class members for out-of-pocket expenses
22 incurred to replace or repair a defective transmission and for losses sustained from
23 their sale of vehicles because of transmission failure conferred “significant
24 benefits” on the class and supported granting final approval); *see also Simerlein v.*
25 *Toyota Motor Corp.*, No. 3:17-CV-1091 (VAB), 2019 U.S. Dist. LEXIS 96742, at
26 *23-25 (D. Conn. June 10, 2019) (granting final approval to settlement that
27 extended the warranty to allow class members to seek repair of a defect in the
28 power sliding rear passenger door of certain vehicles and payment of out-of-pocket

1 losses previously incurred by class members to repair the defect); *In re Nissan*
2 *Radiator*, 2013 U.S. Dist. LEXIS 116720, at *7-10 (granting final approval to
3 settlement in which Nissan agreed to repair a defective radiator assembly and other
4 damaged components (including the transmission) in class member vehicles and
5 to reimburse them for covered repairs caused by the defect, subject to certain caps).

6 Settlements resolve any inherent uncertainty on the merits, and are therefore
7 strongly favored by the courts, particularly in class actions. *In re Syncor ERISA*
8 *Litig.*, 516 F.3d at 1101 (recognizing a “strong judicial policy that favors
9 settlements, particularly where complex class action litigation is concerned.”). If
10 this litigation proceeded, the Class would be faced with significant litigation risks.

11 To start, the Parties disagree about the merits of Plaintiffs’ claims and there
12 is substantial uncertainty about the ultimate outcome of this litigation. These risks
13 are demonstrated by the still-pending motions to dismiss and motion to strike in
14 this Action. While Plaintiffs are confident in their positions, the motions have yet
15 to be decided and Defendants may succeed in securing the dismissal of some or
16 all of Plaintiffs’ claims. Indeed, in a class action involving the very same Denso
17 Fuel Pumps at issue here, albeit against a different auto manufacturer, the court
18 granted in part defendants’ motion to dismiss, dismissing a substantial number of
19 plaintiffs’ claims. *See Cohen v. Subaru of Am., Inc.*, No.: 1:20-cv-08442-JHR-
20 AMD, 2022 U.S. Dist. LEXIS 42511, at *21-47 (D.N.J. Mar. 10, 2022)
21 (dismissing numerous claims against Subaru); *Cohen v. Subaru of Am., Inc.*, No.:
22 1:20-cv-08442-JHR-AMD, 2022 U.S. Dist. LEXIS 42496, at *18-87 (D.N.J. Mar.
23 10, 2022) (dismissing numerous claims against Denso).

24 Moreover, allegations of vehicle defects like those asserted here require a
25 battle of the experts. Whether the Fuel Pumps or some of their parts are defective,
26 whether the alleged defects are present in all Class Vehicles, whether the defects
27 pose an unreasonable risk of harm, whether the Recall Remedy is effective, and
28 the existence and quantum of damages, would all be the subject of expert

1 testimony. “In the absence of a settlement, it is very likely that this case could
2 ultimately be decided at trial by a ‘battle of the experts’ over the existence of a
3 safety-related defect and causation. Such battles are inherently risky.” *Aarons*,
4 2014 U.S. Dist. LEXIS 118442, at *26.

5 Further, there is sure to be a battle of the experts with respect to Plaintiffs’
6 damages theories and methodologies under *Comcast Corp. v. Behrend*, 569 U.S.
7 27 (2013). While Plaintiffs are confident they can provide a viable damages model,
8 this is a non-trivial obstacle in automotive defect class actions. *See Est. of Pilgrim*
9 *v. GM LLC*, 344 F.R.D. 381, 402, 404-410 (E.D. Mich. 2023) (denied class
10 certification because proposed damages model was deficient); *Hadley v. Kellogg*
11 *Sales Co.*, 324 F. Supp. 3d 1084, 1111-1112 (N.D. Cal. Aug. 17, 2018) (denying
12 certification because plaintiff “failed to offer any damages model for [his]
13 deceptive omission theory of liability that satisfies *Comcast*”); *In re Arris Cable*
14 *Modem Consumer Litig.*, 327 F.R.D. 334, 369-370 (N.D. Cal. 2018) (explaining
15 “this Court and other courts in this district have found that damages models fail
16 under *Comcast* where the model is not consistent with the liability case” and
17 describing cases).

18 Remarkably, the Settlement provides relief for Class Members nationwide.
19 SA, § II.A., ¶ 10. If the Settlement is not approved, securing certification of a
20 nationwide, multi-state, or state-wide classes is far from certain. *See Est. of*
21 *Pilgrim*, 344 F.R.D. at 402, 404-410 (denying certification of nationwide and
22 multi-state classes because of variations in state law); *Banh v. Am. Honda Motor*
23 *Co.*, 2:19-cv-05984-RGK-AS, 2020 U.S. Dist. LEXIS 139274, at *8-53 (C.D. Cal.
24 July 28, 2020) (recognizing that “variances—and even nuances—in the
25 substantive law of the states tend to defeat predominance and preclude
26 certification” and denying certification of 12 state specific classes).

27 And where reliance is at issue, Defendants can be expected to present
28 vigorous arguments as to differences in Class Members’ exposure to and reliance

1 on alleged misrepresentations and omissions. *See, e.g., Stockinger v. Toyota Motor*
2 *Sales, U.S.A., Inc.*, No. 2:17-cv-00035-VAP-KSx, 2020 U.S. Dist. LEXIS 49943,
3 at *28-29 (C.D. Cal. March 30, 2020) (holding “individual inquiries would be
4 required [] to determine whether putative class members purchased their Class
5 Vehicles from Toyota or a third party.”); *Butler v. Porsche Cars N. Am., Inc.*, No.
6 16-CV-2042-LHK, 2017 U.S. Dist. LEXIS 59952, at *35 (N.D. Cal. April 19,
7 2017) (“Given the potential range of purchasing situations across the class,
8 awareness of a disclosure [from Porsche] would almost certainly vary from
9 consumer to consumer.”).

10 Moreover, bringing an array of state law claims may present serious
11 manageability issues that Defendants can be expected to argue give rise to
12 insurmountable conflicts between the laws of different states. *Banh*, 2020 U.S.
13 Dist. LEXIS 139274, at *25 (declining to certify implied warranty class after
14 finding “differences in state implied warranty laws will predominate over common
15 issues and make a class action unmanageable.”).

16 The risks of securing and maintaining class status are further evidenced by
17 the many decisions denying class certification in automobile defect cases. *See, e.g.,*
18 *Tomassini v. FCA US LLC*, 326 F.R.D. 375, 391 (N.D.N.Y. 2018); *Pascal v.*
19 *Nissan N. Am., Inc.*, No. 8:20-cv-00492-JLS-JDE, 2022 U.S. Dist. LEXIS 230117,
20 at *57-59 (C.D. Cal. Dec. 21, 2022); *Hamm v. Mercedes-Benz United States*, No.
21 5:16-cv-03370-EJD, 2021 U.S. Dist. LEXIS 65098, at *10-12, 19-21, 30-35 (N.D.
22 Cal. April 2, 2021); *Stockinger*, 2020 U.S. Dist. LEXIS 49943, at *19-45.

23 Even if a nationwide or state-wide classes were to be certified, they are
24 subject to decertification. *See Sonneveldt v. Mazda Motor of Am., Inc.*, 8:19-cv-
25 01298-JLS-KES, 2023 U.S. Dist. LEXIS 23481, at *11 (C.D. Cal. Jan. 25, 2023)
26 (“Rule 23(c)(1)(C) empowers district courts to decertify a class on a party’s motion
27 or *sua sponte* at any point prior to the entry of final judgment.”); *see also* Fed. R.
28 Civ. P. 23(c)(1)(C). Thus, the risk of maintaining class action status through trial

1 is great as is evinced by decisions decertifying classes in automobile defect cases.
2 *Sonneveldt*, 2023 U.S. Dist. LEXIS 23481, at *13-24 (in a vehicle defect case the
3 court decertified Texas and Song-Beverly classes); *Hamilton v. TBC Corp.*, No.
4 CV 17-1060-DMG (JEMx), 2019 U.S. Dist. LEXIS 14183, at *2 and n.3 (C.D.
5 Cal. Jan. 29, 2019) (court decertified Colorado class in a multi-state class action
6 challenging defective tires); *In re MyFord Touch Consumer Litig.*, No. 13-cv-
7 03072-EMC, 2018 U.S. Dist. LEXIS 129261, at *7-18 (N.D. Cal. August 1, 2018)
8 (granting motion to decertify Massachusetts Consumer Protection Act (MCPA)
9 class but denying decertification of remaining classes). Avoiding the risk of
10 decertification, especially where there are doubts concerning the viability of the
11 class, favors approval of the settlement. *See McKenzie v. Federal Exp. Corp.*, No.
12 CV 10-02420 GAF (PLAx), 2012 U.S. Dist. LEXIS 103666, *11 (C.D. Cal. July
13 2, 2012) (“[S]ettlement avoids all possible risk [of decertification]. This factor
14 therefore weighs in favor of final approval of the settlement.”).

15 Here, the immediacy and certainty of substantial benefits for the Class
16 Members under the Settlement balanced against the numerous impediments to a
17 class-wide recovery through continued litigation weigh in favor of approval. *See*
18 *Brightk Consulting Inc. v. BMW of N. Am., LLC*, 2023 U.S. Dist. LEXIS 38391, at
19 *18 (“Settlement Agreement offers Class Members an opportunity to obtain relief
20 at an early stage in the litigation, eliminating the risks posed by proceeding further
21 in the action. It ensures that Class Members receive a recovery that is certain and
22 immediate, eliminating the risk that class members would be left without any
23 recovery . . . at all.”); *Curtis-Bauer v. Morgan Stanley & Co.*, No. C-06-3903-
24 THE, 2008 U.S. Dist. LEXIS 85028, at *13 (N.D. Cal. Oct. 22, 2008) (“Settlement
25 avoids the complexity, delay, risk and expense of continuing with the litigation
26 and will produce a prompt, certain, and substantial recovery for the [] class.”).

27 Plaintiffs reasonably expect that this case, if not settled, will continue to be
28 zealously litigated at significant time and expense. For instance, if litigation were

1 to proceed, a great deal of additional discovery, including multiple depositions in
2 the U.S. and Japan, and expert work, with their concomitant significant expenses,
3 would be required to address key components of the claims and damages. It would
4 also take significant time and expense to brief and argue the class certification
5 motion, potential Rule 23(f) petitions (which may result in interlocutory appeals),
6 and summary judgment, and to conduct trial, and litigate appeals. These high
7 expenses weigh strongly in favor of settlement approval. The expense and duration
8 of litigation are significant factors considered in evaluating the reasonableness of
9 a settlement. *See* Fed. R. Civ. P. 23(e)(2)(C)(i). The law favors settlement of cases
10 and quieting of litigation, particularly in complex class actions. *Van Bronkhorst v.*
11 *Safeco Corp.*, 529 F.2d 943, 950 (9th Cir. 1976); *Class Plaintiffs v. City of Seattle*,
12 955 F.2d 1268, 1276 (9th Cir. 1992) (recognizing the “strong judicial policy that
13 favors settlements, particularly where complex class action litigation is
14 concerned”).

15 Settlement is favored in cases, like this one, where plaintiffs would have
16 faced significant legal and factual obstacles to proving their case. *Stockinger*, 2020
17 U.S. Dist. LEXIS 49943, at *33 (recognizing “vehicle defect cases are often tailor-
18 made for class resolution, as recovery on an individual basis would be dwarfed by
19 the cost of litigating on an individual basis”); *Zakskorn v. Am. Honda Motor Co.*,
20 No. 2:11-cv-02610-KJM-KJN, 2015 U.S. Dist. LEXIS 74550, at *20 (E.D. Cal.
21 June 8, 2015) (finding this factor weighed in favor of settlement because the “case
22 presents complicated issues of safety, notice, causation, and damages, and would
23 require significant discovery to determine the extent of defendant’s alleged
24 liability[,] . . . “costly experts”).

25 Weighed against the above-described risks, costs and delays of continued
26 litigation and eventual appeal, the benefits of the proposed Settlement weigh in
27 favor of preliminary approval.

28

1 deficiency letter (via email or U.S. mail) to the Class Member allowing them sixty
2 (60) days to correct the deficiency and resubmit the Claim Form. SA, § III.C., ¶ 5.

3 Any dispute as to entitlement to benefits under the CSP, the Loaner/Towing
4 Program, the Extended New Parts Warranty, and/or Out-of-Pocket Claims Process
5 will ultimately be decided by the Settlement Special Master, as the case may be.
6 SA, § III.F., ¶ 1. Such disputes will be forwarded to counsel for all parties and the
7 Special Settlement Master within fifteen (15) days of benefit denial. *Id.* Counsel
8 will confer and either make a joint recommendation for further action to the
9 Settlement Administrator or separately relay their positions concerning the dispute
10 within thirty (30) days whereupon the Settlement Special Master will make the
11 final determination. *Id.*

12 **iii. The Proposed Attorneys’ Fees, Costs and Class**
13 **Representative Service Awards Support**
14 **Preliminary Approval**

15 As set forth above, the Parties did not begin to negotiate attorneys’ fees,
16 costs, or Class Representative service awards until after they reached agreement
17 on all material and substantive settlement terms. Joint Decl., ¶ 39. The negotiations
18 are proceeding, but no agreement has been reached to date. Class Counsel will
19 apply to the Court for an award of attorneys’ fees in an amount not to exceed
20 Fifteen Million Dollars (\$15,000,000), reimbursement of Plaintiffs’ Counsel’s
21 reasonable out-of-pocket expenses in an amount not to exceed Two Hundred
22 Thousand Dollars (\$200,000), and request a service award of \$5,000 each for
23 proposed Class Representatives. SA, § VIII.A; Joint Decl. ¶ 39. Plaintiffs submit
24 the amount of fees is reasonable for a settlement of this magnitude that provides
25 substantial benefits to the owners and lessees, and any subsequent purchasers and
26 lessees, of over 603,000 Covered Vehicles. *See, e.g., In re Volkswagen “Clean*
27 *Diesel” Mktg., Sales Practices, & Prods. Liab. Litig.*, 895 F.3d 597, at *606, 614-
28 616 (9th Cir. 2018) (affirming final approval to a \$10 billion settlement relating to
manufacturers’ use of emissions “defeat devices” and approving \$333 million in

1 attorneys' fees); *In re ZF-TRW Airbag Control Units Prods. Liab. Litig.*, 2023 U.S.
2 Dist. LEXIS 212611, at *42-44 (approving an aggregate fee award of
3 \$25,472,730.40, which represented 32.4% of a \$78.5 million settlement in a
4 vehicle defect case).¹⁷ Notice to the Class will advise them of Plaintiffs' planned
5 requests and advise them of the procedures to comment on or object to the fee
6 petition before Final Approval. SA, §§ IV.A., D., ¶¶ 1.b-d.

7 **iv. The Agreements Made in Connection with the**
8 **Proposed Settlement are Typical and Support**
9 **Preliminary Approval**

10 The substantive terms of the Settlement are set forth in the Settlement
11 Agreement, and the agreed upon language of the proposed orders and notices are
12 set forth in the exhibits to the Settlement Agreement. As set forth above, separate
13 and apart from the substance of the Settlement, the Parties are negotiating an
14 agreement concerning attorneys' fees, expenses, and Class Representative service
15 awards. Along with their motion for final approval of the proposed settlement,
16 Plaintiffs will apply to the Court for an award of attorneys' fees, expenses, and
17 Class Representative service awards, as set forth in Section V(B)(1)(b)(iii), above.
18 Any amounts approved by the Court, will be paid by Defendants separate and apart
19 from the Class relief. *See* Fed. R. Civ. P. 23(e)(2)(C)(iv).

20 **2. The Proposal Treats Class Members Fairly**

21 The final element for consideration under Rule 23(e) is whether a proposed
22 settlement treats Class Members equitably in relation to one another. Fed. R. Civ.
23 P. 23(e)(2)(D). Here, depending on the kind of vehicle they own or lease, Class
24 Members will receive prospective coverage for their Fuel Pumps. Class Members
25 who own or lease Additional Vehicles are automatically entitled to 15 years of

26 _____
27 ¹⁷ As noted above, Defendants have reserved the right to oppose the amounts
28 sought in Plaintiffs' request for attorneys' fees, costs, and Class Representative
service awards.

1 prospective coverage on their original fuel pumps, measured from the date of
2 original sale, and Class Members who own or lease Recalled Vehicles are
3 automatically entitled to an Extended New Parts Warranty of 15 years, measured
4 from the replacement date, or up to 150,000 miles, on the Countermeasure Fuel
5 Pump kit. Class Member’s rights under the CSP and the Extended New Parts
6 Warranty are transferred with their Covered Vehicle. All Class Members whose
7 vehicles are undergoing repair under the CSP and Extended New Parts Warranty
8 are entitled to the benefit of the same Loaner/Towing Program, free of charge. In
9 addition, all Class Members may submit claims for reimbursement via the Out-of-
10 Pocket Claims Process. All Class Members are thus treated equitably.¹⁸ *See, e.g.,*
11 *Victorino v. FCA United States LLC*, No.: 16cv1617-GPC(JLB), 2023 U.S. Dist.
12 LEXIS 79386, at *28-30 (S.D. Cal. May 5, 2023) (granted preliminary approval
13 to settlement in a vehicle defect case finding distribution scheme was equitable
14 because it distributed relief on the bases of each individual class member’s claim
15 and the release applied equally to all class members).

16 **VI. PLAINTIFFS’ COUNSEL SHOULD BE APPOINTED CLASS**
17 **COUNSEL CLASS PURSUANT TO RULE 23(G)**

18 Rule 23(g) provides that “a court that certifies a class must appoint class
19 counsel” taking into consideration their experience, knowledge, resources, and
20 work on the case. Proposed Class Counsel are W. Daniel “Dee” Miles III of
21 Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. and Timothy G. Blood of
22 _____

23 ¹⁸ As set forth above, Class Counsel intends to apply for service awards of \$5,000
24 each for their efforts during Class Counsel’s pre-filing investigation, and their
25 supervision of and assistance to Class Counsel in litigating and settling these
26 matters. “Service awards are typical in class actions, and ‘are intended to
27 compensate class representatives for work done on behalf of the class, to make up
28 for financial reputational risk undertaken in bringing the action, and sometimes, to
recognize their willingness to act as a private attorney general.’” *Conti v. Am. Honda Motor Co.*, 2022 U.S. Dist. LEXIS 1561, at *45-46 (approving 21 service awards ranging from \$2,000 to \$10,000 for named Plaintiffs).

1 Blood Hurst & O’Reardon LLP, each of whom has been recognized by both
2 federal and state courts as being highly skilled and experienced in complex
3 litigation, including successfully leading a multitude of consumer class actions
4 concerning fraud, misrepresentation and unfair practices. *See* Joint Decl. at ¶¶ 36-
5 42. Here, proposed Class Counsel investigated potential claims upon being
6 contacted by aggrieved consumers, vigorously prosecuted this Action, negotiated
7 the proposed Settlement and obtained valuable relief for all proposed Class
8 members. Plaintiffs respectfully submit proposed Class Counsel satisfy the
9 adequacy requirements of Rule 23(g) and should be appointed Class Counsel.

10 **VII. THE COURT SHOULD APPROVE THE NOTICE PLAN AND**
11 **SCHEDULE A FAIRNESS HEARING**

12 **A. The Court Should Authorize Notice to the Class**

13 Rule 23(e)(1)(B) requires the Court to “direct notice in a reasonable manner
14 to all class members who would be bound by the proposal.” In an action certified
15 under Rule 23(b)(3), the Court must “direct to class members the best notice that
16 is practicable under the circumstances, including individual notice to all members
17 who can be identified through reasonable effort.” Fed. R. Civ. P. 23(c)(2)(B). The
18 rule expressly approves of notice through “United States mail, electronic means,
19 or other appropriate means.” *Id.* Procedural due process requires that the “[n]otice
20 [must be] reasonably calculated, under all circumstances, to apprise interested
21 parties of the pendency of the action and afford them an opportunity to present
22 their objections.” *EEOC v. Pan American World Airways, Inc.*, 897 F.2d 1499,
23 1508 (9th Cir. 1990). “[N]either Rule 23 nor the Due Process Clause requires
24 actual notice to each individual class member.” *Briseno*, 844 F.3d at 1128
25 (affirming class certification). “[N]otice is adequate if it may be understood by the
26 average class member.” *Spann*, 314 F.R.D. at 330. Rule 23(c)(2)(B) also requires
27 that any such notice clearly and concisely state in plain, easily understood
28 language: the nature of the action; the definition of the class to be certified; the
class claims, issues, or defenses; that a class member may enter an appearance

1 through an attorney if the class member so desires; that the court will exclude from
2 the class any member who requests exclusion; the time and manner for requesting
3 exclusion; and the binding effect of a class judgment on class members under Rule
4 23(c)(3). *See* Fed. R. Civ. P. 23(b)(2)(B).

5 The adequacy of a class notice program is measured by whether the means
6 employed to distribute the notice is reasonably calculated to apprise the class of
7 the pendency of the action, the proposed settlement and the class members' rights
8 to opt out or object. *See Eisen v. Carlisle & Jacquelin*, 417 U.S. 156, 173 (1974);
9 *Low v. Trump Univ., LLC*, 881 F.3d 1111, 1117 (9th Cir. 2018) ("The yardstick
10 against which [courts] measure the sufficiency of notices in class action
11 proceedings is one of reasonableness."). Here, the Notice Program meets all
12 applicable requirements.

13 Here, the Settlement provides for a robust multi-media Notice Program
14 designed by JND (*see* SA, Ex. 4) that is well-designed to reach up to 95% percent
15 of Class Members with clear, plainly stated information about their rights, options
16 and deadlines in connection with this Settlement.¹⁹ JND has more than 80 years of
17 collective, relevant experience and has been directly responsible for the design and
18 implementation of hundreds of class action notice programs, including some of the
19 largest and most complex notice programs ever implemented in both the United
20 States and Canada. *See* JND Decl. at ¶¶ 4-11.

21 The Notice Program provides for direct mail notice to all known Class
22 Members, publication through a nationwide press release, an established
23 Settlement website and toll-free telephone number, as well as a broad
24 Supplemental Digital Campaign through online media, including targeted internet
25

26 ¹⁹ The forms of notice detailed in the Settlement Agreement, § IV, are written in simple
27 terminology, are readily understandable, and comply with the Federal Judicial Center's
28 illustrative class action notices. *See* <https://www.fjc.gov/content/301253/illustrative-forms-class-action-notices-introduction>

1 advertising through webpages and social networks. SA, Ex. 4. All these avenues
2 for notice have been approved by courts as satisfying due process. *See, e.g., In re*
3 *Google Referrer Header Privacy Litig.*, No. 5:10-cv-04809-EJD, 2023 U.S. Dist.
4 LEXIS 185442, at *8-9 (N.D. Cal. Oct. 16, 2023) (approving notice via multi-
5 media channels including internet-based banner advertisements, Google keyword
6 search advertising, Gmail advertising, publication on social media platforms,
7 publication on class action websites, and publication in nationally circulated print
8 magazines); *In re Juul Labs, Inc., Mktg., Sales Practices, & Prods. Liab. Litig.*,
9 No. 19-md-02913-WHO, 2023 U.S. Dist. LEXIS 173923, at *195-196 (N.D. Cal.
10 Sept. 19, 2023) (approving notice plan that provided for direct notice via email,
11 publication notice via relevant internet websites and social media platforms).
12 Defendants will cover all costs of this extensive Notice Program. SA, § IV.A.1.

13 Plaintiffs respectfully request that the Court appoint JND as Settlement
14 Administrator, approve the Notice Program, and order dissemination of class
15 notice, detailed below.

16 **1. Direct Notice**

17 The Settlement Administrator will send the Direct Mail Notice,
18 substantially in the form of Exhibit 6, attached to the Settlement Agreement, by
19 via first class mail, to all known Class Members, with addresses confirmed through
20 the United States Post Office’s National Change of Address database and skip-
21 tracing. SA, Ex. 6. The Settlement Administrator will identify these Class
22 Members based on data provided by Experian, which process, as set forth above,
23 has already commenced. If any Direct Mail Notices are returned by the United
24 States Post Office as undeliverable, the Settlement Administrator will make
25 appropriate efforts to obtain current addresses and resend them. *Id.*

26 The Direct Mail Notice advises recipients that a proposed class action
27 settlement has been reached in an action concerning defective The Direct Mail
28 Notice advises recipients that a proposed class action settlement has been reached

1 in an action concerning Mazda fuel pumps, informs them that they may be Class
2 members, briefly explains the Settlement terms and Class Members' options, and
3 directs recipients, in English and Spanish, to the settlement website where they can
4 get additional information regarding the Settlement, their rights, and important
5 deadlines.

6 **2. Settlement Website**

7 The Settlement Administrator will also set up a settlement website that will
8 provide access to the Long Form Notice (in English and Spanish) (SA, Ex. 5), the
9 Claim Form (SA, Ex. 8), a VIN Lookup Tool for consumers to determine if they
10 are Class Members, and other documents relevant to the Settlement. SA, § IV.C.
11 The Settlement Website will set forth all applicable deadlines and will provide
12 information about the proper methods for filing a claim. *Id.*, § IV.C. The URL
13 address for the Settlement Website and the toll-free phone number will be provided
14 on the published notices as well as the Direct Mail Notices.

15 JND will also establish and maintain a 24-hour, toll-free telephone line with
16 information about the Settlement; a dedicated email address to receive and respond
17 to Class Member inquiries; and a post office box to receive Class Member
18 correspondence, paper claims, objections, and exclusion requests.

19 **3. Supplemental Notice**

20 The Notice Program will also include a nationwide press release to over
21 15,000 media outlets (English and Spanish) throughout the U.S.

22 Additionally, the Notice Program also provides for a comprehensive 4-week
23 Supplemental Digital Campaign tailored to generate awareness among Class
24 members of the Settlement and what it means for them. SA, § IV.F., SA, Ex. 4.
25 The Supplemental Digital Campaign will begin shortly after the Settlement is
26 preliminarily approved.

27 The Supplemental Digital Campaign will specifically target Class Members
28 using: (1) a custom audience list match of Class Member data via Google Display

1 Network (“GDN”), Facebook, and Instagram; and (2) VIN targeting through
2 iHeart Automotive Connection (“IAC”) Targeting. SA, Ex. 4. IAC will send
3 digital notice, via email, which will include a sentence in Spanish directing Class
4 Members to the settlement website for a copy of the Long Form Notice translated
5 to Spanish. IAC will then serve ads via GDN to those Class Members who open
6 the email that was sent. Spanish digital ads will be served to those email recipients
7 identified as Spanish speaking. SA, Ex. 4.

8 As a further targeting mechanism, the Notice Program will also use Google
9 and other search engines utilizing Responsive Search Ads (“RSA”) and machine
10 learning to maximize impressions and exposures to the Settlement Website. When
11 an internet user runs a Google search that includes relevant keywords, the results
12 pages will include links to the Settlement Website. *Id.*

13 **4. Contents of the Long Form Notice**

14 The Long Form Notice shall be in substantially the form of Exhibit 5 to the
15 Settlement Agreement. It will be available on the Settlement Website (in English
16 and Spanish) and upon request by first-class mail. SA, § IV.D. It is clear and in
17 plain language and addresses all requisite matters. It includes information such as:
18 the case caption; a clear description of the nature of the Action; the definition of
19 the Class; the general substance of the Class claims and issues; the main events in
20 the litigation; a description of the Settlement; a statement of the Release; contact
21 information for Class Counsel; the maximum amount of attorneys’ fees and
22 expenses and Class Representative Service awards that may be sought at final
23 approval; the procedures and deadlines for opting out of the Settlement; the
24 procedures and deadlines for objecting to the Settlement; the potential binding
25 effect of a final judgment on Class members; the Fairness Hearing date; and how
26 to obtain additional information.

27 All of these methods for notice have been approved by courts as satisfying
28 due process. *See, e.g., Wal-Mart Stores, Inc.*, 396 F.3d at 114 (approving notice

1 sent via direct mail and publication); *Hale v. Manna Pro Prods., LLC*, No. 2:18-
 2 cv-00209-KJM-DB, 2021 U.S. Dist. LEXIS 207828, at *11-13 (E.D. Cal. Oct. 27,
 3 2021) (approving settlement that provided direct notice to known class members
 4 and utilized “a multi-media publication effort that included print ads, social media
 5 posts and website banners”); *Edwards v. Nat’l Milk Producers Fed’n*, No. 11-CV-
 6 04766-JSW, 2017 U.S. Dist. LEXIS 145217, at *13-14 (N.D. Cal. June 26, 2017)
 7 (referencing approval of similar “extensive” internet campaign). Taken as a whole,
 8 the Notice Program exceeds all applicable standards.

9 **B. The Court Should Set Settlement Deadlines and Schedule a**
 10 **Fairness Hearing**

11 In connection with preliminary approval, the Court must schedule the final
 12 approval hearing and set dates for other key events including mailing and
 13 publishing notice, objecting to the Settlement, requesting exclusion, and
 14 submitting papers in support of final approval. Plaintiffs propose the following
 15 schedule:

EVENT	DEADLINES
Mazda’s Counsel shall provide a list of VINs for the Covered Vehicles to the Settlement Administration	Not later than the date of the Preliminary Approval Order
Commencement of Class Notice Program	On the date of entry of the Preliminary Approval Order.
Mazda’s Counsel shall provide to the Settlement Administrator a list of all counsel for anyone who has then-pending litigation against Mazda relating to claims involving the Covered Vehicles and/or otherwise covered by the Release, and Denso’s Counsel shall provide to the Settlement Administrator a list of all counsel for anyone who has then-pending litigation against Denso relating to claims involving the Covered Vehicles and/or otherwise covered by the Release.	Twenty (20) business days after entry of the Preliminary Approval Order.

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Notice to be Substantially Completed	Sixty (60) days after the issuance of the Preliminary Approval Order
Plaintiffs’ Motion, Memorandum of Law and Other Materials in Support of their Requested Award of Attorneys’ Fees, Reimbursement of Expenses, and Request for Class Representatives’ Service Awards to be Filed with the Court	No later than Sixty (60) days after issuance of the Preliminary Approval Order
Plaintiffs’ Motion, Memoranda of Law, and Other Materials in Support of Final Approval to be Filed with the Court	No later than Sixty (60) days after the issuance of the Preliminary Approval Order
Deadline for Receipt by the Clerk of All Objections Filed and/or Mailed by Class Members	Ninety-five (95) days after the issuance of the Preliminary Approval Order
Deadline for filing Notice of Intent to Appear at Fairness Hearing by Class Members and/or their Personal Attorneys	Ninety-five (95) days after the issuance of the Preliminary Approval Order
Postmark Deadline for Class Members to Mail their Request to Exclude Themselves (Opt-Out) to Settlement Notice Administrator	Ninety-five (95) days after the issuance of the Preliminary Approval Order
Any Opposition by Defendants concerning Class Counsel’s Fee and Expense Application, with accompanying expert report(s) and any Rule 702 motion(s)	Ninety-five (95) days after the issuance of the Preliminary Approval Order
Any submission by the Parties concerning Final Approval of Settlement and Responses to any objections and requests for exclusion	One hundred and nine (109) days after the issuance of the Preliminary Approval Order
Class Counsel’s Reply In Support of Fee and Expense Application	One hundred and nine (109) days after the issuance of the Preliminary Approval Order
Settlement Notice Administrator Shall File the Results of the Dissemination of the Notice with the Court and list of Opt-Outs	Seven (7) days before the Fairness Hearing
Fairness Hearing	_____ at 1:30 p.m. - No sooner than One Hundred Twenty-Three (123) days after Preliminary Approval Order

<p>1 Customer Support Program</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p>	<p>Begins no later than 30 days after Final Effective Date. Coverage under the CSP for the original parts will continue for 15 years from the Date of First Use, which is the date the vehicle was originally sold or leased</p>
<p>6 Claim Submission Period</p> <p>7</p> <p>8</p> <p>9</p>	<p>Runs from the date of entry of the Preliminary Approval Order up to and including ninety (90) days after the Court’s issuance of the Final Order and Final Judgment</p>

10 **VIII. THE COURT SHOULD ISSUE A PRELIMINARY INJUNCTION**
 11 **PENDING FINAL APPROVAL**

12 Pursuant to the “necessary in aid of” exception to the Anti-Injunction Act,
 13 28 U.S.C. § 2283, and the All Writs Act, 28 U.S.C. § 1651(a), this Court may:
 14 (i) issue a preliminary injunction and stay all other actions, pending final approval
 15 by the Court; and (ii) issue a preliminary injunction enjoining potential Class
 16 Members, pending the Court’s determination of whether the Settlement
 17 Agreement should be given final approval, from challenging in any action or
 18 proceeding any matter covered by this Settlement Agreement, except for
 19 proceedings in this Court to determine whether the Settlement Agreement will be
 20 given final approval.

21 As other federal courts have recognized, injunctions against filed parallel
 22 actions may be particularly appropriate in the context of complex litigation on the
 23 verge of settlement. *See, e.g., Mendoza v. Hyundai Motor Co., Ltd.*, No. 15-cv-
 24 01685-BLF, 2024 U.S. Dist. LEXIS 478, at *18-21 (N.D. Cal. Jan. 2, 2024)
 25 (applying the Anti-Injunction Act’s “necessary in aid of jurisdiction” exception to
 26 class action settlement); *In re ZF-TRW Airbag Control Units Prods. Liab. Litig.*,
 27 No. LA ML19-02905 JAK (MRWx), 2023 U.S. Dist. LEXIS 174084, at *74-79
 28 (July 31, 2023) (holding the “necessary in aid of its jurisdiction” exception to the

1 Anti-Injunction Act applied to MDL action recognizing “complex litigation cases
2 where the parties ‘seek complicated, comprehensive settlements to resolve as
3 many claims as possible in one proceeding,’ are []especially vulnerable to parallel
4 state actions that may ‘frustrate the district court’s efforts to craft a settlement in
5 the multi-district litigation before it.”). Where, as here, substantial negotiations
6 have resulted in a settlement, competing actions would jeopardize the realization
7 of a nationwide settlement, interfere with this Court’s ability to manage the
8 Settlement, and potentially confuse Class Members.

9 This Court also has the authority to issue the requested injunction under the
10 All Writs Act, 28 U.S.C. § 1651(a), which permits the Court to issue “all writs
11 necessary or appropriate in aid of [its] [] jurisdiction[] and agreeable to the usages
12 and principles of law.” 28 U.S.C. § 1651(a). The Act permits a federal district court
13 to protect its jurisdiction by enjoining parallel actions by class members that would
14 interfere with the court’s ability to oversee a class action settlement. *See Hanlon*,
15 150 F.3d at 1025 (recognizing “federal court had the power to issue an injunction
16 against continued state proceedings under the All Writs Act, 28 U.S.C. § 1651 []
17 and the Anti-Injunction Act, 28 U.S.C. § 2283 [].”); *see also, e.g., In re ZF-TRW*
18 *Airbag Control Units Prods. Liab. Litig.*, 2023 U.S. Dist. LEXIS 212611, at *46-
19 48 (granting temporary injunction of parallel litigation at preliminary approval
20 stage and permanent injunction upon final approval under All Writs Act); *In re*
21 *Volkswagen “Clean Diesel” Mktg., Sales Practices, & Prods. Liab. Litig.*, No. 15-
22 md-02672-CRB, 2023 U.S. Dist. LEXIS 48728, at *7 (N.D. Cal. March 22, 2023)
23 (recognizing the “All Writs Act empowers courts charged with administering and
24 enforcing class settlements to enjoin parallel state-court actions.”); *Wright v.*
25 *Linkus Enters.*, 259 F.R.D. 468, 477-478 (E.D. Cal. 2009) (temporarily enjoined
26 class members from commencing actions against defendants for claims covered
27 by the settlement under All Writs Act until the court issued its final approval order
28 “recogniz[ing] that the existence of other actions by class members for the same

1 or similar claims could jeopardize the ability to proceed with final approval of the
2 settlement.”).

3 The rights and interests of Class Members and the jurisdiction of the Court
4 will be impaired if, during the notice period, any parallel actions are filed alleging
5 virtually identical claims to those asserted in the instant action. It is imperative that
6 Class Members be allowed to evaluate their options under the settlement without
7 receipt of potentially confusing competing notices or communications. Class
8 Members could be subject to confusion arising from the potential pendency of
9 competing lawsuits. To avoid this confusion and protect the rights and interests of
10 Class Members, as well as the Court’s own jurisdiction, the Court should issue a
11 preliminary injunction pending final approval of the Settlement, enjoining
12 potential Class Members and their representatives from pursuing claims that are
13 similar to those asserted in this litigation.

14 **IX. CONCLUSION**

15 For all the above-stated reasons, Plaintiffs respectfully request that the
16 Motion be granted and the Court enter an order, substantially in the form of
17 Exhibit 3 to the Settlement Agreement: (a) granting preliminary approval of the
18 proposed Settlement; (b) preliminarily certifying the proposed Class for settlement
19 purposes only; (c) approving the form and content of, and directing the distribution
20 of, the proposed Class Notice, annexed to the Settlement Agreement as Exhibits
21 4, 5, 6, and 7; (d) authorizing and directing the Parties to retain JND Legal
22 Administration as the Settlement Administrator; (e) appointing W. Daniel Miles
23 III of Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. and Timothy G. Blood
24 of Blood Hurst & O’Reardon, LLP as Class Counsel; (f) appointing the proposed
25 Class Representatives as Class Representatives; (g) setting a date and procedures
26 for the final Settlement Fairness Hearing and setting related deadlines; and
27 (h) issuing related relief as appropriate, including issuing a preliminary injunction
28 staying all other actions, pending final approval by the Court and enjoining

1 potential Class Members from challenging in any action or proceeding any matter
2 covered by this Settlement Agreement.

3
4 Dated: May 3, 2024

Respectfully submitted,
BLOOD HURST & O'REARDON, LLP
TIMOTHY G. BLOOD (149343)
PAULA R. BROWN (254142)
JENNIFER L. MACPHERSON (202021)

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11 Dated: May 3, 2024

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CERTIFICATE OF SERVICE

I hereby certify that on May 3, 2024, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the Electronic Mail Notice List, and I hereby certify that I have mailed the foregoing document or paper via the United States Postal Service to the non-CM/ECF participants indicated on the Electronic Mail Notice List.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on May 3, 2024.

s/ Timothy G. Blood

TIMOTHY G. BLOOD

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13 **UNITED STATES DISTRICT COURT**
14 **CENTRAL DISTRICT OF CALIFORNIA**

15 TOWNSEND VANCE and
16 ZACHARY HAINES, individually
17 and on behalf of all others similarly
18 situated,

19 Plaintiffs,

20 v.

21 MAZDA MOTOR OF AMERICA,
22 INC. D/B/A MAZDA NORTH
23 AMERICAN OPERATIONS,
24 MAZDA MOTOR CORPORATION,
25 FCA US LLC. DENSO
26 CORPORATION, and DENSO
27 INTERNATIONAL AMERICA, INC.,

28 Defendants.

Case No. 8:21-cv-01890-CJC-KES

CLASS ACTION

JOINT DECLARATION OF W. DANIEL "DEE" MILES, III AND TIMOTHY G. BLOOD IN SUPPORT OF PLAINTIFFS' UNOPPOSED MOTION FOR PRELIMINARY APPROVAL

Hearing Date: June 10, 2023
Time: 1:30 p.m.

District Judge Cormac J. Carney
Courtroom 9B, Santa Ana
Magistrate Judge Karen E. Scott
Courtroom 6D, Santa Ana

Complaint Filed: November 16, 2021
Trial Date: Not Set

JURY TRIAL DEMANDED

1 W. DANIEL “DEE” MILES, III, and TIMOTHY G. BLOOD hereby
2 declare under penalty of perjury pursuant to U.S.C. § 1746 as follows:

3 1. I, W. Daniel “Dee” Miles, III, duly licensed to practice law in the
4 State of Alabama, and admitted *pro hac vice* in this Action, am a partner at the law
5 firm of Beasley, Allen, Crow, Methvin, Portis & Miles, P.C (“Beasley Allen”), co-
6 lead interim class counsel and one of the proposed Class Counsels in this Action.

7 2. I, Timothy G. Blood, duly licensed to practice law in the State of
8 California, and admitted to practice in this Court, am the managing partner at
9 Blood, Hurst & O’Reardon, LLP, co-lead interim class counsel, and one of the
10 proposed Class Counsels in this Action.

11 3. We respectfully submit this joint declaration in support of the
12 Plaintiffs’ Unopposed Motion for Preliminary Approval of Class Action
13 Settlement (“Motion for Preliminary Approval”). We have personal knowledge of
14 the matters pertaining to the Action and the proposed Settlement and are competent
15 to testify with respect thereto.

16 4. We are pleased to submit for the Court’s preliminary approval the
17 proposed Settlement of this Action, as set forth in the Settlement Agreement.¹
18 The proposed Settlement, if approved, will confer valuable benefits on the owners
19 and lessees of approximately 603,000 Mazda vehicles that are eligible to
20 participate in the Settlement. The Settlement is fair, reasonable, and adequate,
21 provides substantial benefits for the members of the proposed Class, and merits
22 this Court’s preliminary approval. The Settlement Agreement, together with its
23 exhibits, was filed contemporaneously with the Motion.

24 **I. BACKGROUND**

25 5. This case arises from Mazda’s marketing and sale of Mazda vehicles
26 as safe, reliable, and durable without disclosing to consumers that the vehicles

27 _____
28 ¹ Unless otherwise indicated, capitalized terms have the meanings given to
them in the Settlement Agreement. *See* SA, § II.

1 were equipped with a dangerously defective fuel pump, a critical component that
2 supplies fuel to the vehicles’ fuel injection system while the engine is in operation.
3 These defective fuel pumps, all of which were manufactured by Denso, can cause
4 the affected vehicles to run rough, unexpectedly stall, fail to accelerate, lurch and
5 even to lose all engine power while in operation, increasing the risk of a crash
6 (“Defective Fuel Pumps”).

7 6. Due to the presence of these Defective Fuel Pumps in its vehicles, on
8 November 12, 2021, Mazda recalled 121,038 Mazda vehicles manufactured
9 between April 3, 2018 and January 13, 2020. Mazda amended its recall report on
10 July 21, 2022.

11 7. On November 17, 2021, Plaintiffs filed a class action complaint in the
12 United States District Court for the Central District of California, *Townsend*
13 *Vance, et al. v. Mazda Motor of America, Inc. et al.*, 8:21-cv-01890-CJC-KES
14 (C.D. Cal.), against Mazda seeking damages and equitable relief individually and
15 on behalf of Class members, each of whom purchased or leased an Affected
16 Vehicle.² Prior to commencing litigation, counsel conducted a comprehensive
17 investigation into the underlying facts of this case. We thoroughly studied the
18 Recall notice, brought our automotive engineering expertise to reviewing and
19 analyzing Recall-related information on the NHTSA website, and other public
20 sources. We conferred extensively with owners and lessees of the Covered
21 Vehicles and consulted them about their own experiences with their vehicles’ Fuel
22 Pumps. Counsel carefully studied the customer complaints and reports on the
23 NHTSA website as well as other publicly available information as part of this
24 inquiry. Counsel retained and conferred with an independent automotive
25 engineering consulting expert (“Automotive Expert”) to better understand the
26 causes of the Fuel Pump problems and to explore potential remedies.

27 _____
28 ² All references to “¶” or “¶¶” are to Plaintiffs’ Second Amended Class Action
Complaint (ECF 39).

1 8. Counsel also conducted legal research to determine the viability of
2 asserting various claims, including claims under the consumer protection statutes
3 of potential clients' home states as more individuals began to reach out to Counsel.
4 Counsel interviewed the potential clients about the internet and other research they
5 did prior to purchasing or leasing their vehicles, and examined Defendants'
6 marketing and advertising materials in various media outlets to assess whether
7 they could properly allege that Defendants made material misrepresentations
8 and/or omissions. Counsel researched the viability of common law claims and a
9 nationwide claim for violation of the Magnuson-Moss Warranty Act. After Class
10 Counsel satisfied themselves that viable claims could be asserted against
11 Defendants, they conferred with and got approval from their clients to commence
12 litigation.

13 9. On November 23, 2021, Plaintiffs filed their First Amended Class
14 Action Complaint ("FAC") including FCA US LLC as a Defendant. ECF Doc. 15.

15 10. On December 15, 2021, Plaintiffs and Defendants filed a joint
16 stipulation to extend Defendants' time to respond to the FAC, ECF Doc. 34, and,
17 on December 23, 2021, the Parties filed a stipulation to extend the time for
18 Plaintiffs to file a Second Amended Class Action Complaint ("SAC"). ECF Doc.
19 35. On December 27, 2021, the Court granted the Parties' stipulation to extend the
20 time to file the SAC and entered a briefing schedule. ECF Doc. 36.

21 11. On January 19, 2022, Plaintiffs filed their SAC. ECF Doc. 39. In the
22 SAC, Plaintiffs asserted consumer protection and other claims against Mazda for
23 marketing and selling these vehicles as safe and dependable when they are
24 equipped with the Defective Fuel Pumps. *Id.* at ¶ 18. Plaintiffs also alleged that
25 the Recall was deficient because additional Mazda vehicles shared the same
26 defective fuel pump that is prone to sudden and unexpected failure exposing
27 occupants and others to the risk of injury. *Id.* at ¶¶ 17, 214, 358.

28

1 12. On February 15, 2022, counsel for all Parties held a conference
2 regarding Plaintiffs' allegations in the SAC pursuant to L.R. 7-3 and filed a
3 stipulation to continue Defendants' deadline to respond to Plaintiffs' SAC until
4 March 16, 2022. ECF Doc. 57.

5 13. On March 16, 2022, each Defendant moved to dismiss all seventeen
6 causes of action for violation of state consumer protection statutes and warranty
7 laws, common law fraud, strict liability, negligent recall, and violation of the
8 Magnuson-Moss Warranty Act. ECF Docs. 64, 66, 69. The same day Mazda Motor
9 of American, Inc. moved to strike Plaintiff's nationwide class allegations. ECF
10 Doc. 71.

11 14. On the same day, the Court issued an order for Plaintiffs to show
12 cause regarding lack of prosecution of Mazda Motor Corporation and Denso
13 Corporation, the offshore corporate parents of Defendants Mazda and Denso. ECF
14 Doc. 72. On March 22, 2022, Plaintiffs voluntarily dismissed Denso Corporation
15 after negotiating a tolling agreement to avoid time-consuming and costly service
16 under the Hague Convention, ECF Doc. 74, and filed their response to the order
17 to show cause requesting an additional thirty days to negotiate a tolling agreement
18 with Mazda Motor Corporation. ECF Doc. 75.

19 15. On April 19, 2022, Plaintiffs served their first Requests for
20 Production on Mazda Motor Corporation, Mazda Motor of America, Inc., Denso
21 Corporation, Denso International America, Inc., and FCA US, LLC.

22 16. On April 20, 2022, Plaintiffs filed their oppositions to Defendants'
23 motions to dismiss and motion to strike nationwide class allegations, ECF Docs.
24 84-87, and, on May 13, 2022, Defendants filed their reply memoranda. ECF Docs.
25 89-92.

26 17. On May 19, 2022 and July 6, 2022, Plaintiffs voluntarily dismissed
27 their claims against Mazda Motor Corporation and FCA US LLC, respectively,
28

1 after negotiating a tolling agreement to avoid time-consuming and costly service
2 under the Hague Convention, respectively. ECF Docs. 93 and 101.

3 18. Between July 7, 2022 and December 2, 2022, the Parties filed
4 stipulations to continue the hearings on the motions to dismiss and motion to strike
5 while they were engaged in preliminary discussions to narrow the issues and
6 explore potential settlement of the Action. ECF Docs. 104, 107, 112. On December
7 2, 2022, the Court granted the Parties' stipulation, continuing the hearings until
8 May 2023 and the Scheduling Order until June 2023. ECF Doc. 113.

9 19. On March 31, 2023, the Court denied Defendants' motions to dismiss
10 and motion to strike without prejudice and with leave to refile if the Parties were
11 unable to reach settlement. ECF Doc. 114.

12 20. Between March 2023 and December 2023, the Parties requested and
13 the Court ordered additional continuances to allow the Parties further time to
14 conduct confirmatory discovery and negotiate settlement. ECF Docs. 115-121.

15 21. During this same period, Defendants produced confirmatory
16 discovery to aid in the negotiations, and Plaintiffs' independent Automotive
17 Expert sourced and inspected over 350 Denso Fuel Pumps, and analyzed their
18 operation, specifications, and the density of their impellers. Defendants produced
19 and Plaintiffs analyzed over 6,600 pages of documents related to the design and
20 operation of the subject Fuel Pumps, warranty data, failure modes attributed to the
21 subject Fuel Pumps, the Defendants' investigation into the defect, the Recall, and
22 the defect countermeasure development and implementation. Additionally,
23 Plaintiffs' Automotive Expert sourced and inspected hundreds of original and
24 countermeasure Denso fuel pumps, including in Covered Vehicles, and analyzed,
25 *inter alia*, the pumps' operation, specifications, and density of the impeller.

26 22. The Parties exchanged multiple rounds of correspondence regarding
27 complex warranty data and failure analysis which helped to inform the scope of
28 settlement. The Parties engaged in numerous in-person, Zoom and telephonic

1 conferences and ultimately were successful in reaching an agreement on the
2 substantive terms of this Settlement.

3 23. On January 18, 2024, the Parties filed their Joint Notice of Settlement
4 and Scheduling Request, advising the Court that a settlement had been reached and
5 requesting additional time to finalize and file the Settlement Agreement and
6 motion for preliminary approval. ECF Doc. 122.

7 24. On February 29, 2024, the Parties filed a joint status report advising
8 the Court that, inter alia, the parties had retained a notice and claims administrator,
9 were diligently working to finalize the critical exhibits to the Settlement
10 Agreement, and mediate attorneys' fees and expenses, and required additional time
11 to complete these tasks. ECF Doc. 124. On March 1, 2024, the Court issued its
12 Order directing Plaintiffs to file their motion for preliminary approval by April 19,
13 2024. ECF Doc. 126.

14 25. On March 11, 2024, the Parties jointly moved the Court to appoint
15 Patrick A. Juneau as Settlement Special Master. ECF Doc. 127. The Court granted
16 the motion and entered an order appointing Patrick A. Juneau as Settlement
17 Special Master to, among other things, administer, coordinate, preside over and
18 assist the Parties on settlement-related issues, including settlement negotiations
19 and implementation. ECF Doc. 128. The Parties subsequently had numerous
20 communications with the Settlement Special Master, including an in-person
21 mediation regarding a potential agreement on attorneys' fees, costs, and class
22 representative service awards, as well as discussions about the terms, timing, and
23 other issues related to the Settlement.

24 26. On April 18, 2024, the Parties filed a stipulation to extend the
25 deadline to file the motion for preliminary approval to May 3, 2023. ECF Do. 129.
26 The next day, the Court issued an order granting the stipulated extension. ECF
27 Doc. 130.

28

1 **II. SETTLEMENT NEGOTIATIONS AND CONFIRMATORY**
2 **DISCOVERY**

3 27. The negotiations culminating in this Settlement were complex,
4 conducted in good faith and at arms' length over a period of nearly 15 months by
5 informed and experienced counsel. Plaintiffs, with the goal of obtaining immediate
6 valuable benefits for Class Members, and Defendants began to explore the
7 possibility of a resolution even while Defendants' motions to dismiss were being
8 vigorously litigated and the Parties were engaged in substantial fact discovery.

9 28. During the course of the negotiations, Class Counsel, armed with
10 the knowledge they gained through discovery, as described herein, and in
11 consultation with their independent Automotive Expert, were able to meaningfully
12 assess the reasons for the defect in the Fuel Pumps and the efficacy of the Recall
13 remedy. Class Counsel and Defendants' counsel had numerous Zoom and multiple
14 in-person meetings, which required long distance travel by some Class Counsel,
15 and, as negotiations intensified, frequent lengthy conference calls for the Parties
16 to exchange their views concerning the settlement terms then under discussion.
17 Numerous drafts of the Settlement Agreement and related exhibits were
18 exchanged, which Counsel carefully negotiated and refined before a final
19 agreement could be reached. As a result of Counsel's efforts, the Parties were
20 successful in reaching a settlement that provides concrete substantial benefits to
21 Class Members.

22 29. During the course of settlement negotiations, Class Counsel also
23 conducted extensive confirmatory discovery. Mazda and Denso produced a
24 substantial number of additional internal documents, including voluminous
25 warranty data spreadsheets and detailed information about the countermeasure
26 Fuel Pumps, which Class Counsel reviewed and analyzed. Class Counsel
27 consulted with their Automotive Expert about the information in these documents
28 and provided countermeasure Fuel Pumps for his analysis.

1 **III. SETTLEMENT**

2 30. **Customer Support Program.** In the Settlement, Mazda agreed to
3 implement a Customer Support Program (“CSP”) for all Class Members who, as
4 of the Final Effective Date, are owners or lessees of approximately 482,000
5 Additional Vehicles. These Additional Vehicles were not included in Mazda’s
6 Recall. The CSP will provide prospective coverage for repairs (including parts and
7 labor) needed to correct defects, if any, in materials or workmanship in the Fuel
8 Pumps in the Additional Vehicles. The implementation of the CSP will begin no
9 later than 30 days after the Final Effective Date. Coverage under the CSP for the
10 original parts will continue for fifteen (15) years, measured from the In-Service
11 Date. SA, § III A.1. A Class Member’s rights under the CSP are transferred with
12 the Additional Vehicle, meaning if a vehicle is sold or its lease ends before the
13 expiration of the 15-year period, the subsequent owner or lessee still will be
14 entitled to the benefit. SA, § III.A.1. As a direct result of Plaintiffs’ intensive
15 efforts during settlement negotiations, Mazda agreed to provide this excellent
16 benefit to the owners and lessees of approximately 482,000 vehicles that had not
17 been recalled but contain the same defective Denso fuel pumps. If the Settlement
18 is preliminarily approved by the Court, Defendants, at their sole discretion, may,
19 after conferring with Class Counsel, implement the CSP prior to the Final
20 Effective Date of the Settlement. SA, § III.

21 31. In the event that any of the Additional Vehicles becomes the subject
22 of a future or expanded recall for the same or similar impeller issues in a low-
23 pressure fuel pump, those Additional Vehicles will then be entitled to the same
24 relief provided to Recalled Vehicles in Section III.B of the Settlement Agreement,
25 such that Class Members with Additional Vehicles that may be recalled in the
26 future shall receive no less relief than provided in the Settlement Agreement. Class
27 Members who currently own or lease, or previously owned or leased, Additional
28 Vehicles are also eligible to seek reimbursement of covered expenses under the

1 Out-of-Pocket Claims Process in Section III.C. of the Settlement Agreement,
2 subject to the Claim Submission Period and other terms and conditions of that
3 program. Class Members with Additional Vehicles are also entitled to the benefits
4 of the Loaner/Towing Program, described below.

5 **32. Extended New Parts Warranty.** In addition to the CSP, in the
6 Settlement, Mazda also agreed to provide Class Members with Recalled Vehicles
7 an Extended New Parts Warranty for the fuel pump kit replaced on their Recalled
8 Vehicles, of 15 years, measured from the replacement date, and up to 150,000
9 miles, whichever comes first. A Class Member's rights under the Extended New
10 Parts Warranty are transferred with the Recalled Vehicle. SA, § III B.1. As is the
11 case with the Additional Vehicles, Class Members with Recalled Vehicles are
12 entitled to the benefits of the Loaner/Towing Program.

13 **33. Loaner/Towing Program for Covered Vehicles** (SA, §§ III.A-B.).
14 Class Members with Additional Vehicles and Recalled Vehicles are all entitled to
15 the following real-world benefits which make it more convenient to participate in
16 the CSP and take advantage of the Extended New Parts Warranty, and at no cost:

17 a. Without cost to and upon request, Class Members who own or
18 lease Covered Vehicles whose fuel pumps are being replaced
19 pursuant to the Extended New Parts Warranty or CSP shall be entitled
20 to receive a complimentary Loaner Vehicle by Mazda Dealers upon
21 reasonable notice. In appropriate circumstances, where the Class
22 Member has a demonstrated need for a Loaner Vehicle similar to the
23 Covered Vehicle, Mazda, through its dealers, shall use good faith
24 efforts to satisfy the request. Class Members may return the Loaner
25 Vehicle up to 24 hours after the time they drop off their Covered
26 Vehicle at the Mazda Dealer, or 24 hours after they are informed by
27 the Mazda Dealer that the repair on their Covered Vehicle has been
28 completed, whichever is later; and

1 b. If the Covered Vehicle is inoperable or is exhibiting a
2 dangerous condition, a complimentary tow to a Mazda Dealer upon
3 reasonable notice. The Class Member may contact a Mazda Dealer to
4 arrange for towing to the nearest Mazda Dealer.

5 34. The Recall remedy is the replacement of the Defective Fuel Pumps
6 with improved countermeasure fuel pumps that were specifically reformulated and
7 manufactured to address the defect in the recalled fuel pumps (“Countermeasure
8 Fuel Pumps”). The defective Fuel Pumps that gave rise to the Recalls, as well as
9 the Countermeasure Fuel Pumps, were the subject of intense scrutiny, through
10 voluminous formal and confirmatory discovery and thorough testing and analysis
11 by Plaintiffs’ independent Automotive Expert. After testing the recalled Fuel
12 Pumps and their components, the independent Automotive Expert concluded that
13 the fuel pumps have a defective impeller that is made of lower density material
14 that makes it susceptible to deformation during operation, which in turn can cause
15 the fuel pump to degrade or fail altogether. With thorough knowledge of the defect,
16 Plaintiffs’ Automotive Expert also conducted extensive testing and analysis of the
17 Countermeasure Fuel Pump, and determined that the impellers in those fuel pumps
18 were made of sufficiently robust material to function properly in their operating
19 environment and thus could be expected to function as intended.

20 35. Using this knowledge, the CSP and the Extended New Parts
21 Warranty address Plaintiffs’ overarching concern in this litigation – to ensure that
22 the fuel pumps in the Covered Vehicles operate as intended and drivers,
23 passengers, and other vehicles on the road will not be exposed to potentially unsafe
24 conditions. Mazda’s free repairs under the CSP and the Extended New Parts
25 Warranty, and complimentary towing and loaner vehicles to Class Members
26 during the repairs, ensures that Class Members will not incur any expenses for
27 repairs that may become necessary to address problems with the original Fuel
28 Pumps or Countermeasure Fuel Pumps in the future.

1 36. The Settlement also includes an Out-of-Pocket Claims Process. SA,
2 § III.C. This process covers all Class Members who previously paid out-of-pocket
3 expenses incurred to repair or replace a Fuel Pump of Covered Vehicles, and
4 associated rental vehicle and towing expenses, that were not otherwise reimbursed
5 and that were incurred prior to the date on which the time to appeal from the Final
6 Judgment has expired. For out-of-pocket expenses that were incurred after the
7 entry of the Preliminary Approval Order, the Class Member must provide proof
8 that they were denied coverage by a Mazda Dealer prior to incurring the expense.
9 SA, § III C.1.

10 37. As part of the Settlement, Mazda will fund a state-of-the-art Notice
11 Program designed to reach Class Members with information about their rights and
12 options under the Settlement Agreement. SA, § IV. This Notice Program is
13 described in detail in the Settlement Agreement and in the Notice Program
14 described in Exhibit 4 to the Settlement Agreement. It includes Direct Mail
15 Notice to all known Class members, and it is expected that the vast majority of
16 Class Members will have known addresses, as vehicle owners and lessees are
17 required to register their vehicles, and the Settlement Administrator will be able to
18 obtain addresses through registration information. It also includes an extensive
19 cross-platform, multimedia publication campaign, including banner notifications
20 on the internet and social media notifications that will provide settlement-related
21 information to Class Members in substantially the manner provided in the Notice
22 Program.

23 38. Defendants have agreed to pay all expenses for the relief in the
24 Settlement.

25 **IV. ATTORNEYS' FEES, COSTS, CLASS SERVICE AWARDS**

26 39. At the conclusion of the Parties reaching agreement on the
27 substantive material terms of this Settlement, the Parties began negotiations of the
28 amount of attorneys' fees and expenses that, following application to the Court

1 and subject to Court approval, would be paid separate from the Class relief. The
2 Parties participated in a mediation under the auspices of the Settlement Special
3 Master to address these issues. The negotiations are ongoing and, if there is no
4 agreement among the Parties, Class Counsel will apply to the Court for an award
5 of attorneys' fees in an amount not to exceed Fifteen Million Dollars
6 (\$15,000,000), and reimbursement of Plaintiffs' Counsel's reasonable out-of-
7 pocket expenses in an amount not to exceed Two Hundred Thousand Dollars
8 (\$200,000). Class Counsel, on behalf of Plaintiffs, will apply to the Court for Class
9 Representative service awards in an amount not to exceed Five Thousand Dollars
10 (\$5,000) each. Any service award would be in addition to the benefits that the
11 Class Representative is entitled to receive as a member of the Settlement Class.

12 **V. QUALIFICATIONS OF PROPOSED CLASS COUNSEL**

13 36. I, Dee Miles, have more than 30 years' experience litigating complex
14 cases on behalf of consumers and businesses in both individual and class action
15 form. Over the last decade I have concentrated on work specifically involving
16 vehicle defect class actions, while recovering billions of dollars for my clients and
17 class members. My experience in automotive products litigation includes having
18 been appointed to lead counsel or to other leadership positions in *In re Volkswagen*
19 *"Clean Diesel" Mktg., Sales Practices, and Prods. Liab. Litig.*, MDL No. 2672
20 (N.D. Cal.); *Chrysler-Dodge-Jeep EcoDiesel, In re Chrysler-Dodge- Jeep*
21 *EcoDiesel Mktg., Sales Practices, and Prods. Liab. Litig.*, MDL No. 2777 (N.D.
22 Cal.); *In re Toyota Motor Corp. Unintended Acceleration Mktg., Sales Practices,*
23 *and Prods. Liab. Litig.*, MDL No. 2151 (C.D. Cal.); *In re Polaris Mktg., Sales*
24 *Practices, & Prods. Liab. Litig.*, No. 18-cv-975 (D. Minn.); *In re: General Motors*
25 *LLC, GM 5.3 Vortec Engine*, No. 3:16-CV-07244-EMC (N.D.CA.); *Weidman, et*
26 *al v. Ford Motor Company*, No. 18-cv-12719 (E.D. MI.); *Simerlein et al. v. Toyota*
27 *Motor Corporation et al.*, 3:17-CV-01021-VAB (D. Conn.); *Cohen v. Subaru*
28 *Corporation et al.*, Case No. 1:20-cv-08442-JHR (D.N.J.); *Oliver, et al. v. Honda*

1 *Motor Company Limited, et al*, 5:20-cv-00666-MHH (N.D.AL.); *Townsend*
2 *Vance, et al. v. Mazda Motor of America, Inc. et al.*, 8:21-cv-01890-CJC-KES
3 (C.D. Cal.); and, as co-Class Counsel, in *Cheng, et al. v. Toyota Motor Corp, et*
4 *al.*, 1:20-cv-00629-WFK-JRC (E.D.N.Y.), which resulted in a settlement
5 providing quality class-wide relief valued at up to \$287 million for the benefit of
6 4.9 million owners and lessees of Toyota vehicles equipped with Denso’s low-
7 pressure fuel pumps, including a 15-year warranty for covered parts,
8 complimentary loaner vehicles and towing, a free inspection as well as
9 reimbursement for out-of-pocket repairs.

10 37. Separately, I have served on the PSC in *In re The Home Depot, Inc.,*
11 *Customer Data Sec. Breach Litig.*, MDL No. 2583 (N.D. Ga.); *In re Target Corp.*
12 *Customer Data Sec. Breach Litig.*, MDL No. 2522 (D. Minn.); *In re Wells Fargo*
13 *ERISA 401(k) Litig.*, No. 16-CV-03405 (D. Minn.); and on the Discovery
14 Committee in *In re Takata Airbag Prods. Liab. Litig.*, MDL No. 2599 (S.D. Fla.);
15 *In re Apple Inc. Device Performance Litig.*, MDL No. 2827 (N.D. Cal.); *In re*
16 *Domestic Airline Travel Antitrust Litig.*, MDL No. 2656 (D.D.C.); *In re: ZF-TRW*
17 *Airbag Control Units Products Liability Litig.*, MDL No. 20295 (C.D.CA); and *In*
18 *re Blue Cross Blue Shield Antitrust Litig.*, MDL No. 2406 (N.D. Ala.) (recently
19 promoted to the Executive/Settlement committee). A copy of Beasley Allen’s
20 resume is attached hereto as Exhibit A.

21 38. I, along with other lawyers in our firms, also represent(ed) plaintiffs
22 in related cases arising from recalls of vehicles equipped with Denso’s low-
23 pressure fuel pumps, including *Cheng, et al. v. Toyota Motor Corp, et al.*, 1:20-
24 cv-00629-WFK-JRC in the Eastern District of New York, discussed above; *Oliver,*
25 *et al. v. Honda Motor Company Limited, et al*, 5:20-cv-00666-MHH in the
26 Northern District of Alabama; and *Cohen, et al. v. Subaru of America, Inc., et al.*,
27 1:20-cv-08442-JHR-AMD in the District of New Jersey.

28

1 39. I, Timothy G. Blood, am the managing partner of Blood, Hurst &
2 O'Reardon, LLP. A copy of my firm's resume is attached hereto as Exhibit B. My
3 law firm focuses in the nationwide prosecution of complex class actions. As
4 indicated in my firm's resume, BHO and its attorneys, including myself, Paula
5 Brown, and Jennifer MacPherson, have years of experience litigating consumer
6 protection class actions, including those involving defective vehicles. Some of the
7 vehicle defect class actions in which BHO was appointed Class Counsel include:
8 *Warner v. Toyota Motor Sales, U.S.A., Inc.*, No. CV 15-2171 FMO (FFMx) (C.D.
9 Cal.); *Rafofsky v. Nissan North America, Inc.*, No. 2:15-cv-01848 AB(MANx)
10 (C.D. Cal.); and *In re Toyota Motor Cases*, JCCP 4621 (Los Angeles Superior
11 Court). I, along with other lawyers in my firm, are also involved in related cases
12 arising from recalls of vehicles equipped with Denso's low-pressure fuel pumps,
13 including *Oliver, et al. v. Honda Motor Company Limited, et al.*, 5:20-cv-00666-
14 MHH (N.D. AL) and *Cohen, et al. v. Subaru of America, Inc., et al.*, 1:20-cv-
15 08442-JHR-AMD (D. N.J.). In addition to these cases, I have also been appointed
16 class counsel or to other leadership positions in dozens of other class actions.

17 40. I have also tried class actions and am responsible for or otherwise
18 assisted in obtaining a number of appeals resulting in consumer protection
19 decisions. *See, e.g., Montera v. Premier Nutrition Corp.*, Case No. 16-cv-06980-
20 RS (N.D. Cal. June 7, 2022) (classwide jury verdict obtained in consumer
21 protection case); *Turrey et al. v. Vervent, Inc. fka First Associates Loan Servicing,*
22 *LLC et al.*, Case No. 3:20-cv-00697-DMS-AHG (S.D. Cal. June 22, 2023)
23 (classwide jury verdict obtained in consumer civil Rico case); *Bell v. Publix Super*
24 *Mkts., Inc.*, 982 F.3d 468 (7th Cir. 2020) (consumer law and false advertising);
25 *Kroessler v. CVS Health Corp.*, 977 F.3d 803 (9th Cir. 2020) (consumer law and
26 false advertising); *Rikos v. The Procter & Gamble Co.*, 799 F.3d 497 (6th Cir.
27 2015) (consumer law and false advertising), *cert. denied*, 2016 U.S. LEXIS 2244
28 (U.S. Mar. 28, 2016); *Corvello v. Wells Fargo Bank, NA*, 728 F.3d 878 (9th Cir.

1 2013) (consumer and banking law); *Fitzpatrick v. General Mills, Inc.*, 635 F.3d
2 1279 (11th Cir. 2011), *Kwikset Corp. v. Sup. Ct.*, 51 Cal. 4th 320 (2011) (consumer
3 law and false advertising); *McKell v. Wash. Mutual, Inc.*, 142 Cal. App. 4th 1457
4 (2006); *Kruse v. Wells Fargo Home Mortgage, Inc.*, 383 F.3d 49 (2d Cir. 2004)
5 (consumer and banking law); *Lebrilla v. Farmers Group, Inc.*, 119 Cal. App. 4th
6 1070 (2004); *Moore v. Liberty Nat'l Life Ins. Co.*, 365 F.3d 408 (5th Cir. 2004)
7 (life insurance, consumer protection and civil rights); *Lavie v. Procter & Gamble,*
8 *Co.*, 105 Cal. App. 4th 496 (2003). I am a frequent lecturer at seminars about class
9 actions, consumer protection, and related issues.

10 41. Additionally, I have partnered with the Federal Trade Commission in
11 false advertising cases: *In re Skechers Toning Shoes Prods. Liab. Litig.*, MDL No.
12 2308 (W.D. Ky., Hon. Thomas B. Russell) and *In re Reebok Easytone Litig.*, No.
13 4:10-cv-11977 (D. Mass., Hon. F. Dennis Saylor). As lead counsel in both these
14 cases, I worked with the FTC in a unique public-private partnership to obtain
15 record setting recoveries for consumers. The class action settlement in *In re*
16 *Skechers* was the largest false advertising recovery in the history of the FTC.

17 42. Proposed Class Counsel are well positioned to assess the benefits of
18 the proposed Settlement and do hereby fully endorse it as fair, reasonable, and
19 adequate.

20 43. We declare under penalty of perjury that the foregoing is true and
21 correct.

22 Dated: May 3, 2024

BLOOD HURST & O'REARDON, LLP
TIMOTHY G. BLOOD (149343)
PAULA R. BROWN (254142)
JENNIFER L. MACPHERSON (202021)

By: s/ Timothy G. Blood
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Dated: May 3, 2024

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EXHIBIT A



Since 1979, Beasley Allen has been committed to “helping those who need it most.” Our attorneys have helped thousands of clients get the justice they desperately needed and deserved.



About the Firm

ABOUT THE FIRM:

In 1979, Jere Locke Beasley, former Alabama lieutenant governor, decided to leave politics and return to law practice. He founded what is known today as Beasley, Allen, Crow, Methvin, Portis & Miles, P.C., or the Beasley Allen Law Firm.

For more than four decades, our firm has been at the forefront of driving positive change, keeping in line with Jere's unwavering mission of "helping those who need it most." With 100 attorneys and hundreds of support staff, we handle complex litigation cases in state and federal courts across the U.S.

Helping those who need it most, since 1979

Our cases have been featured in major national media outlets such as Time Magazine, Business Week and Forbes. We've represented clients testifying before U.S. congressional committees and have garnered over \$32 billion in verdicts and settlements. With a commitment to justice and a passion for helping those harmed by the actions of others, Beasley Allen has become a trusted and respected leader in the legal community.



Case History

CASE HISTORY:

Beasley Allen's highly qualified attorneys and staff work tirelessly for clients throughout the country. We have a proven track record of successfully representing plaintiffs and claimants in various areas, including Business Litigation, Class Actions, Consumer Protection, Employment Law, Insurance Litigation, Qui Tam Litigation, Mass Torts, Personal Injury, Products Liability and Toxic Torts.

Our team has extensive experience handling complex litigation, attorney general litigation, qui tam litigation, class-action lawsuits and multi-district litigation throughout the U.S., including district and federal courts.

Our team has extensive experience in handling complex litigation

We have played an integral role in consumer multi-district litigation in numerous cases, including those against Vioxx, BP, Toyota SUA, Blue Cross Blue Shield, VW, Chrysler Fiat and others. We have obtained billions in verdicts for our clients against some of this country's largest corporate wrongdoers, including AstraZeneca, GSK, Johnson & Johnson, Johnson & Johnson Consumer Companies, Inc., Imerys Talc America, Inc., Exxon and General Motors.



Top Result Summary

TOP RESULT SUMMARY:

Beasley Allen has a proven track record as lead or co-lead counsel in complex legal cases. We have achieved some of the largest verdicts and settlements in the country of their time in various categories. The firm has achieved successful client outcomes, resulting in numerous multi-million-dollar settlements and verdicts:

- Average wholesale price litigation verdict, **\$30,200,000**, in State of Mississippi v. Sandoz, Inc., filed in the Chancery Court of Rankin County, Mississippi, Case No. 09-00480, Judge Thomas L. Zebert (Dee Miles as Co-Lead Counsel);
- Average wholesale price litigation verdict, **\$30,262,052**, in State of Mississippi v. Watson Laboratories, Inc., et al., filed in the Chancery Court of Rankin County, Mississippi, Case Nos. 09-488, 09-487, and 09-455, Judge Thomas L. Zebert (Dee Miles as Co-Lead Counsel);
- Hormone Therapy Litigation Verdict, **\$5,100,100**, in Okuda v. Wyeth Pharmaceuticals, Inc., filed in the United States District Court of Utah, Northern Division, Case No. 1:04-cv-00080-DN, Judge David Nuffer;
- Hormone Therapy Litigation Verdict, **\$72,600,000**, in Elfont v. Wyeth Pharmaceuticals, Inc., et al., Mulderig v. Wyeth Pharmaceuticals, Inc., et al., Kalenkoski v. Wyeth Pharmaceuticals, Inc., et al., filed in the County of Philadelphia, Court of Common Pleas, Case Nos. July Term 2004, 00924, 00556, 00933, Judge Gary S. Glazer;
- Largest average wholesale price litigation verdict, **\$215,000,000**, in State of Alabama v. AstraZeneca, filed in the Circuit Court of Montgomery County, Alabama, Case No. CV-05-219.10, Judge Charles Price (Dee Miles as Co-Lead Counsel);
- Largest predatory lending verdict in American history **\$581,000,000**, in Barbara Carlisle v. Whirlpool, filed in the Circuit Court of Hale County, Alabama, Case No. CV-97-068, Judge Marvin Wiggins;
- Largest verdict against an oil company in American history, **\$11,903,000,000**, in State of Alabama v. Exxon, filed in the Circuit Court of Montgomery County, Alabama, Case No. CV-99-2368, Judge Tracy S. McCooley;
- Second largest average wholesale price litigation verdict, **\$114,000,000**, in State of Alabama v. GlaxoSmith-Kline - Novartis, filed in the Circuit Court of Montgomery County, Alabama, Case No. CV-05-219.52, Judge Charles Price (Dee Miles as Co-Lead Counsel);

TOP RESULT SUMMARY:

- Talcum Powder Litigation Verdict, **\$55,000,000**, in Ristesund v. Johnson & Johnson, et al., filed in the Circuit Court of St. Louis City, Case No. 1422-CC03012-01, Judge Rex M. Burlison.
- Talcum Powder Litigation Verdict, **\$72,000,000**, in Fox v. Johnson & Johnson, et al., filed in the Circuit Court of St. Louis City, Case No. 1422-CC03012-01, Judge Rex M. Burlison; and
- Third largest average wholesale price litigation verdict, **\$78,000,000**, in State of Alabama v. Sandoz, Inc., filed in the Circuit Court of Montgomery County, Alabama, Case No. CV-05-219.65, Judge Charles Price (Dee Miles as Co-Lead Counsel);
- Tolbert v. Monsanto, private environmental settlement, **\$750,000,000**, filed in the United States District Court for the Northern District of Alabama, Civil Action No. CV-01-1407PWG-S, Judge Paul W. Greene;
- Siqueiros v. General Motors, LLC, largest auto defect class action verdict, **\$102,600,000**, filed in United States District Court for the Northern District of California, Civil Action No. 3:16 CV-07244-emc.

Lead / Co-Lead MDL & Class Actions

LEAD / CO-LEAD MDL & CLASS ACTIONS:

Beasley Allen is one of the country's leading firms involved in complex civil litigation on behalf of claimants, having represented hundreds of thousands of people.

Attorneys from Beasley Allen have been selected by Federal Courts as lead counsel or co-lead counsel in the following complex multi-district and class actions litigations:

- **Cohen v. Subaru Corporation et al.**, United States District Court of New Jersey, Judge Joseph R. Rodriguez, Case No. 1:20-cv-08442-JHR (Dee Miles, Shareholder of Beasley Allen).
- **Hamid Bolooki et al., vs. Honda Motor Co. Ltd. et al.**, United States District Court, Central District of California, Judge Mark C. Scarsi, 2:22-cv-04252-MCS-SK (H. Clay Barnett, III, Principal of Beasley Allen);
- **In Re: American General Life and Accident Insurance Company Industrial Life Insurance Litigation**, United States District Court for the District of South Carolina, Judge Cameron McGowan Currie, MDL No. 11429; (Dee Miles, Shareholder of Beasley Allen);
- **In Re: ARC Airbag Inflators Products Liability Litigation**, United States District Court, Northern District of Georgia, Judge Eleanor L. Ross, 22-md-03051-ELR (Demet Basar, Principal of Beasley Allen);
- **In Re: Dollar General Corp. Fair Labor Standards Acts Litigation**, United States District Court for the Northern District of Alabama, Western Division, Judge U.W. Clemon, MDL No. 1635; (Dee Miles, Shareholder of Beasley Allen);
- **In Re: Johnson & Johnson Aerosol Sunscreen Marketing, Sales Practices and Products Liability Litigation**, United States District Court for the Southern District of Florida, Judge Raag Singhal, MDL No. 3015 (Andy Birchfield and David Byrne, both Shareholders of Beasley Allen);[5]
- **In Re: Johnson & Johnson Talcum Powder Products Marketing, Sales Practices, and Products Liability Litigation**, United States District Court for the District of New Jersey, Judge Freda L. Wolfson, MDL No. 2738 (Leigh O'Dell, Shareholder of Beasley Allen);
- **In Re: Reciprocal of America (ROA) Sales Practices Litigation**, United States District Court for the Western District of Tennessee, Judge J. Daniel Breen, MDL No. 1551; (Dee Miles and Jere Beasley, both Shareholders in Beasley Allen);

LEAD / CO-LEAD MDL & CLASS ACTIONS:

- **In Re: Rock 'N Play Sleeper Marketing, Sales Practices, and Products Liability Litigation**, United States District Court for the Western District of New York, Judge Geoffrey Crawford, MDL No. 1:19-mc-2903 (Demet Basar, Principal of Beasley Allen)
- **In Re: Social Media Cases**, JCCP No. 5255, Judge Carolyn Kuhl, Department SS12, Los Angeles Superior Court, Lead Case 22STCV21355 (Joseph VanZandt, Principal of Beasley Allen);
- **In Re: Vioxx Products Liability Litigation**, United States District Court for the Eastern District of Louisiana, Judge Eldon E. Fallon, MDL No. 1657; (Andy Birchfield, Shareholder of Beasley Allen);
- **In Re: Xarelto (Rivaroxaban) Products Liability Litigation**, District of Louisiana, Judge Eldon E. Fallon, Eastern MDL No. 2592;
- **Sharon Cheng, et al. v. Toyota Motor Corporation, et al.**, United States District Court, Eastern District of New York, Judge William F. Kuntz, II, 1:20-cv-00629-WFK-CLP (Dee Miles, Shareholder of Beasley Allen) [3];
- **Simerlein v. Toyota Motor Corporation et al.**, United States District Court District of Connecticut, Judge Victor A. Bolden, Case No. 3:17-cv-01091-VAB (Dee Miles, Shareholder of Beasley Allen);
- **The K's Inc. v. Westchester Surplus Lines Insurance Company**, United States District Court, Northern District of Georgia, Judge William M. Ray, II, 1:20-cv-1724-WMR (Dee Miles, Shareholder of Beasley Allen);
- **Tucker Oliver, et al. v. Honda Motor Company Limited, et al.**, United States District Court, Eastern District of Alabama, Judge Madeline Hughes Haikala, 5:20-cv-006666-MHH (Dee Miles, Shareholder of Beasley Allen) [4];
- **Weidman et al v. Ford Motor Company**, United States District Court of the Eastern District of Michigan, Judge Gershwin A. Drain, 2:18-cv-12719 (Dee Miles, Shareholder of Beasley Allen) [2].

PEC / PSC
MDL & Class Actions

PEC / PSC MDL & CLASS ACTIONS:

Beasley Allen has been appointed to the Plaintiff's Executive Committee and/or Steering Committee in many complex litigations. All of these multidistrict litigations and class actions involved multiple claims against multiple defendants, which required excellent organization and leadership from our attorneys.

Beasley Allen has been appointed to leadership committees in the following MDL and class actions litigations:

- **In Re: Actos (Pioglitazone) Products Liability Litigation, United States District Court for the Western District of Louisiana, Judge Rebecca F. Doherty, MDL No. 2299;**
- **In Re: American Medical Systems, Inc. Pelvic Repair Systems Products Liability Litigation, United States District Court, Southern District of Ohio, Judge Joseph R. Goodwin, MDL No. 2325;**
- **In Re: Androgel Products Liability Litigation, United States District Court for the Northern District of Illinois, Judge Matthew F. Kennelly, MDL No. 2545;**
- **In Re: Apple Inc. Device Performance Litigation, United States District Court for the Northern District of California, Judge Edward J. Davila, MDL 2827;**
- **In Re: Bextra/Celebrex, Bextra and Celebrex Marketing Sales Practices and Product Liability Litigation, United States District Court for the Northern District of California, Judge Charles R. Breyer, MDL No. 1699;**
- **In Re: Biomet M2a Magnum Hip Implant Products Liability Litigation, US District Court for the Northern District of Indiana, Judge Robert L. Miller, Jr., MDL No. 2391;**
- **In Re: Blue Cross Blue Shield Antitrust Litigation, United States District Court for the Northern District of Alabama, Judge R. David Proctor, MDL No. 2406;**
- **In Re: Boston Scientific Corp. Pelvic Repair Systems Products Liability Litigation, United States District Court, Southern District of West Virginia, Judge Joseph R. Goodwin, MDL No. 2326;**
- **In Re: C.R. Bard, Inc. Pelvic Repair Systems Products Liability Litigation, United States District Court, Charleston Division, Judge Joseph R. Goodwin, MDL No. 2187;**
- **In Re: Camp Lejeune Water Litigation, United States District Court for the Eastern District of North Carolina, Judge Robert B. Jones, Jr, Case No. 7:23-cv-897;**

PEC / PSC MDL & CLASS ACTIONS:

▪ **In Re: Chrysler-Dodge-Jeep EcoDiesel Marketing, Sales Practices and Products Liability Litigation**, United States District Court for the Northern District of California, Judge Edward Chin, MDL No. 2777;

▪ **In Re: Coloplast Corp. Pelvic Repair Systems Products Liability Litigation, United States District Court, Charleston Division**, Judge Joseph R. Goodwin, MDL No. 2387;

▪ **In Re: Depuy Orthopaedics, Inc. ASR Hip Implant Products Liability Litigation**, United States District Court for the Northern District of Ohio, Judge David A. Katz, MDL No. 2197;

▪ **In Re: DePuy Orthopaedics, Inc. Pinnacle Hip Implant Products Liability Litigation**, US District Court for the Northern District of Texas, Judge Ed Kinkeade, MDL No. 2244;

▪ **In Re: Ethicon, Inc. Pelvic Repair Systems Products Liability Litigation**, United States District Court, Charleston Division, Judge Joseph R. Goodwin, MDL No. 2327;

▪ **In Re: Fosamax (Alendronate Sodium) Products Liability Litigation (No. II)**, United States District Court District of New Jersey, Judge Garrett E. Brown, Jr., MDL No. 2243;

▪ **In Re: Fosamax Products Liability Litigation**, United States District Court, Southern District of New York, Judge John F. Keenan, MDL No. 1789;

▪ **In Re: Fresenius Granuflo/Naturalyte Dialysate Products Liability Litigation**, United States District Court, District of Massachusetts, Judge Douglas P. Woodlock, MDL No. 2428;

▪ **In Re: Google Inc. Gmail Litigation**; United States District Court for the Northern District of California, San Jose Division, Judge Lucy H. Koh, MDL No. 2430;

▪ **In Re: Hair Relaxer Marketing, Sales Practices, And Products Liability Litigation**, United States District Court for the Northern District of Illinois, Judge Mary M. Royland, MDL No. 3060;

▪ **In Re: Invokana (Canagliflozin) Products Liability Litigation**, United States District Court District of New Jersey, Judge Lois H. Goodman, MDL No. 2750;

▪ **In Re: JUUL Labs, Inc. Marketing, Sales Practices & Products Liability Litigation**, United States District Court for the Northern District of California, Judge William H. Orrick, MDL 2913;

PEC / PSC MDL & CLASS ACTIONS:

- **In Re: Lipitor (Atorvastatin Calcium) Marketing, Sales Practices and Products Liability Litigation**, United States District Court for the District of South Carolina, Judge Richard M. Gergel, MDL No. 2502;
- **In Re: Mirena IUD Products Liability Litigation**, United States District Court, Southern District of New York, Judge Cathy Seibel, MDL No. 2434;
- **In Re: Motor Fuel Temperature Sales Practices Litigation, United States District Court for the Middle District of Kansas**, Judge Kathryn Vratil, MDL No. 1840;
- **In Re: Oil Spill by the Oil Rig “Deepwater Horizon” in the Gulf of Mexico**, United States District Court of the Eastern District of Louisiana, Judge Carl J. Barber, MDL No. 2179;
- **In Re: Paraquat Products Liability Litigation**, United States District Court for the Southern District of Illinois, Judge Nancy J. Rosenstengel, Case No. 3:21-md-03004-NJR;
- **In Re: Prempro Products Liability Litigation**, United States District Court, Eastern District of Arkansas, Western Division, Judge Billy Roy Wilson, MDL No. 1507;
- **In Re: Proton-Pump Inhibitor Products Liability Litigation**, United States District Court District of New Jersey, Judge Claire C. Cecchi, MDL No. 2789;
- **In Re: Robinhood Outage Litigation**, United States District Court for the Northern District of California, Judge James Donato, Case No. 20-cv-01626-JD;
- **In Re: Social Media Adolescent Addiction/Personal Injury Product Liability Litigation**, Civil Action No. 4:22-md-03047-YGR, MDL No. 3047;
- **In Re: Stryker Rejuvenate & ABG II Modular Hip Implant Litigation**, Superior Court of New Jersey Law Division: Bergen County, Judge Rachelle L. Harz, Case No. 296 Master Docket No. BER-L-936-13-MCL.
- **In Re: Takata Airbag Products Liability Litigation**, United States District Court for the Southern District of Florida, Judge Federico A. Moreno, MDL No. 2599, serving on a discovery committee responsible for two Auto Manufacturer’s discovery[1];
- **In Re: Target Corporation Customer Data Security Breach Litigation**, United States District Court for the District of Minnesota, Judge Paul A. Magnuson, MDL No. 2522;

PEC / PSC MDL & CLASS ACTIONS:

▪ **In Re: The Home Depot, Inc., Customer Data Security Breach Litigation**, United States District Court for the Northern District of Georgia, Judge, Thomas W. Thrash, Jr., MDL No. 2583;

▪ **In Re: Toyota Motor Corp. Unintended Acceleration Marketing, Sales Practices, and Products Liability Litigation**, United States District Court for the Central District of California, Judge James V. Selna, MDL No. 2151;

▪ **In Re: Vioxx Products Liability Litigation**, United States District Court for the Eastern District of Louisiana, Judge Eldon E. Fallon, MDL No. 1657;

▪ **In Re: Volkswagen “Clean Diesel” Marketing, Sales Practices, and Products Liability Litigation**; California Northern District (San Francisco), Hon. Charles R. Breyer, Case No. 3:15-md-02672-CRB;

▪ **In Re: Xarelto (Rivaroxaban) Products Liability Litigation**, District of Louisiana, Judge Eldon E. Fallon, Eastern MDL No. 2592;

▪ **In Re: Zantac (Ranitidine) Products Liability Litigation**, United States District Court for the Southern District of Florida, Judge Robin L. Rosenberg, MDL No. 2924;

▪ **In Re: ZF-TRW Airbag Control Units Products Liability Litigation**, United States District Court Central District of California, Judge John A. Kronstadt, MDL No. 2905;

▪ **In Re: Zoloft (Sertraline Hydrochloride) Products Liability Litigation**, United States District Court for the Eastern District of Pennsylvania, Judge Cynthia M. Rufe, MDL No. 2342;

Attorney General Litigation

ATTORNEY GENERAL LITIGATION:

Beasley Allen is a proven leader in Attorney General Litigation on a national level. We have provided legal representation to several states, including Alabama, Alaska, Georgia, Hawaii, Kansas, Kentucky, Louisiana, Mississippi, South Carolina, Utah and West Virginia. The firm has also confidentially investigated matters for other attorneys general.

Our experience in these complex legal cases involves conducting thorough investigations to determine if litigation is necessary, providing counsel to the states on whether to pursue legal action, managing all aspects of litigation once it is filed, negotiating the Attorney General's claims during settlement discussions, and presenting the case in court before a judge and jury and even handling the case on appeal.

Our firm has recovered billions of dollars for multiple states

We have a track record of recovering billions of dollars for various states, with over \$1.5 billion related to state funds. We specialize in representing states and attorneys general in various litigation cases, including cases related to Medicaid fraud, antitrust, consumer protection violations, false claims, fraud, unjust enrichment, false advertising, negligence, breach of contract, nuisance abatement and unfair and deceptive trade practices.

We have handled cases involving fraudulent pricing of prescription drugs on behalf of eight states with Average Wholesale Price issues, represented four states against McKesson Corporation for its fraudulent and unfair practices involving prescription drugs, represented two states in the Fresenius litigation case involving the medical device GranuFlo, and tackled the Unapproved Drugs litigations on behalf of two states concerning the states' reimbursement of drugs with fraudulently obtained Medicaid reimbursement approval status. Additionally, we have dealt with the Usual and Customary litigations regarding the false reporting of pharmacy price lists by the nation's largest chain pharmacies, the Actos litigation, and conducted many other investigations related to consumer protection issues, and states claims against opioid defendants, the manufacture, marketing, pricing, and sale of pharmaceuticals, pharmaceutical devices, and the general provision of goods and services in the healthcare industry.

ATTORNEY GENERAL LITIGATION:

Beasley Allen attorneys were lead counsel in the following Attorney General cases:

- **In Re: Alabama Medicaid Pharmaceutical Average Wholesale Price Litigation filed in the Circuit Court of Montgomery, Alabama**, Master Docket No. CV-2005-219, Judge Charles Price;
- **State of Alabama v. Purdue Pharma, LP, et al.**, Civil Action No. 03-CV-2019-901174, Circuit Court of Montgomery County, Alabama, Judge J.R. Gaines;
- **State of Alabama, ex. rel. Luther Strange, Attorney General v. BP, PLC., et al.**, MDL No. 2179, E.D. La., Judge Carl Barbier
- **State of Alabama, ex. rel. Troy King, Attorney General v. Transocean, Ltd., et al.**, Civil Action No. 2:10-cv-691-MHT-CSC, Middle District of Alabama, Northern Division, Judge Myron H. Thompson;
- **In Re: The Attorney General's Investigation, AGO Case No. AN2014103885, Alaska Pay-for-Delay Antitrust Investigation**;
- **State of Alaska v. Alharma Branded Products Division, Inc., et al.**, Case No.: 3AN-06-12026, Superior Court for the State of Alaska, Third Judicial District at Anchorage, Judge William F. Morse;
- **State of Alaska v. McKesson Corporation and First DataBank, Inc.**, Case No. 3AN-10-11348-CI, Superior Court for the State of Alaska, Third Judicial Circuit of Anchorage, Judge Peter A. Michalski;
- **State of Georgia v. Purdue Pharma, et al.**, Civil Action No. 19-A-00060-2, Superior Court of Gwinnett County, Georgia, Judge Tracie H. Cason; and
- **State of Hawaii, ex rel. v. Abbott Laboratories, Inc., et al.**, Civil Action No. 06-1-0720-04, State of Hawaii, First Circuit, Judge Eden Elizabeth Hifo
- **State of Hawaii, ex rel. v. McKesson Corporation, et al.**, Civil Action No. 10-1-2411-11, State of Hawaii, First Circuit, Judge Gary W. B. Chang;
- **State of Kansas, ex rel. v. McKesson Corporation, et al.**, Case No. 10-CV-1491, Division 2, District Court of Wyandotte County, Kansas, Judge Constance Alvey;
- **In Re: Kansas Medicaid Pharmaceutical Average Wholesale Price Litigation** filed in the District Court of Wyandotte County, Kansas, Master Docket No. MV-2008-0668, Division 7, Judge George A. Groneman;

ATTORNEY GENERAL LITIGATION:

▪ **Commonwealth of Kentucky. v. Fresenius Medical Care Holdings, Inc., et al.**, Civil Action No. 16-CI-00946, Franklin Circuit Court, Div. 2, Judge Thomas D. Wingate;

▪ **State of Louisiana v. Abbott Laboratories, Inc., et al.**, Suit No. 624,522, Sec. 26; Parish of East Baton Rouge, Judge Donald R. Johnson;

▪ **State of Louisiana v. Abbott Laboratories, Inc., et al.**, Docket No. 596164, Sec. 25, 19th Judicial District Court, Parish of East Baton Rouge, Judge Wilson Fields;

▪ **State of Louisiana v. McKesson Corporation**, Docket No. 597634, Sec. 25, 19th Judicial District Court, Parish of East Baton Rouge, Judge Wilson Fields;

▪ **State of Louisiana v. Pfizer, Inc., et al.**, Docket No. 625543, Sec. 24, 19th Judicial District Court, Parish of East Baton Rouge, Judge R. Michael Caldwell;

▪ **State of Louisiana, ex rel. v. Fresenius Medical Care Holdings, Inc., et al.**, Suit No. 631,586, Div. "D"; 19th JDC; Parish of East Baton Rouge, Judge Janice Clark;

▪ **State of Louisiana, et al. v. Molina Healthcare, Inc., et al.**, filed in 19th Judicial District Court, Parish of East Baton Rouge, Suit No. 631612, Judge Janice Clark;

▪ **State of Louisiana, et al. v. Takeda Pharmaceuticals America, Inc., et al.**, filed in 19th Judicial District Court, Parish of East Baton Rouge, Suit No. 637447, Judge R. Michael Caldwell;

▪ **State of Mississippi v. Actavis Pharma, Inc., et al.**, Civil Action No. 17-cv-000306, Hinds County Chancery Court, District 1, Judge Patricia D. Wise;

▪ **State of Mississippi v. Barr Laboratories, Inc., et al.**, Civil Action No. 17-cv-000304, Hinds County Chancery Court, District 1, Judge J. Dewayne Thomas;

▪ **State of Mississippi v. Camline, L.L.C. (f/k/a PamLab, L.L.C.)**, Civil Action No. 17-cv-000307, Hinds County Chancery Court, District 1, Judge J. Dewayne Thomas;

▪ **State of Mississippi v. E. Claiborne Robins Company, Inc., et al.**, Civil Action No. 17-cv-000305, Hinds County Chancery Court, District 1, Judge Denise Owens;

▪ **State of Mississippi v. Endo Pharmaceuticals, Inc.**, Civil Action No. 17-cv-000309, Hinds County Chancery Court, District 1, Judge J. Dewayne Thomas;

▪ **State of Mississippi v. United Research Laboratories, Inc., et al.**, Civil Action No. 17-cv-000308, Hinds County Chancery Court, District 1, Judge Denise Owens;

ATTORNEY GENERAL LITIGATION:

▪ **State of Mississippi v. CVS Health Corporation, et al.**, DeSoto County, Third Chancery District, Trial Court No. 16-cv-01392, Judge Mitchell M. Lundy, Jr.;

▪ **In Re: Mississippi Medicaid Pharmaceutical Average Wholesale Price Litigation** filed in the Chancery Court of Rankin County, Mississippi, Master Docket No. 09-444, Judge W. Hollis McGehee;

▪ **State of Mississippi v. Fred's, Inc., et al.**, DeSoto County, Third Chancery District, Trial Court No. 16-cv-01389, Judge Mitchell M. Lundy, Jr.;

▪ **State of Mississippi v. Rite Aid Corporation, et al., DeSoto County, Third Chancery District**, Trial Court No. 16-cv-01390, Judge Percy L. Lynchard, Jr.;

▪ **State of Mississippi v. Walgreen Co., et al.**, DeSoto County, Third Chancery District, Trial Court No. 16-cv-01391, Judge Mitchell M. Lundy, Jr.;

▪ **State of South Carolina v. Abbott Laboratories, Inc., et al.**, In Re: South Carolina Pharmaceutical Pricing Litigation, Master Caption Number: 2006-CP-40-4394, State of South Carolina, County of Richland, Fifth Judicial Circuit, Judge J. Cordell Maddox, Jr.;

▪ **State of West Virginia v. Merck-Medco**, Civil Action No. 02-C-2944, Circuit Court of Kanawha County, West Virginia, Judge Jennifer F. Bailey;

▪ **State of Utah v. Abbott Laboratories, et al.**, filed in the Third Judicial District Court of Salt Lake City, Utah, Case No. 07-0915690, Judge Robert Hilder;

▪ **State of Utah v. Actavis US, et al.**, filed in Third Judicial District Court of Salt Lake City, Utah, Case No. 07-0913717, Judge Kate A. Toomey; and

▪ **State of Utah v. Apotex Corporation, et al.**, filed in the Third Judicial District Court of Salt Lake City, Utah, Case No. 08-0907678, Judge Tyrone E. Medley.

Practices: Class Actions

Beasley Allen is also a leader in complex class action litigation. We have successfully brought several class actions, some transferred to multidistrict litigation filed in federal and state courts.

Those cases include:

- **Ace Tree Surgery, Inc. v. Terex Corporation, et al.**, Case No. 1:16-cv-00775-SCJ D (N.D. Ga., filed July 22, 2015);
- **Coates v. MidFirst Bank**, 2:14-cv-01079 (N.D. Ala., certified July 29, 2015);
- **Danny Thomas, et al. v. Southern Pioneer Life Insurance Company**, No. CIV-2009-257JF, in the Circuit Court of Greene County, State of Arkansas;
- **Dickman, et al. v. Banner Life Insurance Company, et al.**, Case No. 1:16-cv-00192-WMN (D. Md., filed January 19, 2016);
- **Dolores Dillon v. MS Life Insurance Company n/k/a American Bankers Life Assurance Company of Florida**, No. 03-CV-2008-900291, in the Circuit Court of Montgomery County, Alabama;
- **Estrada v. Johnson & Johnson, et al.**, Case No. 2:14-cv-01051-TLN-KJN (E.D. Cal., filed April 28, 2014);
- **Gerrell Johnson v. Subaru of America, Inc. et al.**, Case No. 2:19-cv-05681-JAK-MAA (C.D. Cal., filed June 28, 2019); Thondukolam et al., vs. Corteva, Inc., et al., Case No. 4:19-cv-03857 (N.D. Cal., filed July 3, 2019);
- **In Re: Volkswagen “Clean Diesel” Marketing, Sales Practices, and Products Liability Litigation**, 3:15-md-02672 (N.D. Cal., settlements approved October 25, 2016, and May 17, 2017);
- **In Re: Apple Inc. Device Performance Litigation**, Case No. 5:18-md-02827-EJD (N.D. Cal., filed April 5, 2018);
- **In Re: ARC Airbag Inflators Products Liability Litigation**, 22-md-03051-ELR (N.D. Ga.). Beasley Allen’s class action cases involve a variety of complex legal issues.
- **In Re: Domestic Airline Travel Antitrust Litigation**, Case No. 1:15-mc-01404-CKK (D.D.C., filed October 13, 2015);

▪ **In Re: Facebook, Inc., Consumer Privacy User Profile Litigation**; Case No. 5:18-md-02827-EJD (N.D. Cal., filed June 6, 2018);

▪ **In Re: German Automotive Manufacturers Antitrust Litigation**, Case No. 3:17-md-02796-CRB (N.D. Cal., filed October 5, 2017);

▪ **In Re: Polaris Marketing, Sales Practices, and Products Liability Litigation**, Case No. 0:18-cv-00939-WMW-DTS (D. Minn., filed April 5, 2018);

▪ **In Re: Takata Airbag Products Liability Litigation**, 1:15-md-02599 (S.D. Fla.); Bolooki et al., vs. Honda Motor Co. Ltd. et al., 2:22-cv-04252-MCS-SK (C.D. Cal.);

▪ **In Re: The Home Depot, Inc., Customer Data Security Breach Litigation**, Case No. Case 1:14-md-02583-TWT (N.D. Ga., filed November 13, 2014);

▪ **Intel Corp. CPU Marketing, Sales Practices and Products Liability Litigation, Case No. 3:18-md-02828 (D. Or., filed April 5, 2018);**

▪ **Jason Compton et al v. General Motors, LLC**, Case No. 1:19-cv-00033-MW-GRJ (N.D. Fla., filed February 21, 2019);

▪ **Simerlein v. Toyota Motor Corporation et al.**, Case No. 3:17-cv-01091-VAB (D. Conn., filed June 30, 2017);

▪ **Kerkorian et al v. Nissan North America, Inc.**, Case No. 18-cv-07815-DMR (N.D. Cal., filed December 31, 2018);

▪ **Larry Clairday, et al. v. Tire Kingdom, Inc., et al.**, No. 2007-CV-020 (S.D. Ga.);

▪ **Lesley S. Rich, et al. v. William Penn Life Insurance Company of New York**, Case No. 1:17-cv-02026-GLR (D. Md., filed July 20, 2017);

▪ **Monteville Sloan, Jr. v. General Motors LLC**, Case No. 3:16-cv-07244-EMC (C.D. Cal., filed December 19, 2016);

▪ **Scott Peckerar et al. v. General Motors, LLC**, Case No. 5:18-cv-02153-DMG-SP (C.D. Cal., filed December 9, 2018);

▪ **Sigfredo Rubio et al., vs. ZF-TRW Automotive Holdings Corp., et al.**, Case No. 2:19-cv-11295-LVP-RSW (E.D. Mich., filed May 3, 2019);

PRACTICES: CLASS ACTIONS

- **Vivian Farris, et al. v. U.S. Financial Life Insurance Company**, Case No. 1:17-cv-417 (S.D. Ohio, filed June 19, 2017);
- **Walls v. JP Morgan Chase Bank, N.A.**, 3:11-cv-00673 (W.D. Ky., certified October 13, 2016);
- **Weidman, et al. v. Ford Motor Co.**, Case No. 2:18-cv-12719 (E.D. Mich., filed August 30, 2018);
- **William Don Cook v. Ford Motor Company**, Case No. 2:19-cv-00335-ECM-GMB (M.D. Ala., filed May 8, 2019);
- **Wimbreth Chism, et al. v. The Pantry, Inc. d/b/a Kangaroo Express**, No. 7:09-CV-02194-LSC (N.D. Ala.);

Qui Tam Litigation

QUI TAM LITIGATION:

Beasley Allen's qui tam cases involve various complex legal issues, such as violations of the Anti-Kickback Statute, Stark Law, Medicare/Medicaid fraud, military contractor fraud, abuse of Title IV funds, federal grant fraud and government contracting malfeasance.

Beasley Allen specializes in qui tam litigation. For example, our firm settled a significant qui tam case against U.S. Investigations Services, Inc. (USIS), a private government contractor, for \$30 million in collaboration with the U.S. Department of Justice (DOJ). The case is United States ex rel. Blake Percival v. U.S. Investigations Services, Inc., Civil Action No. 2:11-cv-527-WKW, (M.D. Ala.).

Beasley Allen is also a leader in complex class action litigation.

In another case, Beasley Allen represented one of six whistleblowers responsible for a \$39 million settlement in a False Claims Act case. The case, United States, et al., ex rel. Jada Bozeman v. Daiichi-Sankyo Company, Civil Action No. 14-cv-11606-FDS, alleged illegal kickbacks and off-label marketing against Daiichi-Sankyo Company, Ltd.

Firm Resource Summary

FIRM RESOURCE SUMMARY:

Beasley Allen's primary offices are located in Atlanta, Georgia; Mobile, Alabama; and Montgomery, Alabama, although our firm has attorneys and clients throughout the country. We have over one hundred attorneys nationwide and over double the amount of support staff. In addition to our litigation teams, Beasley Allen maintains a full-time information technology department and a marketing department, allowing our attorneys to present cases for our clients at hearings and trials with help from the latest technology. This keeps our firm at the forefront of multi-media and case management.

We advocate for better business practices, resulting in positive outcomes for clients and communities. This has led to significant benefits for Americans in the workplace, the automotive industry, healthcare, consumers and the use of daily products.

For more information on our cases, consumer safety topics and original interviews with our attorneys and clients, please visit our website, BeasleyAllen.com.



EXHIBIT B



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FIRM RESUME



Blood Hurst & O'Reardon, LLP (“BHO”) is a nationally renowned law firm focuses on the prosecution of complex class action litigation. The firm advocates for the rights of consumers, insurance policyholders and investors in state and federal trial and appellate courts throughout the country. The principals of Blood Hurst & O'Reardon come from a large firm that represented plaintiffs in class action litigation, where they formed the core of the consumer and insurance practice group. Blood Hurst & O'Reardon’s principals have consistently been appointed lead counsel and have held other leadership positions in a wide variety of complex litigation.

Since our founding in 2010, BHO has established itself as a leader in class action litigation. BHO’s legacy has been marked by precedent-setting victories on behalf of plaintiffs at class certification, summary judgment, on appeal in courts throughout the country, class action trial victories, and by achieving record-setting settlements. We have played an instrumental role in helping shape pro-consumer legislation, forging partnerships with the Federal Trade Commission to jointly litigate unfair competition claims, and working alongside governmental entities to prosecute complex litigation against some of the world’s largest corporations.

Timothy G. Blood

Mr. Blood is the firm’s managing partner. His practice has focused on complex litigation, including class action litigation, since the early 1990’s. Mr. Blood has tried class action cases and is highly regarded in the field of consumer protection law, including California’s Unfair Competition Law and Consumers Legal Remedies Act. Mr. Blood was named a “Titan of the Plaintiff’s Bar” by the national legal publication Law360.

Mr. Blood has represented millions of retail consumers, holders of life, automobile and homeowner insurance policies, data breach victims, mortgagors, credit card customers, homeowners, and victims of race discrimination. He practices in both state and federal courts throughout the country and has represented the interests of consumers formally or informally before the Federal Trade Commission, the U.S. Consumer Products Safety Administration, the California Department of Justice, the California Legislative Analyst’s Office and the California Department of Insurance. He has worked with the Federal Trade Commission to obtain record setting recoveries for consumers. In *In re Skechers Toning Shoes Prods. Liab. Litig.* (W.D. Ky.), Mr. Blood’s work with the Federal Trade Commission resulted in the largest consumer recovery in a false advertising action in FTC history. Other large and record-setting recoveries for consumers include a \$3.4 billion settlement in 2017 for owners of certain Toyota vehicles and the largest false advertising recovery in the history of the food industry.

Since 2010, some of Mr. Blood’s court-appointed leadership positions include: Court appointed lead counsel in *Warner v. Toyota Motor Sales* (C.D. Cal); Federal Rule of Civil Procedure 23(g) counsel in *In re: Johnson & Johnson Talcum Powder Prods. Mktg., Sales Practices, and Prods. Liability Litig.* (D.N.J.); Federal Rule of Civil Procedure 23(g) counsel in *Yamagata v. Reckitt Benckiser* (N.D. Cal.); Federal Rule of Civil Procedure 23(g) counsel in *Mullins v. Premier Nutrition Corp.* (N.D. Cal.); Federal Rule of Civil Procedure 23(g) Class



Counsel in *Corvello v. Wells Fargo Bank, N.A.* (N.D. Cal.); Executive Committee member in *Snyder v. the Regents of the University of California*, JCCP No. 589243 (Cal. Super. Ct., Los Angeles Cnty., Hon. John Shepard Wiley, Jr.); Federal Rule of Civil Procedure 23(g) Class Counsel in *Rikos v. The Procter & Gamble Co.*, (S.D. Ohio; Federal Rule of Civil Procedure 23(g) Class Counsel in *Godec v. Bayer Corp.* (N.D. Ohio); Federal Rule of Civil Procedure 23(g) Class Counsel in *Johns v. Bayer Corp.* (S.D. Cal.); Federal Rule of Civil Procedure 23(g) Class Counsel in *In re Skechers Toning Shoes Prods. Liab. Litig.* (W.D. Ky.); Plaintiffs' Liaison Counsel and Steering Committee member by the United States District Court for the Southern District of California in the multidistrict litigation *In re Sony Gaming Networks and Customer Data Sec. Breach Litig.*; Class Counsel by the district court for the District of Massachusetts in *In re Reebok Easytone Litig.*; Class Counsel in *Serochi v. Bosa Dev. Cal.* by the San Diego Superior Court; Co-Lead Class Counsel by the Los Angeles Superior Court in *In re Toyota Motor Cases*, (Toyota Unintended Acceleration Consolidated Litigation); Co-Lead Class Counsel by the United States District Court for the Southern District of California in the multidistrict litigation *In re Hydroxycut Mktg. and Sales Practices Litig.*; Co-Lead Class Counsel by the United States District Court for the Central District of California in *Johnson v. Gen. Mills, Inc.*; Co-Lead Class Counsel by the United States District Court for the Northern District of Ohio in *Gemeles v. The Dannon Co.*; Co-Lead Class Counsel by the United States District Court for the Southern District of California in *Hartless v. Clorox Co.*; and Class Counsel by the United States District Court for the Southern District of Florida in *Smith v. Wm. Wrigley, Jr. Co.*

Mr. Blood has litigated many data breach privacy actions, including leading as Co-Liaison Counsel and member of the Plaintiff's Steering Committee *In re Sony Gaming Networks and Customer Data Security Breach Litigation*, MDL 2258 (S.D. Cal.), one of the largest data breach cases at the time. He represents the City of San Diego in *People for Experian Data Corp.* Case No. 37-2019-01047183 (Cal. Super. Ct., Orange Cnty) in data breach notification action on behalf of the People of the State of California against a leading consumer credit reporting and data aggregation company and represented plaintiffs in *Patton v. Experian Data Corp.*, No. SACV 15-1871 JVS (C.D. Cal.), a multi-state data breach notification action arising out of the same conduct. Mr. Blood is a member of the Plaintiff's Executive Committee in *Snyder v. the Regents of the University of California*, JCCP No. 589243 (Cal. Super. Ct., Los Angeles Cnty), among others.

Mr. Blood has also drafted legislation aimed at modernizing data breach and related privacy laws, including drafting portions of, lobbying for and testifying before both houses of the California Legislature in support of the landmark California Consumer Privacy Act of 2018. The CCPA passed unanimously through both houses of the California legislature and provides the most sweeping digital privacy protection in the United States. It is a model for other proposed state and federal laws.

Mr. Blood has acted as lead counsel in a number of "functional food" false advertising class actions, including cases against General Mills and The Dannon Company filed in federal courts around the country. The *Dannon* litigation resulted in the largest settlement in food industry history for false advertising.



He was lead trial counsel in *Lebrilla v. Farmers Ins. Grp., Inc.* (Cal. Super. Ct., Orange Cnty.) a multistate class action which settled on terms favorable to the class after a month long trial and just before closing arguments. He was also co-lead trial counsel in *In re Red Light Photo Enf't Cases* (Cal. Super. Ct. San Diego Cnty.), an action brought on behalf of California motorists.

Mr. Blood has represented millions of purchasers of food, food supplements and over-the-counter drugs arising out of various advertising claims made by manufacturers and retailers. He has also represented owners of motor vehicles in product liability cases and consumer credit and mortgage borrowers against a number of major lending institutions, including Bank of America, Washington Mutual, Countrywide, GMAC and Wells Fargo.

Mr. Blood has wide-ranging experience litigating against life, auto and other insurance carriers on behalf of consumers. His experience litigating against life insurance companies includes representing owners, holders and beneficiaries of industrial life insurance in race discrimination cases (with class periods dating back to the late 1800's). He also represented those holding traditional life insurance policies in market conduct actions such as the "vanishing premium" life insurance actions. Mr. Blood was responsible for one of only two litigated cases where classes were certified in the vanishing premium series of cases. He was one of the few plaintiffs' attorneys to obtain class-wide recoveries in the "imitation parts" automobile insurance actions. Insurance companies against whom Mr. Blood has litigated include the American General companies, Farmers Insurance Group of companies, Mercury Insurance Group, Allstate, State Farm, Great Southern Life, Metropolitan Life, United Life Insurance Company, Midland National Life Insurance Company and General American Insurance Company.

Mr. Blood has also represented consumers in traditional false advertising actions, those victimized by so-called "negative option" sales practices, and owners of a variety of different types of faulty computer equipment and software from manufacturers. Some of these retailers and manufacturers include Apple, Dell, IBM, Procter & Gamble, General Mills, The Dannon Company, Bayer, AG, Bosa Development, Kellogg Company and General Dynamics.

Mr. Blood has been involved in many precedent-setting appellate decisions in areas which include consumer and insurance law and class action procedure. These appellate decisions include: *Kuhns v. Scottrade, Inc.*, 868 F.3d 711 (8th Cir. 2017) (first 8th Circuit decision finding Article III standing in a data breach case); *Rikos v. The Procter & Gamble Co.*, 799 F.3d 497 (6th Cir. 2015) (class certification) *cert. denied*, 2016 U.S. LEXIS 2244 (U.S. Mar. 28, 2016); *Corvello v. Wells Fargo Bank, NA*, 728 F.3d 878 (9th Cir. 2013) (consumer protection and banking); *Fitzpatrick v. Gen. Mills, Inc.*, 635 F.3d 1279 (11th Cir. 2011) (class certification, consumer law and false advertising); *Westwood Apex v. Contreras*, 644 F.3d 799 (9th Cir. 2011) (CAFA jurisdiction); *Kwikset Corp. v. Super. Ct. (Benson)*, 51 Cal. 4th 310 (2011) (consumer law and false advertising); *Martinez v. Wells Fargo Home Mortg., Inc.*, 598 F.3d 549 (9th Cir. 2010) (banking and preemption); *Troyk v. Farmers Grp., Inc.*, 171 Cal. App. 4th 1305 (2009) (insurance law); *Haw. Med. Ass'n v. Haw. Med. Serv. Ass'n*, 148 P.3d 1179 (Haw. 2006) (health insurance); *McKell v. Wash. Mut. Bank, Inc.*, 142 Cal. App. 4th 1457 (2006) (banking law and consumer law); *Santiago v. GMAC Mortg. Grp., Inc.*, 417 F.3d 384 (3d Cir. 2005) (consumer and banking law); *Lebrilla v. Farmers Grp., Inc.*, 119 Cal. App. 4th 1070 (2004) (automobile



insurance and class action procedure); *Moore v. Liberty Nat'l Life Ins. Co.*, 267 F.3d 1209 (11th Cir. 2001), *cert. denied*, 535 U.S. 1018 (2002) (life insurance and civil rights); *Kruse v. Wells Fargo Home Mortg., Inc.*, 383 F.3d 49 (2d Cir. 2004) (consumer and banking law); and *Lavie v. Procter & Gamble Co.*, 105 Cal. App. 4th 496 (2003) (consumer law and false advertising).

Mr. Blood has testified before the California State Assembly and State Senate Judiciary Committees, as well as the Assembly and Senate Committees on Banking, Finance & Insurance. He has worked at both the state and federal level with lawmakers and government agencies to shape legislation to protect consumer rights, including lobbying on the Class Action Fairness Act of 2005 and working to defeat a California state ballot initiative designed to weaken the class action device.

Mr. Blood is a frequent continuing legal education speaker on topics which include complex litigation, class action procedure, data breach and privacy litigation, consumer fraud, false advertising, financial fraud litigation and insurance litigation. He has been an invited speaker for American Bar Association practice groups, the Practising Law Institute, University of California at Irvine School of Law; University of San Diego School of Law, University of Arizona Sandra Day O'Connor School of Law, Loyola Law School, Chapman University School of Law; the Grocery Manufacturers Association, the American Association of Justice, Consumer Attorneys of California, ALI-ABA, the Practising Law Institute, Bridgeport Continuing Education, Law Seminars International, and the Consumer Attorneys of San Diego, for which he has chaired multi-day seminars on class action litigation.

Mr. Blood is frequently consulted by the media. He has appeared on Good Morning America, ABC World News Tonight, and major network affiliates on behalf of his clients. He has been interviewed for stories featuring consumer rights issues and his cases by *The New York Times*, *The Wall Street Journal*, *Bloomberg*, Reuters, the Associated Press, *The Los Angeles Times*, National Public Radio, the *Daily Journal*, *Adweek*, the *Los Angeles Daily News*, CNBC, Fox News, the Korean Broadcasting Service and others.

Mr. Blood is a member of the Board of Directors of the Consumer Attorneys of California and a member of its executive board from 2014 to 2016. He was the 2015 President of the Consumer Attorneys of San Diego and a member of the CASD Foundation, a charitable giving non-profit. In 2018 he received the statewide Marvin E. Lewis Award by the Consumer Attorneys of California for his "guidance, loyalty and dedication, all of which have been an inspiration to fellow attorneys." He also was awarded the 2018 Consumer Advocate of the Year by Consumer Attorneys of San Diego. In 2007, he was a finalist for the Consumer Attorneys of California Lawyer of the Year award for his trial work in a multistate class action against Farmers Insurance. He has been named a "Super Lawyer" since 2006 and has achieved an "AV" rating by Martindale Hubbell. In 2014, Mr. Blood was named a "Titan of the Plaintiff's Bar" by the national legal publication Law360. Mr. Blood was elected a Fellow of the American Bar Foundation. Mr. Blood is also the Legislative Column Editor for *Trial Bar News*. Mr. Blood is also a founding member of the San Diego ESI Forum, a group of judges and lawyers devoted to teaching legal professionals in federal and state court about electronic discovery.



Mr. Blood was a founding partner of the firm now known as Robbins Geller Rudman & Dowd, LLP.

Mr. Blood is admitted to practice in the state of California, as well as the U.S Supreme Court, the United States Courts of Appeal for the Second, Third, Fifth, Sixth, Seventh, Eighth, Ninth and Eleventh Circuits, and the United States District Courts for the Northern, Eastern, Central and Southern Districts of California, the Eastern and Western Districts of Arkansas, the District of Colorado, the Northern District of Illinois, and the Eastern District of Michigan. Before starting Blood Hurst & O'Reardon, Mr. Blood was a partner in Milberg Weiss Bershad Hynes & Lerach, LLP and a founding partner in the firm now known as Robbins Geller Rudman & Dowd, LLP. Mr. Blood received his Juris Doctor from George Washington University in 1990 and his Bachelor of Arts with honors in Economics from Hobart College in 1987.

Leslie E. Hurst

Ms. Hurst is a co-founding partner of the firm. Prior to founding the firm, Ms. Hurst was a partner in Coughlin Stoia Geller Rudman & Robbins, LLP and an associate at Milberg Weiss Bershad Hynes & Lerach, LLP.

Her practice has focused on complex class action lawsuits, including federal multi-district litigation and California Judicial Council Coordinated Proceedings, with an emphasis on consumer fraud, false advertising, and insurance cases under California's consumer protection statutes.

Ms. Hurst works in a number of practice areas, including areas focusing on cases against: (1) life insurers for misrepresenting the terms of vanishing premium life insurance; (2) auto insurers for repairs with non-OEM parts, diminished value claims, improper collection of installment service charges and breach of contract, and against auto manufacturers for sale of defective vehicles; (3) financial institutions for a variety of conduct; (4) insurance companies for race-based discrimination in the sale of small value "industrial" or "burial" insurance policies; (5) consumer goods manufacturers for false and deceptive advertising; (6) real estate developers for fraud and false advertising; and (7) improper collection and over collection of fees from residents by the City of Los Angeles.

Ms. Hurst is instrumental in the firm's appellate practice. She has argued before the Second, Seventh, Eighth and Ninth Circuit Courts of Appeal and before California and Missouri Courts of Appeal. She obtained reversals of the trial courts in *Bell v. Publix Super Mkts., Inc.* (7th Cir.); *Kroessler v. CVS Health Corp.* (9th Cir.); *Sonner v. Schwabe International* (9th Cir.); *Corvello v. Wells Fargo Bank, NA* (9th Cir.); *Goodman v. Wells Fargo Bank, NA* (Cal. 2d DCA), and *Guerra v. San Diego Gas & Elec.* (Cal. 4th DCA). Ms. Hurst also briefs most of the firm's appeals including *Rikos v. The Procter & Gamble Co.* (6th Cir.); *In re Enfamil LIPIL Mktg. & Sales Practices Litig.* (11th Cir.); *Hartless v. Clorox Co.* (9th Cir.); *Garcia v. Sony Comput. Entm't* (9th Cir.); *Gutierrez v. Wells Fargo Bank, N.A.* (9th Cir.), various SLUSA appeals in the 2nd, 8th and 9th Circuits, and *Sonner v. Schwabe International* (9th Cir.); *Sonner v. Premier Nutrition Corporation* (9th Cir.); *Heier v. Fire Ins. Exchange* (Cal. 2nd DCA); *Reed v. Dynamic Pet Products* (Mo. Ct. App.).



The most recent settlements on which Ms. Hurst was instrumental include: *Adlouni v. UCLA Health Systems* (Cal. Super. Ct., Los Angeles Cnty.) (over \$25 million in free identity theft insurance in data breach case); *Austin v. Western Concrete* (S.D. Cal.) (backpay in employment case); *Serochi v. Bosa Dev.* (Cal. Super. Ct., San Diego Cnty.) (\$16.75 million settlement to condominium purchasers for square footage misrepresentations by the developer); *Chakhalyan v. City of Los Angeles* (Cal. Super. Ct., Los Angeles Cnty.) (full refunds of overcharges and a revamping of L.A. billing practices); *Hartless v. Clorox Co.* (S.D. Cal.) (nationwide settlement in excess of \$10 million that provided 100% recovery of damages to class members); *In re Enfamil LIPIL Mktg. & Sales Practices Litig.* (S.D. Fla.) (nationwide settlement in excess of \$8 million involving false advertising of infant formula); *In re Skechers Toning Shoes Prods. Liab. Litig.* (W.D. Ky.) (nationwide settlement of \$45 million); *Weight v. The Active Network, Inc.* (Cal. Super. Ct., San Diego Cnty.) (full refunds plus a multiplier); *Bransford v. City of Los Angeles* (Cal. Super. Ct., Los Angeles Cnty.) (full refunds); *Warner v. Toyota Motor Sales, U.S.A., Inc.* (C.D. Cal.) (warranty extensions, refunds and free vehicle inspections).

Between 2003 and 2005, Ms. Hurst took a sabbatical from law and moved to Sri Lanka where she worked for CARE International as the Coordinator for Strategic Planning with an emphasis on development of CARE's long-term strategic plan for the conflict-affected areas.

Ms. Hurst is admitted to practice in the state of California, as well as the United States Courts of Appeal for the Second, Sixth, Seventh, Eighth and Ninth Circuits, and the United States District Courts for the Northern, Eastern, Central and Southern Districts of California. Ms. Hurst received her Juris Doctor degree from the University of California, Hastings College of the Law in 1995. She earned her Master of Arts degree in Sociology from the University of California, Berkeley and a Bachelor of Arts degree in Sociology (*cum laude*) from the University of San Diego. Ms. Hurst is an active member of the Consumer Attorneys of San Diego, and Consumer Attorneys of California.

Thomas J. O'Reardon II

Mr. O'Reardon is a co-founding partner of the firm. His practice focuses exclusively on complex class action lawsuits involving consumer fraud, insurance fraud and antitrust violations. Mr. O'Reardon received his Juris Doctor degree from the University of San Diego School of Law and his Bachelor of Arts degree in Politics from Wake Forest University. He is admitted to practice in the state of California, as well as the United States Courts of Appeal for the Sixth, Eighth and Ninth Circuits, and the United States District Courts for the Northern, Eastern, Central and Southern Districts of California and the Northern District of Illinois.

Prior to founding the firm, Mr. O'Reardon was an associate at Coughlin Stoia Geller Rudman & Robbins, LLP. There, Mr. O'Reardon worked on numerous complex class action litigation matters, including actions involving: annuity policies marketed and sold to senior citizens; insurer kickbacks known as "contingent commissions" in the property and casualty insurance brokerage industry; Sherman Act claims against the world's largest manufacturers of random access memory for computers; invasions of credit card holder's rights of privacy; false and deceptive advertising of consumer goods and wireless telephone services; automobile insurers' unlawful practices with respect to installment pay plans; and dangerous and defective



products, including recalled children's toys. He was also part of the team representing the California Department of Insurance against five of the largest employee benefit insurance companies for violations relating to their failure to disclose payments of contingent commissions to brokers. As a result of the action, all five defendants agreed to sweeping changes in their disclosure practices.

Some of the actions on which Mr. O'Reardon has worked include: *Yamagata v. Reckitt Benckiser LLC* (N.D. Cal.) (certified class action involving false advertising of Move Free Advanced glucosamine and chondroitin supplement with nationwide settlement of \$50 million); *Mullins v. Premier Nutrition Corp.* (N.D. Cal.) (certified class action involving false advertising of Joint Juice glucosamine and chondroitin supplement with jury verdict in favor of Plaintiff and the Class); *Rikos v. The Proctor & Gamble Co.* (S.D. Ohio) (certified class action involving false advertising of P&G's Align probiotic, affirmed by the Sixth Circuit); *In re Skechers Toning Shoes Prods. Liab. Litig.* (W.D. Ky.) (nationwide settlement of \$45 million involving false advertising of Skechers' Shape-ups toning shoes products); *In re Reebok Easytone Litig.* (D. Mass.) (nationwide settlement of \$25 million involving false advertising of Reebok toning footwear and apparel products); *Murr v. Capital One Bank (USA), N.A.* (E.D. Va.) (nationwide settlement in excess of \$7.3 million involving 0% APR billing practices); *Dolfo v. Bank of Am.* (S.D. Cal.) (certified class action involving mortgage modification banking practices); *Johnson v. Gen. Mills, Inc.* (C.D. Cal.) (certified class action involving false advertising of General Mills' YoPlus yogurt, which resulted in a nationwide settlement of \$8.5 million); *Fitzpatrick v. Gen. Mills, Inc.* (S.D. Fla.) (certified class action reviewed and approved by the Eleventh Circuit); *Johns v. Bayer Corp.* (S.D. Cal.) (certified class action involving false advertising of Bayer's One-A-Day multivitamins); *Godec v. Bayer Corp.* (N.D. Ohio) (certified class action involving false advertising of Bayer's One-A-Day multivitamins, which settled on a classwide basis); *Corvello v. Wells Fargo Bank, NA* (N.D. Cal.) (certified class action involving mortgage modification practices where order granting motion to dismiss was reversed by the Ninth Circuit in a published opinion); *Rosales v. FitFlop USA LLC* (S.D. Cal.) (nationwide settlement of \$5.3 million involving false advertising of toning footwear); *Blessing v. Sirius XM Radio, Inc.* (S.D.N.Y.) (nationwide settlement valued in excess of \$180 million involving monopoly price increases arising out of the merger between Sirius and XM); *In re Dynamic Random Access Memory Antitrust Litig.* (N.D. Cal.) (settlement of more than \$300 million); *In re Mattel, Inc. [Toy Lead Paint Prods. Liab. Litig.]* (C.D. Cal.) (nationwide settlement valued at over \$50 million); *Gemelas v. Dannon Co., Inc.* (N.D. Ohio) (nationwide settlement in excess of \$45 million involving false advertising of Dannon's Activia and DanActive yogurt products); *In re Enfamil LIPIL Mktg. & Sales Practices Litig.* (S.D. Fla.) (certified class action involving false advertising of infant formula, which resulted in nationwide settlement in excess of \$8 million); *Smith v. Wm. Wrigley Jr. Co.* (S.D. Fla.) (nationwide settlement in excess of \$7 million involving false advertising of Wrigley Eclipse chewing gum and mints); *Duffer v. Chattem, Inc.* (S.D. Cal.) (nationwide settlement of up to \$1.8 million involving false advertising of ACT Total Care mouthwash); *In re Enron Corp. Sec. Litig.* (S.D. Tex.) (settlements of \$7.3 billion); *AOL Time Warner Cases* (Cal. Super. Ct., Los Angeles Cnty.) (settlements of approximately \$630 million); *Morris v. CBS Broad., Inc.* (S.D.N.Y.) (nationwide settlement on behalf of purchasers of asbestos-laden children's toys); *In re Aqua Dots Prods. Liab. Litig.* (N.D. Ill.) (multidistrict litigation on behalf of purchasers of more than 4 million toxic children's toys); *Berry v. Mega*



Brands, Inc. (D.N.J.) (litigation on behalf of purchasers of more than 10 million lethal children's toys); *In re Toyota Motor Cases*, (Cal. Super. Ct., Los Angeles Cnty.) (litigation on behalf of consumers who purchased vehicles subject to "sudden unintended acceleration"); and *In re Hydroxycut Mktg. and Sales Practices Litig.* (S.D. Cal.) (multidistrict litigation on behalf of purchasers of unsafe and ineffective weight-loss products, which resulted in a nationwide settlement valued in excess of \$20 million). With the exception of the *Blessing v. Sirius XM Radio, Inc.* litigation, Mr. O'Reardon and/or his firm served as court-appointed Lead or Co-Lead Counsel in each of the above-mentioned class actions. In granting final settlement approval, which included appointing Mr. O'Reardon as Class Counsel, the Court's order in the *Johnson v. Gen. Mills, Inc.* (C.D. Cal.) action states that Mr. O'Reardon is "vastly experienced" in consumer class action litigation.

Mr. O'Reardon is an active member of the Consumer Attorneys of San Diego, the Consumer Attorneys of California, and a founding member of the CAOC Young Lawyers Division. In 2014-2021, Mr. O'Reardon was named a "Super Lawyers Rising Star," a designation provided to less than 2.5 percent of lawyers in California. He has also been a member of, and contributing author for, The Sedona Conference Working Group on Electronic Document Retention and Production. Mr. O'Reardon has been an invited speaker for the University of San Diego School of Law, Consumer Attorneys of California, the Consumer Attorneys of San Diego, and the San Diego ESI Forum on topics which include complex litigation, electronic discovery, and the class action settlement process.

Paula R. Brown

Ms. Brown is a partner with the firm. Her practice focuses on all types of complex class action litigation, including cases in federal multi-district litigation and California Judicial Council Coordinated Proceedings. Ms. Brown has tried class action cases and is also involved in the firm's appellate practice.

Ms. Brown received her Juris Doctor degree and graduated *cum laude* from California Western School of Law in 2007 and earned her Bachelor of Arts degree in Political Science from the University of Washington in 2004. While at California Western, Ms. Brown was a member of the *California Western Law Review* and authored *Parent-Child Relationship Trumps Biology: California's Definition of Parent in the Context of Same-Sex Relationships*, 43 Cal. W. L. Rev. 235 (2006). She is admitted to practice in the state of California, as well as the United States Courts of Appeal for the Eighth and Ninth Circuits, and the United States District Courts for the Northern, Eastern, Central and Southern Districts of California and the Northern District of Illinois.

Prior to joining Blood Hurst & O'Reardon, Ms. Brown was an associate at the law firm now known as Robbins, Geller, Rudman & Dowd, LLP. While there, she represented plaintiffs in a number of complex class action litigation matters involving: price-fixing claims against the world's largest aftermarket auto lighting parts manufacturers and distributors; monopoly claims against the largest seller of portable media players; price fixing claims against containerboard manufacturers; race-discrimination claims against mortgage lenders; and false and deceptive practices in the sale of defective children's products and toys.



Some of the actions on which Ms. Brown has worked include: *In re: Johnson & Johnson Talcum Powder Products Marketing, Sales Practices, and Products Liability Litigation* (D.N.J.) (nationwide false advertising); *Mullins v. Premier Nutrition Corp.* (N.D. Cal.) (certified class action involving false advertising); *Huntzinger v. Aqua Lung America, Inc. et al.* (S.D. Cal.) (nationwide false advertising); *Medellin v. Ikea U.S. West, Inc.* (Cal Super. Ct., San Diego Cnty.) (consumer protection claims); *Serochi v. Bosa Dev.* (Cal. Super. Ct., San Diego Cnty.) (misrepresentations case); *Dennis v. Kellogg Co.* (nationwide false advertising); *In re Skechers Toning Shoes Prods. Liab. Litig.* (W.D. Ky.) (nationwide false advertising); *In re Reebok Easytone Litig.* (D. Mass.) (nationwide false advertising); *Dremak v. Urban Outfitters, Inc.* (Cal. Super. Ct., Los Angeles Cnty.) (consumer privacy); *In re Sony Gaming Networks and Customer Data Sec. Breach Litig.* (S.D. Cal.) (consumer privacy); *In re Hydroxycut Mkt. and Sales Practices Litig.* (S.D. Cal.) (false advertising); *In re Apple iPod iTunes Antitrust Litig.* (N.D. Cal.) (monopoly claims); *In re Mattel, Inc. [Toy Lead Paint Prods. Liab. Litig.]* (C.D. Cal.) (nationwide sale of defective product); *In re Aftermarket Auto. Lighting Prods. Antitrust Litig.* (C.D. Cal.) (price fixing); *Payares v. JP Morgan Chase & Co.* (C.D. Cal.); *Salazar v. Greenpoint Mortg.* (N.D. Cal.); *Puello v. Citifinancial* (D. Mass.); *Morris v. CBS Broad., Inc.* (S.D.N.Y.) (defective product); *In re Aqua Dots Prods. Liab. Litig.* (N.D. Ill.) (defective product); and *Berry v. Mega Brands, Inc.* (D.N.J.) (defective product).

Ms. Brown is the 2024 President of the Consumer Attorneys of San Diego, and an active member of the Consumer Attorneys of California, Women in E-Discovery, and the American Association for Justice. Ms. Brown is a current member of the Board of Directors of the Consumer Attorneys of California and Board of Directors of Consumer Attorneys of San Diego, and is active in the Louis M. Welsh American Inn of Court.

Jennifer L. MacPherson

Ms. MacPherson is of counsel with the firm. Her practice focuses on complex class action litigation. Ms. MacPherson received her Juris Doctor degree from the University of San Diego School of Law in 1997 with a J.D. and an L.L.M in tax and earned her Bachelor of Arts degree in International Business and Marketing from the University of Hawaii in 1994. During law school she was a summer law clerk to the Honorable Walter S. Kirimitsu (Ret.) in the Hawaii Intermediate Court of Appeals and was a research assistant to Professor C. Hugh Friedman author of *California Practice Guide: Corporations*. She is a member of the California Bar and is licensed to practice before the United States District Courts for the Central, Southern and Northern Districts of California.

For over a decade Ms. MacPherson has prosecuted class actions on behalf of consumers, policyholders, investors, employees, and medical practitioners against the nation's largest retailers and manufacturers of consumer products, insurers of homes and automobiles, banks, and employers for violations of federal and state consumer, antitrust, securities and labor laws. During this time she has actively litigated complex class action litigation matters involving: false and deceptive advertising by one of the nation's largest retail mall chains for selling gift cards subject to a monthly service fee in violation of state law; truth in lending claims against a national bank for suspending borrower's home equity lines of credit; breach of contract claims against national lenders for failing to modify borrower's home loans after successful completion



of a trial period plan; product defect claims against the world's largest manufacturers of laptops and cell phones; RICO claims against the nation's largest health insurance companies for denying, delaying and reducing payments to health care providers nationwide; privacy claims against national pharmacies for allegedly using prescription information to conduct targeted marketing campaigns on behalf of drug companies; data breach lawsuits against national banks and retailers for failing to properly safeguard consumer's personal information.

Some of these actions include: *Solomon v. Anthem, Inc.* (S.D. Fla.); *In re Sony VAIO Comput. Notebook Trackpad Litig.* (S.D. Cal.); *Horvath v. LG Elecs. MobileComm U.S.A., Inc.*, (S.D. Cal.); *Kazemi v. Westfield Am., Inc.* (Cal. Super. Ct., Los Angeles Cnty.); *Frost v. LG Elecs. Mobilecomm U.S.A., Inc.* (Cal. Super. Ct., Los Angeles Cnty.); *Shamrell v. Apple, Inc.* (Cal. Super. Ct., Los Angeles Cnty.).

James M. Davis

Mr. Davis is an associate with the firm. His practice focuses on complex class action litigation with an emphasis on consumer fraud and defective products. Mr. Davis graduated from UCLA School of Law and earned his Bachelor of Arts from Davidson College.

Mr. Davis has been practicing law since 2014. Before joining the firm, Mr. Davis prosecuted class actions on behalf of consumers, unfair competition law claims on behalf of public entities, and mass torts involving pharmaceuticals. Mr. Davis also served as a prosecuting attorney at the San Diego County District Attorney's Office in its Economic Crimes Unit. In that role, he prosecuted environmental and consumer fraud civil actions, as well as environmental and consumer felonies. Mr. Davis began his career at a full-service law firm, where he represented both defendants and plaintiffs in unfair competition, environmental, and class action cases.

In addition to his professional accomplishments, Mr. Davis has worked with the University of San Diego Veterans Legal Clinic, providing representation to veterans against for-profit educational institutions.

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CERTIFICATE OF SERVICE

I hereby certify that on May 3, 2024, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the Electronic Mail Notice List, and I hereby certify that I have mailed the foregoing document or paper via the United States Postal Service to the non-CM/ECF participants indicated on the Electronic Mail Notice List.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on May 3, 2024.

s/ Timothy G. Blood

TIMOTHY G. BLOOD

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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

TOWNSEND VANCE and
ZACHARY HAINES, individually
and on behalf of all others similarly
situated,

Plaintiffs,

v.

MAZDA MOTOR OF AMERICA,
INC. D/B/A MAZDA NORTH
AMERICAN OPERATIONS,
MAZDA MOTOR CORPORATION,
FCA US LLC. DENSO
CORPORATION, and DENSO
INTERNATIONAL AMERICA, INC,

Defendants.

Case No. 8:21-cv-01890-CJC-KES

CLASS ACTION

**[PROPOSED] ORDER
PRELIMINARILY APPROVING
CLASS ACTION SETTLEMENT,
CONDITIONALLY CERTIFYING
THE SETTLEMENT CLASS,
DIRECTING NOTICE TO THE
CLASS, AND SCHEDULING
FAIRNESS HEARING**

Hearing Date: June 10, 2024
Time: 1:30 p.m.

District Judge Cormac J. Carney
Courtroom 9B, Santa Ana
Magistrate Judge Karen E. Scott
Courtroom 6D, Santa Ana

Complaint Filed: November 16, 2021
Trial Date: Not Set

JURY TRIAL DEMANDED

1 The Parties¹ to the above-captioned action currently pending against
2 Defendants Mazda Motor of America, Inc., operating as Mazda North American
3 Operations, and Denso International America, Inc. (“DIAM”) (collectively,
4 “Defendants”) have agreed to a proposed class action settlement, the terms and
5 conditions of which are set forth in an executed Settlement Agreement (the
6 “Settlement” or “Settlement Agreement”).² The Parties reached the Settlement
7 through arm’s-length negotiations, at times with the assistance and oversight of
8 Settlement Special Master Patrick A. Juneau. Under the Settlement Agreement,
9 subject to the terms and conditions therein and subject to Court approval, the
10 Action will be dismissed with prejudice, and Class Representatives and the
11 proposed Class would fully, finally, and forever resolve, discharge, and release
12 their claims against the Released Parties in exchange for Defendants’ agreement
13 to implement a Customer Support Program for Additional Vehicles, which
14 includes a Loaner/Towing Program; an Extended New Parts Warranty for
15 Recalled Vehicles, which also includes a Loaner/Towing Program; reimburse
16 Class Members for previously paid out-of-pocket expenses incurred to repair or
17 replace a Fuel Pump of Covered Vehicles that were not otherwise reimbursed,
18 among other related relief; and Defendants’ payment of the costs and expenses
19 associated with providing and implementing the relief, as set forth in the
20 Settlement Agreement.

21 The Settlement Agreement has been filed with the Court, and the Plaintiffs
22 have filed an Unopposed Motion for Entry of an Order Preliminarily Approving
23

24
25 ¹ Mazda Motor Corporation, Denso Corporation, and FCA US LLC were
26 previously dismissed (ECF Docs. 74, 93, 101) and are no longer parties to this
27 litigation, and any reference herein to Parties, as is the case in the Settlement
28 Agreement (Section II), excludes those dismissed entities.

² Capitalized terms shall have the definitions and meanings accorded to them
in the Settlement Agreement.

1 Class Action Settlement, Conditionally Certifying the Settlement Class, Directing
2 Notice to the Class, and Scheduling Fairness Hearing, and the issuance of related
3 orders (the “Motion”). Upon considering the Motion and exhibits thereto, the
4 Settlement Agreement and related documents and exhibits, the record in these
5 proceedings, the representations and recommendations of counsel, and the
6 requirements of law, the Court finds that: (1) this Court has jurisdiction over the
7 subject matter and the Parties to these proceedings; (2) the proposed Class meets
8 the requirements of Rule 23 of the Federal Rules of Civil Procedure³ and should
9 be preliminarily certified for settlement purposes only; (3) the persons and entities
10 identified below should be appointed Class Representatives, and Class Counsel;
11 (4) the Settlement is the result of informed, good-faith, arm’s-length negotiations
12 between the Parties and their capable and experienced counsel and is not the result
13 of collusion; (5) the Settlement is fair, reasonable, and adequate and should be
14 preliminarily approved; (6) the proposed Settlement is sufficiently fair,
15 reasonable, and adequate to warrant sending notice of the Settlement to the Class;
16 (7) the proposed Notice Program and proposed forms of notice satisfy Rule 23 and
17 constitutional due process requirements and are reasonably calculated under the
18 circumstances to apprise the Class of: the pendency of the Action, preliminary
19 class certification for settlement purposes only, the terms of the Settlement, Class
20 Counsel’s application for an award of attorneys’ fees and expenses (“Fee
21 Application”) and request for Class Representative service awards, their rights to
22 opt-out of the Class and object to the Settlement, and the process for submitting a
23 Claim to request reimbursement under the Out-of-Pocket Claims Process; (8) good
24 cause exists to schedule and conduct a Fairness Hearing, pursuant to Rule 23(e),
25 to assist the Court in determining whether to grant final approval of the Settlement,
26 certify the Class, for settlement purposes only, and issue a Final Order and Final

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28

³ All citations to the Rules shall refer to the Federal Rules of Civil Procedure.

1 Judgment, and whether to grant Class Counsel’s Fee Application and request for
2 Class Representative service awards; and (9) the other related matters pertinent to
3 the preliminary approval of the Settlement should also be approved.

4 Based on the foregoing, **IT IS HEREBY ORDERED AND ADJUDGED**
5 as follows:

6 1. The Court has jurisdiction over the subject matter and the Parties to
7 this proceeding pursuant to 28 U.S.C. §§ 1331 and 1332.

8 2. Venue is proper in this District pursuant to 28 U.S.C. § 1391(a)
9 because a substantial part of the events or omissions alleged by the Class
10 Representatives occurred in this District.

11 **Preliminary Class Certification for Settlement Purposes Only and**
12 **Appointment of Class Representatives and Class Counsel**

13 3. In deciding whether to preliminarily certify a settlement class, a court
14 must consider the same factors that it would consider in connection with a
15 proposed litigation class— *i.e.*, all Rule 23(a) factors and at least one subsection
16 of Rule 23(b) must be satisfied—except that the Court need not consider the
17 manageability of a potential trial, since the settlement, if approved, would obviate
18 the need for a trial. *Amchem Prod., Inc. v. Windsor*, 521 U.S. 591, 620 (1997).

19 4. The Court finds, for settlement purposes, that the Rule 23 factors are
20 satisfied and that preliminary certification of the proposed Class is appropriate
21 under Rule 23. The Court, therefore, preliminarily certifies the following Class for
22 settlement purposes only:

23 [A]ll individuals or legal entities who, at any time as of the entry of
24 the Preliminary Approval Order, own or owned, purchase(d) or
25 lease(d) Covered Vehicles in any of the fifty States, the District of
26 Columbia, Puerto Rico, and all other United States territories and/or
27 possessions. Excluded from the Class are: (a) Mazda, its officers,
28 directors and employees; its affiliates and affiliates’ officers, directors
and employees; its distributors and distributors’ officers, directors and
employees; and Mazda Dealers and Mazda Dealers’ officers and
directors; (b) Denso, its officers, directors and employees; its

1 affiliates and affiliates’ officers, directors and employees; its
2 distributors and distributors’ officers, directors and employees;
3 (c) Plaintiffs’ Counsel; and (d) judicial officers and their immediate
4 family members and associated court staff assigned to this case. In
5 addition, persons or entities are not Class Members once they timely
6 and properly exclude themselves from the Class, as provided in this
7 Settlement Agreement, and once the exclusion request is finally
8 approved by the Court.

9 “Covered Vehicles” means the Additional Vehicles and the Recalled
10 Vehicles. “Additional Vehicles” means Covered Vehicles identified in Exhibit 1.
11 “Recalled Vehicles” are defined in the Settlement Agreement as vehicles that were
12 the subject of the Recall, as listed in Exhibit 2 of the Settlement Agreement.

13 “Recall” means Mazda’s recall of the Recalled Vehicles, namely, Mazda’s
14 Recall 5321K, NHTSA Campaign Number 21V-875, submitted to NHTSA on or
15 about November 12, 2021.

16 5. Specifically, the Court finds, for settlement purposes, that the Class,
17 for preliminary approval only, satisfies the following factors of Rule 23:

18 (a) Numerosity: The Court preliminarily finds the Settlement
19 Class is ascertainable from Defendants’ confirmatory discovery as well as from
20 other objective criteria, and the members of the Settlement Class are so numerous
21 that their joinder before the Court would be impracticable. *See Californians for*
22 *Disab. Rts., Inc. v. Cal. Dep’t of Transp.*, 249 F.R.D. 334, 346 (N.D. Ca. 2008)
23 (“While there is no bright-line rule as to how many class members are required to
24 be sufficiently numerous, various courts have found that the numerosity factor is
25 satisfied if the class comprises 40 or more members....”) (citing *Consol. Rail*
26 *Corp. v. Town of Hyde Park*, 47 F.3d 473, 483 (2d Cir. 1995)). Thus, the Rule
27 23(a)(1) numerosity requirement is met.

28 (b) Commonality: The commonality requirement of Rule 23(a)(2)
is satisfied for settlement purposes because there are questions of law and fact that
center on the manufacturing and sale of Covered Vehicles equipped with certain

1 low-pressure Denso fuel pumps, as alleged and/or described in the Second
2 Amended Class Action Complaint, which are common to the Class. *See Jiminez*
3 *v. Allstate Ins. Co.*, 765 F.3d 1161, 1168 (9th Cir. 2014) (recognizing “the
4 existence of a ‘single, central, common issue of liability’ [i]s sufficient to support
5 class certification.”).

6 (c) Typicality: The Class Representatives’ claims are typical of the
7 other Class Members’ claims for purposes of Settlement because they concern the
8 same alleged conduct, arise from the same legal theories, and allege the same types
9 of harm and entitlement to relief. *See Just Film, Inc. v. Buono*, 847 F.3d 1108,
10 1118 (9th Cir. 2017) (“[I]t is sufficient for typicality if the plaintiff endured a
11 course of conduct directed against the class.”). Rule 23(a)(3) is therefore satisfied.

12 (d) Adequacy: The Court preliminarily finds that the Class
13 Representatives will fairly and adequately protect the interests of the Settlement
14 Class in that: (i) the Class Representatives’ interests and the nature of claims
15 alleged are consistent with those of the members of the Settlement Class; (ii) there
16 appear to be no conflicts between or among the Class Representatives and the
17 Settlement Class; and (iii) the Class Representatives and the members of the
18 Settlement Class are represented by qualified, reputable counsel who are
19 experienced in preparing and prosecuting complex class actions. Rule 23(a)(4) is
20 therefore satisfied.

21 (e) Predominance and Superiority: Rule 23(b)(3) is satisfied for
22 settlement purposes as well because the common legal and alleged factual issues
23 here predominate over individualized issues, and resolution of the common issues
24 for Class Members in a single, coordinated proceeding is superior to individual
25 lawsuits addressing the same legal and factual issues.

26 6. The Court appoints plaintiffs in this Action, Townsend Vance and
27 Zachary Haines, as Class Representatives.

28 7. The Court appoints the following persons and entities as Class

1 Counsel:

2 W. Daniel “Dee” Miles III
3 Beasley, Allen, Crow, Methvin, Portis & Miles, P.C.
4 218 Commerce Street
5 Montgomery, Alabama 36104
6 Tel.: (800) 898-2034
7 E-mail: Dee.Miles@BeasleyAllen.com

8 Timothy G. Blood
9 Blood, Hurst & O’Reardon, LLP
10 501 West Broadway, Suite 1490
11 San Diego, CA 92101
12 Tel: (619) 338-1100
13 Email: tblood@bholaw.com

14 **Preliminary Approval of the Settlement**

15 8. Pursuant to Rule 23(e)(2), in order to grant preliminary approval, the
16 Court must find that the proposed Settlement is “fair, reasonable, and adequate”
17 after considering whether: (A) the class representatives and class counsel have
18 adequately represented the class; (B) the proposal was negotiated at arm’s length;
19 (C) the relief provided for the class is adequate—taking into account (i) the costs,
20 risks, and delay of trial and appeal, (ii) the effectiveness of any proposed method
21 of distributing relief to the class, including the method of processing class-member
22 claims, if required; (iii) the terms of any proposed award of attorney’s fees,
23 including timing of payment; and (iv) any agreement required to be identified
24 under Rule 23(e)(3); and (D) the proposal treats class members equitably relative
25 to each other. FED. R. CIV. P. 23(e)(2) (amended Dec. 2018).

26 9. Preliminary approval is appropriate where “the proposed settlement
27 appears to be the product of serious, informed, non-collusive negotiations, has no
28 obvious deficiencies, does not improperly grant preferential treatment to class
representatives or segments of the class, and falls within the range of possible
approval.” *In re Tableware Antitrust Litig.*, 484 F. Supp. 2d 1078, 1079 (N.D. Cal.
2007).

1 10. The Court preliminarily approves the Settlement Agreement,
2 including the exhibits, appended to the Motion as fair, reasonable, and adequate
3 under Rule 23(e)(2), after taking into account that the Class Representatives and
4 Class Counsel have adequately represented the Class; the Settlement was reached
5 in the absence of collusion and is the product of informed, good-faith, arm's-length
6 negotiations between the Parties and their capable and experienced counsel; the
7 relief provided is adequate given: (a) the costs, risks and delay of trial and appeal,
8 (b) Notice is sufficient to notify the Class, (c) the terms of the proposed attorney's
9 fees and timing of payment, and (d) the remaining terms of the Settlement
10 Agreement. The Court also finds that the Plaintiffs have submitted sufficient
11 information for the Court to support that Notice should be disseminated as "the
12 proposed settlement will likely earn final approval." *See* FED R. CIV. P. 23(e)
13 Advisory Committee's Note to 2007 Amendment.

14 11. The Court further finds that the Settlement, including the exhibits,
15 appended to the Motion is within the range of reasonableness and possible judicial
16 approval, such that: (a) a presumption of fairness is appropriate for the purposes
17 of preliminary settlement approval; and (b) it is appropriate to effectuate notice to
18 the Class, as set forth below and in the Settlement Agreement, and schedule a
19 Fairness Hearing to assist the Court in determining whether to grant final approval
20 to the Settlement and enter Final Judgment. *See In re Tableware Antitrust Litig.*,
21 484 F. Supp. 2d at 1080.

22 **Approval of Notice Program and Direction to Effectuate the Notice**

23 12. The Court approves the form and content of the notices to be provided
24 to the Class, substantially in the forms appended as Exhibits 5, 6, 7 to the
25 Settlement Agreement. The Court further approves the establishment of an internet
26 website for the Settlement. The Court further finds that the Notice Program,
27 appended as Exhibit 4 and described in Section IV of the Settlement Agreement,
28 is the best practicable notice under the circumstances. The Notice Program is

1 reasonably calculated under the circumstances to apprise the Class of the pendency
2 of the Action, class certification for settlement purposes only, the terms of the
3 Settlement, their rights to opt-out of the Class and object to the Settlement, Class
4 Counsel's Fee Application, and the request for Class Representative service
5 awards. The notices and Notice Program constitute sufficient notice to all persons
6 and entities entitled to notice. The notices and Notice Program satisfy all
7 applicable requirements of law, including, but not limited to, Rule 23 and the
8 constitutional requirement of due process. The Court finds that the forms of notice
9 are written in simple terminology, are readily understandable by Class Members
10 and comply with the Federal Judicial Center's illustrative class action notices. The
11 Court orders that the notices be disseminated to the Class as per the Notice
12 Program.

13 13. The Court directs that JND Legal Administration shall act as the
14 Settlement Administrator.

15 14. The Settlement Administrator shall implement the Notice Program,
16 as set forth in the Settlement, using substantially the forms of notice appended as
17 Exhibits 5, 6, and 7 to the Settlement Agreement and approved by this Order.
18 Notice shall be provided to the Class Members pursuant to the Notice Program
19 and the Settlement Administrator's declaration and Notice Program (Settlement
20 Agreement, Exs. 4 and 9), as specified in Section IV of the Settlement Agreement
21 and approved by this Order.

22 15. The Settlement Administrator shall send the Direct Mail Notice,
23 substantially in the form attached to the Settlement Agreement as Exhibit 6, by
24 U.S. Mail, proper postage prepaid to Class Members, as identified by data to be
25 forwarded to the Settlement Administrator by Experian. The mailings of Direct
26 Mail Notice to the persons and entities identified by Experian shall be substantially
27 completed in accordance with the Notice Program. The Settlement Administrator
28 is hereby ordered to obtain such vehicle registration information through Experian,

1 which specializes in obtaining such information, from, *inter alia*, the applicable
2 Departments of Motor Vehicles.

3 16. The Court authorizes the Settlement Administrator, JND Legal
4 Administration, through data aggregators or otherwise, to request, obtain and
5 utilize vehicle registration information from Department of Motor Vehicles for all
6 50 states, the District of Columbia, Puerto Rico, Guam, the U.S. Virgin Island, and
7 all other United States territories and/or possessions for the purposes of providing
8 the identity of and contact information for Class Members. Vehicle registration
9 information includes, but is not limited to, owner/lessee name and address
10 information, registration date, year, make and model of the vehicle.

11 **Fairness Hearing, Opt-Outs, and Objections**

12 17. The Court directs that a Fairness Hearing shall be scheduled for
13 _____, 2024 at 1:30 p.m., to assist the Court in determining whether to grant final
14 approval to the Settlement Agreement, certify the Class, and enter the Final Order
15 and Final Judgment, and whether Class Counsel’s Fee Application and request for
16 Class Representative service awards should be granted.

17 18. Any Class Member who wishes to be excluded from the Class must
18 mail a written request for exclusion to the Settlement Administrator at the address
19 provided in the Long Form Notice, postmarked on a date ordered by the Court,
20 specifying that he, she, they or it wants to be excluded and otherwise complying
21 with the terms stated in the Long Form Notice. The Settlement Administrator shall
22 forward copies of any written requests for exclusion to Class Counsel, Denso’s
23 Counsel, and Mazda’s Counsel. A list reflecting all requests for exclusion shall
24 be filed with the Court by the Settlement Administrator no later than 7 days before
25 the Fairness Hearing. If a potential Class Member files a request for exclusion, he,
26 she, they, or it may not file an objection under Section VI of the Settlement
27 Agreement.

28 19. Any Class Member who does not file a timely written request for

1 exclusion as provided in Section V of the Settlement Agreement shall be bound
2 by all subsequent proceedings, orders and judgments, including, but not limited
3 to, the Release, Final Order and Final Judgment in the Action, even if he, she, they,
4 or it has litigation pending or subsequently initiates litigation against Mazda and/or
5 Denso relating to the claims and transactions released in the Action. Mazda's and
6 Denso's Counsel shall provide to the Settlement Administrator, within 20 business
7 days of the entry of the Preliminary Approval Order, a list of all counsel for anyone
8 who has then-pending litigation against Mazda and/or Denso relating to claims
9 involving the Covered Vehicles and/or otherwise covered by the Release.

10 20. The Opt-Out Deadline shall be specified in the Direct Mail Notice,
11 Settlement Website, and Long Form Notice. All persons and entities within the
12 Class definition who do not timely and validly opt out of the Class shall be bound
13 by all determinations and judgments in the Action concerning the Settlement,
14 including, but not limited to, the Releases set forth in Section VII of the Settlement.

15 21. The Court further directs that any person or entity in the Class who
16 does not opt out of the Class may object, directly or through a lawyer at his, her or
17 its expense, to the Settlement Agreement, the Fee Application and/or the requested
18 service awards to the Class Representatives. Objections must be filed
19 electronically with the Court, or mailed to the Clerk of the Court, Class Counsel,
20 and counsel for Defendants at the following addresses:

21 (a) Clerk of the Court

22 Clerk of the Court
23 United States District Court for the Central District of California
24 411 West Fourth Street, Room 1053
25 Santa Ana, CA 92701-4516
26 Re: Vance, Case No. 18:21-cv-01890-CJC-KES

27 (b) Class Counsel

28 W. Daniel "Dee" Miles III
Beasley, Allen, Crow, Methvin, Portis & Miles, P.C.
218 Commerce Street

1 Montgomery, Alabama 36104
2 Tel.: (800) 898-2034
3 E-mail: Dee.Miles@BeasleyAllen.com

4 (c) Counsel for Mazda

5 Robert Wise
6 NELSON MULLINS RILEY & SCARBOROUGH LLP
7 1021 East Cary Street
8 Suite 2120
9 Richmond, VA 23219
10 Phone: 804-533-3779
11 Email: robert.wise@nelsonmullins.com

12 (d) Counsel for Denso

13 Daniel R.W. Rustmann
14 BUTZEL LONG, P.C.
15 150 W. Jefferson, Suite 100
16 Detroit, MI 48226
17 Tel.: (313) 225-7076
18 Email: rustmann@butzel.com

19 22. For an objection to be considered by the Court, the objection must be
20 received by the Court on or before the deadline established by the Court and must
21 set forth:

- 22 (i) The case number and name of the Action;
- 23 (ii) The objector's full name, current residential address, mailing
24 address (if different), telephone number, and e-mail address;
- 25 (iii) An explanation of the basis upon which the objector claims to
26 be a Class Member, including the make, model year, and VIN
27 of the Covered Vehicle(s), and whether the Covered Vehicle is
28 currently owned or currently leased by the Class Member;
- (iv) Whether the objection applies only to the objector, to a specific
subset of the Class or to the entire Class, and all grounds for
the objection, accompanied by any legal support for the
objection, and any documents or other evidence the objector

1 believes supports the objection;

2 (v) The number of times the objector has objected to a class action
3 settlement within the five (5) years preceding the date that the
4 objector files the objection, the caption and case number of
5 each case in which the objector has made such objection and
6 the caption and case number of any related appeal, and a copy
7 of any orders related to or ruling upon the objector's prior such
8 objections that were issued by the trial and appellate courts in
9 each listed case;

10 (vi) The full name, telephone number, mailing address, and e-mail
11 address of all counsel who represent the objector, including
12 any former or current counsel who may be entitled to
13 compensation for any reason related to the objection to the
14 Settlement Agreement and/or the request for Attorneys' Fees,
15 Costs and Expenses;

16 (vii) The identity of all counsel representing who will appear at the
17 Fairness Hearing;

18 (viii) The number of times the objector's counsel has objected to a
19 class action settlement within the five (5) years preceding the
20 date that they have filed the objection, and the caption and case
21 number of each case in which objector's counsel has made such
22 objection and the caption and case number of any related
23 appeal;

24 (ix) If the Class Member or his or her counsel have not made any
25 such prior objection, the Class Member shall affirmatively so
26 state in the written materials provided with the objection;

27 (x) A list of all persons who will be called to testify at the Fairness
28 Hearing in support of the objection;

- 1 (xi) A statement confirming whether the objector intends to
 2 personally appear and/or testify at the Fairness Hearing; and
 3 (xii) The objector’s original signature and date of signature. Each
 4 objection must be personally signed by the objector (an
 5 electronic signature or attorney’s signature is not sufficient).

6 23. Any objection that fails to satisfy these requirements and any other
 7 requirements found in the Long Form Notice shall not be considered by the Court.

8 **Settlement Deadlines**

9 24. The Settlement deadlines are as follows, assuming the Preliminary
 10 Approval Order will be issued on or before June 10, 2024.

EVENT	DEADLINES
Mazda’s Counsel shall provide a list of VINs for the Covered Vehicles to the Settlement Administration	Not later than the date of the Preliminary Approval Order
Commencement of Class Notice Program	On the date of entry of the Preliminary Approval Order.
Mazda’s Counsel shall provide to the Settlement Administrator a list of all counsel for anyone who has then-pending litigation against Mazda relating to claims involving the Covered Vehicles and/or otherwise covered by the Release, and Denso’s Counsel shall provide to the Settlement Administrator a list of all counsel for anyone who has then-pending litigation against Denso relating to claims involving the Covered Vehicles and/or otherwise covered by the Release.	Twenty (20) business days after entry of the Preliminary Approval Order.
Notice to be Substantially Completed	Sixty (60) days after the issuance of the Preliminary Approval Order
Plaintiffs’ Motion, Memorandum of Law and Other Materials in Support of their Requested Award of Attorneys’ Fees, Reimbursement of Expenses, and Request for Class Representatives’ Service Awards to be Filed with the Court	No later than Sixty (60) days after issuance of the Preliminary Approval Order

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Plaintiffs’ Motion, Memoranda of Law, and Other Materials in Support of Final Approval to be Filed with the Court	No later than Sixty (60) days after the issuance of the Preliminary Approval Order
Deadline for Receipt by the Clerk of All Objections Filed and/or Mailed by Class Members	Ninety-five (95) days after the issuance of the Preliminary Approval Order
Deadline for filing Notice of Intent to Appear at Fairness Hearing by Class Members and/or their Personal Attorneys	Ninety-five (95) days after the issuance of the Preliminary Approval Order
Postmark Deadline for Class Members to Mail their Request to Exclude Themselves (Opt-Out) to Settlement Notice Administrator	Ninety-five (95) days after the issuance of the Preliminary Approval Order
Any Opposition by Defendants concerning Class Counsel’s Fee and Expense Application, with accompanying expert report(s) and any Rule 702 motion(s)	Ninety-five (95) days after the issuance of the Preliminary Approval Order
Any submission by the Parties concerning Final Approval of Settlement and Responses to any objections and requests for exclusion	One Hundred and Nine (109) days after the issuance of the Preliminary Approval Order
Class Counsel’s Reply In Support of Fee and Expense Application	One Hundred and Nine (109) days after the issuance of the Preliminary Approval Order
Settlement Notice Administrator Shall File the Results of the Dissemination of the Notice with the Court and list of Opt-Outs	Seven (7) days before the Fairness Hearing
Fairness Hearing	_____ at 1:30 p.m. - No sooner than One Hundred Twenty-One (123) days after Preliminary Approval Order
Customer Support Program	Begins no later than 30 days after Final Effective Date. Coverage under the CSP for the original parts will continue for 15 years from the Date of First Use, which is the date the vehicle was originally sold or leased
Claim Submission Period	Runs from the date of entry of the Preliminary Approval Order up to and including ninety (90)

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	days after the Court’s issuance of the Final Order and Final Judgment
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Effect of Failure to Approve the Settlement or Termination

25. In the event the Settlement is not approved by the Court, or for any reason the Parties fail to obtain a Final Order and Final Judgment as contemplated in the Settlement, or the Settlement is terminated pursuant to its terms for any reason, then the following shall apply:

- (i) This Settlement Agreement shall be null and void and shall have no force or effect, and no Party to the Settlement Agreement will be bound by any of its terms, except for the terms of Section X.D;
- (ii) The Parties will petition the Court to have any stay orders entered pursuant to the Settlement Agreement lifted;
- (iii) All of its provisions, and all negotiations, statements, and proceedings relating to the Settlement Agreement will be without prejudice to the rights of Defendants, Class Representatives, or any Class Member, all of whom will be restored to their respective positions existing immediately before the execution of the Settlement Agreement, except that the Parties will cooperate in requesting that the Court set a new scheduling order such that no Party’s substantive or procedural rights are prejudiced by the settlement negotiations and proceedings;
- (iv) Class Representatives, on behalf of themselves and their heirs, assigns, executors, administrators, predecessors, and successors, and on behalf of the Class, expressly and affirmatively reserve and do not waive all motions as to, and

1 arguments in support of, all claims, causes of actions or
2 remedies that have been or might later be asserted in the Action
3 including, without limitation, any argument concerning class
4 certification, and treble or other damages;

5 (v) Mazda, Denso, and the other Released Parties expressly and
6 affirmatively reserve and do not waive all motions and
7 positions as to, and arguments in support of, all defenses to the
8 causes of action or remedies that have been sought or might be
9 later asserted in the actions, including without limitation, any
10 argument or position opposing class certification, liability or
11 damages or argument that the Action may not be litigated as a
12 class action;

13 (vi) Neither the Settlement Agreement, the fact of its having been
14 made, nor the negotiations leading to it, nor any discovery or
15 action taken by a Party or Class Member pursuant to the
16 Settlement Agreement will be admissible or entered into
17 evidence for any purpose whatsoever, except to the extent the
18 Settlement Agreement is filed with the Court, it can be
19 referenced in the Action and any related appeal;

20 (vii) Any settlement-related order(s) or judgment(s) entered in this
21 Action after the date of execution of the Settlement Agreement
22 will be deemed vacated and will be without any force or effect;

23 (viii) All costs incurred in connection with the Settlement
24 Agreement, including, but not limited to, notice, publication,
25 claims administration and customer communications are the
26 responsibility of Defendants and will be paid by Defendants.
27 Neither the Class Representatives nor Class Counsel will be
28 responsible for any of those costs or other settlement-related

1 costs; and

2 (ix) Notwithstanding the terms of this paragraph, if the Settlement
3 is not consummated, Class Counsel may include any time spent
4 in settlement efforts as part of any fee petition filed at the
5 conclusion of the case, and Defendants reserve the right to
6 object to the reasonableness of such requested fees.

7 **Stay/Bar of Other Proceedings**

8 26. Pending the Fairness Hearing and the Court’s decision whether to
9 finally approve the Settlement, no Class Member, either directly, representatively,
10 or in any other capacity (even those Class Members who validly and timely elect
11 to be excluded from the Class, with the validity of the opt out request to be
12 determined by the Court only at the Fairness Hearing), shall commence, continue,
13 or prosecute against any of the Released Parties (as that term is defined in the
14 Agreement) any action or proceeding in any court or tribunal asserting any of the
15 matters, claims or causes of action that are to be released in the Agreement.
16 Pursuant to 28 U.S.C. §§ 1651(a) and 2283, the Court finds that issuance of this
17 preliminary injunction is necessary and appropriate in aid of the Court’s
18 continuing jurisdiction and authority over the Action. Upon final approval of the
19 Settlement, all Class Members who do not timely and validly exclude themselves
20 from the Class shall be forever enjoined and barred from asserting any of the
21 matters, claims or causes of action released pursuant to the Agreement against any
22 of the Released Parties, and any such Class Member shall be deemed to have
23 forever released any and all such matters, claims, and causes of action against any
24 of the Released Parties as provided for in the Agreement.

25 **General Provisions**

26 27. The terms and provisions of the Settlement Agreement may be
27 amended, modified, or expanded by written agreement of the Parties and approval
28 of the Court; provided, however, that after entry of the Final Order and Final

1 Judgment, the Parties may by written agreement effect such amendments,
2 modifications, or expansions of this Settlement Agreement and its implementing
3 documents (including all exhibits) without further notice to the Class or approval
4 by the Court if such changes are consistent with the Court’s Final Order and Final
5 Judgment and do not limit the rights of Class Members under the Settlement
6 Agreement.

7 28. Any confidential information made available to Class
8 Representatives and Class Counsel through the settlement process shall not be
9 disclosed to third parties (other than experts or consultants retained by Class
10 Representatives in connection with the Action); shall not be the subject of public
11 comment; shall not be used by Class Representatives or Class Counsel in any way
12 in this litigation or otherwise should the Settlement Agreement not be achieved;
13 and shall be returned if a settlement is not concluded; provided, however, that
14 nothing contained herein shall prohibit Class Representatives from seeking such
15 information through formal discovery if not previously requested through formal
16 discovery or from referring to the existence of such information in connection with
17 the settlement of the Action.

18 **IT IS SO ORDERED.**

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21 **CORMAC J. CARNEY**
U.S. DISTRICT COURT JUDGE
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CERTIFICATE OF SERVICE

I hereby certify that on May 3, 2024, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the Electronic Mail Notice List, and I hereby certify that I have mailed the foregoing document or paper via the United States Postal Service to the non-CM/ECF participants indicated on the Electronic Mail Notice List.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on May 3, 2024.

s/ Timothy G. Blood

TIMOTHY G. BLOOD

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