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12 *Co-Lead Counsel for Plaintiffs*

13
14 **UNITED STATES DISTRICT COURT**
15 **CENTRAL DISTRICT OF CALIFORNIA**
16

17
18 *In re ZF-TRW Airbag Control Units*
19 *Products Liability Litigation*

MDL No. 2905

Case No. 2:19-ml-02905-JAK

20
21 **JOINT DECLARATION OF**
22 **PLAINTIFFS' CO-LEAD COUNSEL IN**
23 **SUPPORT OF PLAINTIFFS' MOTION**
24 **FOR PRELIMINARY APPROVAL OF**
25 **CLASS ACTION SETTLEMENT AND**
26 **DIRECTION OF CLASS NOTICE**
27
28

1 **DECLARATION OF ROLAND TELLIS AND DAVID STELLINGS**

2 We, Roland Tellis and David Stelling, declare as follows:

3 1. Roland Tellis is an attorney licensed to practice before this Court and
4 all courts of the State of California. David Stelling is admitted to practice before
5 this Court *pro hac vice*. We are partners in the law firms of Baron & Budd, P.C.
6 and Lieff Cabraser Heimann & Bernstein, LLP, respectively, and were appointed
7 by this Court as Co-Lead Counsel for Plaintiffs in the above-captioned matter. ECF
8 106.

9 2. We have personal knowledge of the following facts, and if called as
10 witnesses, we could and would testify competently to them. We make this
11 declaration in support of Plaintiffs’ Motion for Preliminary Approval of Class
12 Action Settlement and Direction of Class Notice under Fed. R. Civ. P. 23(e).

13 **Litigation and Settlement History**

14 3. Investigating and prosecuting this complex litigation to date has
15 required significant work, effort, and expense over the course of almost six years.
16 Prior to reaching the Settlement with the Hyundai, Kia, and Mobis Defendants
17 (together, the Settling Defendants), Plaintiffs and Settlement Class Counsel
18 conducted a comprehensive factual investigation into the Hyundai-Kia Plaintiffs’
19 allegations, which involve a highly technical automotive safety defect in
20 approximately 3.7 million Hyundai and Kia Subject Vehicles.

21 4. Plaintiffs’ investigation included detailed requests for production,
22 interrogatories, and requests for admission to the Settling Defendants. Plaintiffs
23 also served Hyundai’s and Kia’s parent companies and Hyundai Mobis with
24 jurisdictional discovery requests and served non-jurisdictional factual discovery on
25 Hyundai’s parent company. The Parties met and conferred extensively about this
26 discovery and a variety of other topics, including the Hyundai and Kia Defendants’
27 ESI collection. The Hyundai and Kia Defendants produced, and Plaintiffs reviewed,
28 approximately 246,389 pages of documents relevant to Plaintiffs’ claims.

1 5. Plaintiffs have also engaged in extensive discovery with the suppliers
2 of the defective parts in the Subject Vehicles—the ZF-TRW Defendants and the ST
3 Defendants—to develop their understanding of the relevant ACU Defect in the
4 Subject Vehicles and relatedly, their case against the Settling Defendants. To date,
5 the ZF-TRW Defendants have produced more than three million pages of
6 documents, and the ST Defendants have produced over 10,000 additional pages,
7 which provide important insights and technical details on the DS84 ACUs, the
8 DS84 ASICS, the alleged defect therein, and all Defendants’ knowledge of the
9 same.

10 6. Settlement Class Counsel have reviewed and analyzed the extensive
11 set of relevant documents produced by the Hyundai and Kia Defendants, and the
12 relevant materials from the other Defendants, as well materials and information
13 they have obtained through their own investigative efforts, all of which inform
14 Plaintiffs’ understanding of the strengths and weaknesses of their claims against the
15 Settling Defendants. In total, the Defendants have produced well over three million
16 pages of documents relevant to Plaintiffs’ claims and the ACU Defect.

17 7. Co-Lead Counsel and the Settling Defendants’ counsel spent
18 considerable time and resources in arm’s length settlement negotiations for two and
19 a half years (with a temporary pause while the Parties resumed litigation after a
20 breakdown in the negotiations). The Parties participated in multiple in-person
21 meetings, settlement sessions, and numerous telephonic and video discussions
22 under the guidance of the late Court-appointed Settlement Special Master Patrick
23 Juneau until they reached agreement on material terms for a settlement in
24 September 2024.

25 8. The Parties spent the next several months drafting and finalizing the
26 Settlement Agreement and related exhibits now before the Court, including the
27 comprehensive Settlement Class notice program.
28

Settlement Benefits and Anticipated Recovery

9. The Settlement benefits are discussed at length in the accompanying memorandum of points of authorities and in the proposed Long Form Notice, among other places. In short, the Settlement secures a non-reversionary Settlement amount of \$62.1 million, inclusive of commitments, to the benefit of the proposed Hyundai and Kia Settlement Class.

10. All Hyundai and Kia Settlement Class members may submit claims for cash compensation, including: (a) reimbursement for reasonable out-of-pocket expenses incurred to obtain a Recall repair for a Recalled Vehicle, and (b) residual payments of up to \$350 for a Recalled Vehicle and \$150 for an Unrecalled Vehicle. See Exhibit 1, Settlement Agreement § III.B, C. The Settlement is non-reversionary—if there are any funds remaining in the Settlement Fund after all valid, complete, and timely claims for out-of-pocket and residual payments and Court-awarded fees and expenses are paid, the Parties anticipate a redistribution of the remaining funds to Hyundai and Kia Settlement Class members unless it is economically infeasible to do so. *Id.* § III.C.2. Any minimal final balance will then be directed *cy pres* subject to Court approval.

11. In addition to the cash compensation, the Settlement also secures valuable and relevant benefits for the Hyundai and Kia Settlement Class in a 10-year extended New Parts Warranty, recall outreach campaign, loaner vehicle program, and innovative inspection program.

Anticipated Request for Attorneys’ Fees and Expenses

12. Settlement Class Counsel will move for an award of reasonable attorneys’ fees and reimbursement of their litigation expenses for work performed and expenses incurred in furtherance of this litigation. Fed. R. Civ. P. 23(e)(2)(C)(iii). At this time, Settlement Class Counsel anticipate they will ask the Court to award up to 33% of the \$62.1 million Settlement Amount in attorneys’

1 fees and reasonable expenses and include this maximum request in the proposed
2 notice to the Hyundai and Kia Settlement Class.

3 13. Settlement Class Counsel’s forthcoming motion for attorneys’ fees and
4 expense reimbursement will provide the Court with the rationale and necessary
5 detail to assess the requested fees, expenses, and service awards, along with a
6 lodestar crosscheck. The requested fee is warranted under the facts and history of
7 this case, including the enormous amount of work, effort, and expense Settlement
8 Class Counsel have put into this MDL and reaching a favorable resolution of the
9 Hyundai and Kia Plaintiffs’ claims against the Settling Defendants.

10 **Time And Expense Submission**

11 14. This is a large and complex MDL with numerous law firms on both
12 sides of the litigation. As Court-appointed Co-Lead Counsel, we are charged,
13 among other duties, to oversee the work performed and to ensure compliance with
14 the rules and guidelines for work performed and expenses incurred for the common
15 benefit of all Plaintiffs in this MDL, including the Hyundai and Kia Plaintiffs.

16 15. In our capacity as Co-Lead Counsel, we have ensured the reasonable,
17 effective, and efficient prosecution of this litigation, and the Hyundai and Kia
18 Plaintiffs’ claims. To that end, we have encouraged the attorneys working on this
19 matter to perform assignments efficiently, including by using the resources and
20 guidance of experienced attorneys on the case. We believe this approach has saved
21 time spent on the litigation overall, with the benefit of insight, guidance, and
22 experience on discrete litigation and strategy issues.

23 16. Pursuant to the Court-entered Common Benefit Order (“CBO”), ECF
24 111, Liaison Counsel, each participating Plaintiff Steering Committee (“PSC”) firm,
25 as well as other counsel authorized by Co-Lead Counsel to perform common
26 benefit work, submitted monthly time and expense reports to our firms. The firms
27 and attorneys expressly authorized by Co-Lead Counsel to perform work that may
28

1 be considered for common benefit compensation are collectively referred to as
2 “Participating Counsel” below.

3 17. In advance of the Hyundai and Kia Plaintiffs’ forthcoming motion for
4 attorneys’ fees and expenses and pursuant to the Court’s civil standing orders,
5 attached as **Exhibit A** to this declaration is a spreadsheet that presents a summary
6 of the common benefit work performed by Participating Counsel. The spreadsheet
7 is organized by the 13 specific task categories set forth in the CBO, and lists the
8 law firms, names, positions, number of hours worked, hourly rate, and fees for each
9 of the attorney and staff members who performed common benefit work.

10 18. Attached as **Exhibit B** to this declaration is a spreadsheet that presents
11 the same information as Exhibit A, but organized by attorney/staff member, and
12 includes a grand total of all the fees across all timekeepers and all law firms.

13 19. The CBO imposes limitations on the hourly rates for Participating
14 Counsel of \$895/hour for partners; \$350-\$600/hour for associates; \$415/hour for
15 document review attorneys; and \$175-\$275/hour for paralegals and assistants. ECF
16 111 at 5-6. For many timekeepers, these Court-capped hourly rates fall well below
17 their standard and customary rates. The CBO also imposes limitations on
18 reimbursable expenses. *Id.* at 4-5. Exhibits A and B include the normal hourly rates
19 where available for the attorneys and staff members who performed common
20 benefit work, along with an adjusted rate that applies the capped billing rates from
21 the CBO.

22 20. The data for Exhibits A and B come from the monthly common benefit
23 timekeeping reports that we have received pursuant to the CBO. Collectively, these
24 reports include over 117,717 hours in individual time entries to date. Attorneys and
25 staff at our direction continue to review and audit the recent time submissions to
26 ensure that (a) the work reflected was authorized by Co-Lead Counsel; (b) entries
27 were coded to the appropriate task code; (c) entries were not erroneously submitted;
28 and (d) to exercise reasonable billing judgment in the time submitted, among other

1 critical auditing tasks. We anticipate this process will be complete in the coming
2 weeks.

3 21. Because the audit process is ongoing for the extensive data
4 summarized in Exhibits A and B, these figures are not final, and we anticipate that
5 the data (and in some instances, the currently assigned task code category) may
6 change for the forthcoming motion for attorneys' fees and expenses.

7 **Lodestar Allocated to the Hyundai and Kia Class Claims**

8 22. As described in Exhibits A and B, Plaintiffs' total adjusted lodestar to
9 date (using the capped billing rates) is \$48,283,968.91, which reflects the common
10 benefit work performed at our direction and submitted to date. The total lodestar to
11 date applying each timekeeper's standard hourly rate(s) is \$57,250,561.72, for a
12 reduction of approximately 15.6% (\$8.97 million) from the market-rate fees of
13 participating counsel.

14 23. This "adjusted lodestar" reflects the subtraction of the lodestar
15 previously allocated to the Toyota Settlement (\$11,520,547.22 with capped rates,
16 and \$12,800,004.84 with market rates) and the Mitsubishi Settlement
17 (\$1,418,050.37 with capped rates, and \$1,618,188.94 with market rates) from the
18 current total lodestar figures. For that reason, the total case lodestar reflected in the
19 Exhibits hereto is higher than the adjusted lodestar, because the lodestar data in the
20 Exhibits is comprehensive and includes all data, including the lodestar that was
21 previously attributed to Toyota and Mitsubishi.

22 24. Based on our experience, in complex, multi-defendant litigation like
23 this, in which work is performed to advance multiple claims both collectively and
24 specifically, it is common for counsel to apportion a percentage of the total lodestar
25 attributable to a particular settling defendant, because it is not practicable to
26 disaggregate the common benefit work across each individual defendant. For that
27 reason, we estimate the lodestar attributable to the Hyundai and Plaintiffs' claims
28 herein and used this methodology to arrive at a fee apportionment in the previous

1 settlements with Toyota and Mitsubishi in this litigation and in other MDLs with
2 multiple defendants and claims, including *In re Volkswagen “Clean Diesel”* (N.D.
3 Cal.).

4 25. Based on our professional judgment and our familiarity with the work
5 performed at our direction, we estimate the work fairly and reasonably attributed to
6 efforts that benefited the proposed Hyundai and Kia Settlement Class and the
7 prosecution of their claims as follows: from the total, 65% of Counsel’s efforts to
8 the six Vehicle Manufacturer groups, and the remaining 35% to the supplier
9 Defendants (ZF and STMicro), recognizing that much of the work for the suppliers
10 also advances the claims against the Vehicle Manufacturers, and that settlements
11 with two of five Vehicle Manufacturer groups to date mean that the relative time
12 and efforts dedicated to the Suppliers have and will increase over time as the
13 litigation proceeds (resulting here in a modest adjustment to the prior allocation of
14 70% of time to the vehicle manufacturers in the previous two settlements).

15 26. Within the amount allotted to the Vehicle Manufacturer Defendants,
16 we estimate approximately 30% of that work is reasonably assigned to the Settling
17 Defendants. This apportionment is supported by (a) the size and scale of the
18 Hyundai and Kia Settlement Class, which cover approximately 3.7 of the 15 million
19 Class Vehicles at issue in this MDL; (b) efforts in responding to the Settling
20 Defendants’ and the other Defendants’ two rounds of pleading challenges to the
21 Complaints; (c) the discovery, investigative and expert work that developed and
22 advanced the Hyundai and Kia Plaintiffs’ claims to this favorable resolution; and
23 (d) the focused time and efforts to negotiate the proposed Settlement terms with the
24 Settling Defendants over the course of more than two and a half years.

25 27. In addition to the extensive common benefit work performed to date,
26 significantly more work will be required to (1) obtain final approval of the
27 Settlement; (2) protect the Settlement on appeal (if any appeals are lodged); and (3)
28 oversee and help implement the Settlement over the 1.5 years-long Claims Period,

1 which will include, among other things, assisting with claims and responding to
2 inquiries from Hyundai and Kia Settlement Class members who owned or leased
3 one of the approximately 3.7 million Subject Vehicles. We therefore anticipate that
4 Plaintiffs' Counsel will incur no less than \$425,000 in lodestar (approximately 650
5 hours¹) to finalize, protect, and implement the Settlement.

6 28. Based on the above, the estimated lodestar at issue for purposes of the
7 forthcoming attorneys' fee request, using the applicable CBO rate caps, will be
8 approximately \$9,415,373.94 (subject to adjustments from auditing as described
9 herein). Including the anticipated future work to implement and protect the
10 Settlement, the lodestar attributable to the Settlement is expected to be
11 \$9,840,373.94.

12 29. With respect to the maximum fees request of up to \$20,493,033.30
13 including expenses,² this yields a reasonable multiplier of approximately 2.13
14 without future fees, and 2.04 with future fees included.

15 **Settlement Class Counsel's Billing Rates Are Reasonable**

16 30. Settlement Class Counsel are highly skilled practitioners with
17 significant experience litigating complex class actions, including automotive defect
18 class actions. As such, and as will be further supported in the motion for attorneys'
19 fees, the capped billing rates identified above are reasonable, and indeed, a material
20 reduction from the standard hourly rates used by many of the attorneys working on
21 this matter. *See, e.g., In re ZF-TRW ACUs Toyota Prelim. App.*, 2023 WL 6194109,
22 at *22-23; *In re ZF-TRW ACUs Toyota Final App.*, 2023 WL 9227002, at *16 (this
23 Court recently approving the hourly rates fixed in the CBO, based on precedent and

24 _____
25 ¹ For this exercise, we used an estimated blended average rate of \$650, assuming a
26 distribution of partner and associate work on the kinds of tasks to come and will
27 revise these numbers with updated data in their attorneys' fees motion.

28 ² Settlement Class Counsel will also seek reimbursement of up to \$400,000 in
litigation expenses, for reasonable costs that have (and will be) incurred to advance
Plaintiffs' claims pursuant to the terms and limitations from the CBO.

1 recent data from the Real Rate Report for the Los Angeles market); ECF No. 983 at
2 23.

3 **The Settlement Class Representatives**

4 31. Based on our significant experience in complex consumer class action
5 litigation and observations during this case, it is our professional opinion that each
6 of the Hyundai and Kia Plaintiffs willingly, constructively, and effectively
7 contributed to the prosecution of the claims on behalf of the Settlement Class.

8 32. The Hyundai and Kia Plaintiffs have actively participated in this
9 litigation and will continue to vigorously protect Class interests, as they have
10 throughout this litigation. The Hyundai and Kia Plaintiffs understand their duties as
11 Settlement Class Representatives and have agreed to consider the interests of absent
12 Settlement Class members. They have reviewed and uniformly endorsed the
13 Settlement terms and have no interests that would conflict with the interests of the
14 Settlement Class members. Each Representative has also expressed their continued
15 willingness to protect the Settlement Class until the Settlement is approved and its
16 administration completed.

17 33. Over the past six years, each Hyundai and Kia Plaintiff devoted
18 significant time to serve the interests of the Settlement Class, by, among other
19 things: providing extensive factual information to assist counsel with drafting the
20 complaints; regularly communicating with counsel to stay abreast of developments
21 in this litigation; searching for relevant and responsive materials about their Subject
22 Vehicles, and providing those materials to counsel for production in discovery;
23 conferring with counsel to prepare and finalize detailed responses to
24 Interrogatories; working with counsel to review and evaluate the terms of the
25 proposed Settlement Agreement; and expressing their continued willingness to
26 protect the Class until the Settlement is approved and its administration completed.

27 34. Considering the extensive efforts required to prosecute this case and
28 serve the Settlement Class, we estimate that each Hyundai and Kia Plaintiff spent at

1 least 30 hours on the litigation. For their longstanding commitment and
2 contributions to the case, we submit these individuals have earned the moderate
3 service awards (\$2,500) to be requested in the forthcoming motion.

4 * * *

5 We declare under penalty of perjury under the laws of the State of California
6 that the foregoing is true and correct. Executed this 17th day of March 2025 at
7 Encino, California by Roland Tellis and at New York, New York by David
8 Stellings.

9 /s/ Roland Tellis

10 Roland Tellis

11 /s/ David Stellings

12 David Stellings
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