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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

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

ALL ACTIONS AGAINST THE
MITSUBISHI DEFENDANTS

Case No. 2:19-ml-02905-JAK-MRW
MDL No. 2905

**[PROPOSED] ORDER (1) GRANTING
MOTION FOR PRELIMINARY
APPROVAL OF MITSUBISHI CLASS
SETTLEMENT, CERTIFYING
MITSUBISHI SETTLEMENT CLASS,
AND DIRECTING NOTICE; AND
(2) SCHEDULING A FAIRNESS
HEARING**

The Mitsubishi Plaintiffs¹ and Mitsubishi Motors Corporation and Mitsubishi Motors North America, Inc. (collectively “Mitsubishi”), who are Parties to the above-captioned action (“Action”), have agreed to a proposed class action settlement, the terms and conditions of which are set forth in an executed Settlement Agreement (“Settlement Agreement”).² The Parties negotiated the terms of the Settlement Agreement through extensive arm’s-length negotiations with the

¹ The “Mitsubishi Plaintiffs” are Gaylynn Darling (nee Sanchez), Michael Nearing, and John Sancomb.

² For purposes of this Order, the Court adopts and incorporates all terms and definitions set forth in the Settlement Agreement, including all exhibits and related documents thereto.

1 assistance and oversight of Settlement Special Master Patrick A. Juneau. Under the
2 Settlement Agreement, subject to the terms and conditions therein and subject to
3 Court approval, the Action will be dismissed with prejudice as to Mitsubishi, and
4 the Mitsubishi Plaintiffs and the proposed Mitsubishi Settlement Class would fully,
5 finally, and forever resolve, discharge, and release their claims against the Released
6 Parties in exchange for the relief set forth in the Settlement Agreement.

7 This Court conducted a hearing regarding the Mitsubishi Plaintiffs' Motion
8 for Preliminary Approval of Class Settlement and Direction of Notice Under Fed.
9 R. Civ. P. 23(e) (the "Motion"). Upon considering the Motion and exhibits thereto,
10 the Settlement Agreement and related documents and exhibits, the record in these
11 proceedings, the representations and recommendations of counsel, and the
12 requirements of law, the Court finds that:

- 13 i. this Court has jurisdiction over the subject matter and Parties requesting
14 preliminary approval of the Settlement;
- 15 ii. the proposed Mitsubishi Settlement Class meets the requirements of Rule 23
16 of the Federal Rules of Civil Procedure and should be preliminarily certified
17 for Settlement purposes only;
- 18 iii. the persons and entities identified below should be appointed Mitsubishi
19 Settlement Class Representatives, and Settlement Class Counsel for
20 Settlement purposes only;
- 21 iv. the Settlement is the result of extensive informed, good-faith, arm's-length
22 negotiations between the Parties and their capable and experienced counsel
23 and is not the result of collusion;
- 24 v. the Settlement is fair, reasonable, and adequate and should be preliminarily
25 approved;
- 26 vi. the proposed Settlement is sufficiently fair, reasonable, and adequate to
27 warrant sending notice of the Settlement to the Mitsubishi Settlement Class;
28

- 1 vii. the proposed Notice Program and proposed forms of notice satisfy Rule 23
2 and Constitutional Due Process requirements and are reasonably calculated
3 under the circumstances to apprise the Mitsubishi Settlement Class of the
4 pendency of the Action, preliminary class certification for settlement
5 purposes only, the terms of the Settlement, details regarding Settlement Class
6 Counsel’s application for an award of attorneys’ fees and expenses (“Fee
7 Application”) and request for Mitsubishi Class Representative service
8 awards, their rights to opt-out of the Mitsubishi Settlement Class and object
9 to the Settlement, and the process for submitting a Claim;
- 10 viii. good cause exists to schedule and conduct a Fairness Hearing, pursuant to
11 Rule 23(e), to assist the Court in determining whether to grant final approval
12 of the Settlement, certify the Mitsubishi Settlement Class, for settlement
13 purposes only, and issue a Final Order and Final Judgment, and whether to
14 grant Settlement Class Counsel’s Fee Application and request for the
15 Mitsubishi Plaintiffs’ service awards; and
- 16 ix. whether the other related matters pertinent to the preliminary approval of the
17 Settlement should also be approved.

18 Based on the foregoing, **THE COURT HEREBY GRANTS THE**
19 **MOTION FOR PRELIMINARY APPROVAL AND MAKES THE**
20 **FOLLOWING FINDINGS AND ORDERS:**

21 **Jurisdiction, Preliminary Class Certification for Settlement Purposes Only,**
22 **and Appointment of Settlement Class Representatives and Settlement Class**
23 **Counsel**

24 1. The Court finds that it has jurisdiction over the Action and the Parties
25 requesting preliminary approval of the Settlement pursuant to 28 U.S.C. §§ 1331
26 and 1332 for purposes of settlement, and venue is proper in this district pursuant to
27 28 U.S.C. § 1391(a). The Court shall retain continuing jurisdiction for the purpose
28 of enforcing the Settlement Agreement after the entry of a Final Order and
Judgment.

1 2. In deciding whether to preliminarily certify a settlement class, a court
2 must consider the same factors that it would consider in connection with a proposed
3 litigation class—i.e., all Rule 23(a) factors and at least one subsection of Rule 23(b)
4 must be satisfied—except that the Court need not consider the manageability of a
5 potential trial, since the settlement, if approved, would obviate the need for a trial.
6 *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 620 (1997); *Wang v. Chinese Daily*
7 *News, Inc.*, 737 F.3d 538, 542-44 (9th Cir. 2013); *see also In re ZF-TRW Airbag*
8 *Control Units Prod. Liab. Litig.*, No. LAML 1902905-JAK-MRW(x), 2023 WL
9 6194109, at *10 (C.D. Cal. July 31, 2023) (“*In re ZF-TRW ACUs*”).

10 3. Where, as here, “the parties negotiate a settlement agreement before
11 the class has been certified, settlement approval requires a higher standard of
12 fairness and a more probing inquiry than may be normally required under Rule
13 23(e).” *Roes 1-2 v. SFBSC Mgmt., LLC*, 944 F.3d 1035, 1048 (9th Cir. 2019); *In re*
14 *Apple Inc. Device Performance Litig.*, No. 21-15758, 2022 WL 4492078, at *8 (9th
15 Cir. Sept. 28, 2022). At the preliminary stage, however, “the settlement need only
16 be potentially fair.” *Acosta v. Trans Union, LLC*, 243 F.R.D. 337, 386 (C.D. Cal.
17 2007). Finally, a court must reach a “reasoned judgement that the agreement is not
18 the product of fraud or overreaching by, or collusion between, the negotiating
19 parties, and that the settlement, taken as a whole, is fair, reasonable and adequate to
20 all concerned.” *Officers for Justice v. Civil Serv. Comm’n of City and Cnty. Of San*
21 *Francisco*, 688 F.2d 615, 625 (9th Cir. 1982).

22 4. The Court finds that the requirements of Rule 23 of the Federal Rules
23 of Civil Procedure and other law and rules applicable to preliminary settlement
24 approval of class actions have been satisfied. As reflected in record before the
25 Court, including the declaration of the Court-appointed Settlement Special Master
26 Patrick Juneau, the proposed settlement appears to be the product of serious,
27 informed negotiations that were conducted in good faith and at arms’ length
28 between the Parties’ counsel and falls within the range of possible approval as fair,

1 reasonable, and adequate. *See Rodriguez v. West Publ'g Corp.*, 563 F.3d 948 (9th
2 Cir. 2009); see also Declaration of the Court-Appointed Settlement Special Master
3 Patrick A. Juneau ¶¶ 6-7. Therefore, the Court preliminarily approves the settlement
4 of this Action as memorialized in the Settlement Agreement, and finds it will be
5 likely to certify the following Mitsubishi Class for settlement purposes only:

6 All persons or entities who or which, on the date of the
7 issuance of the Preliminary Approval Order, own/lease or
8 previously owned/leased Mitsubishi Class Vehicles
9 distributed for sale or lease in the United States or any of
10 its territories or possessions. Excluded from this Class
11 are: (a) Mitsubishi, its officers, directors, employees and
12 outside counsel; its affiliates and affiliates' officers,
13 directors and employees; its distributors and distributors'
14 officers and directors; and Mitsubishi's Dealers and their
15 officers and directors; (b) Settlement Class Counsel,
16 Plaintiffs' counsel, and their employees; (c) judicial
17 officers and their immediate family members and
18 associated court staff assigned to this case; and
19 (d) persons or entities who or which timely and properly
20 exclude themselves from the Class.

21 5. Specifically, the Court finds, for settlement purposes, that the
22 Mitsubishi Settlement Class likely satisfies the following factors of Rule 23:

23 a. Numerosity: In the Action, there are approximately 98,000
24 Mitsubishi Class Vehicles owned or leased by tens of thousands of members of the
25 proposed Mitsubishi Settlement Class who are located throughout the United
26 States. Their joinder is, therefore, impracticable. Thus, the Rule 23(a)(1)
27 numerosity requirement is met. *See Rannis v. Recchia*, 380 F. App'x 646, 651 (9th
28 Cir. 2010) (courts generally find numerosity is met where there are at least 40 class
members); *see also In re ZF-TRW ACUs*, 2023 WL 6194109, at *10 (“Although
there is no specific numeric requirement, courts generally have found that a class of
at least 40 members is sufficient.”); *In re Chrysler-Dodge-Jeep Ecodiesel Mktg.,
Sales Pracs., & Prod. Liab. Litig. (“FCA EcoDiesel”)*, No. 17-MD-02777-EMC,

1 2019 WL 536661, at *5 (N.D. Cal. Feb. 11, 2019) (numerosity satisfied where
2 “there are approximately 100,000 vehicles that were sold or leased to consumers in
3 the United States”).

4 b. Commonality: The threshold for commonality under Rule
5 23(a)(2) is not high and is met where class members share at least one common
6 issue of law or fact. *See Wolin v. Jaguar Land Rover North America, LLC*, 617 F.3d
7 1168, 1172 (9th Cir. 2010). Courts routinely find commonality where, as here, the
8 class claims arise from a defendant’s uniform course of fraudulent conduct. *See,*
9 *e.g., In re ZF-TRW ACUs*, 2023 WL 6194109, at *11 (finding commonality
10 satisfied where “Plaintiffs have identified at least one common question as to
11 whether [Defendants’] alleged omissions and uniform misrepresentations to Class
12 members were fraudulent.”). The common question “must be of such a nature that it
13 is capable of classwide resolution – which means that determination of its truth or
14 falsity will resolve an issue that is central to the validity of each one of the claims in
15 one stroke.” *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 350 (2011). Here, the
16 commonality requirement is satisfied for settlement purposes because there are
17 multiple questions of law and fact that center on Mitsubishi’s sale and lease of
18 Mitsubishi Class Vehicles equipped with defective Airbag Control Units (“ACU”),
19 as alleged in the ACAC.

20 c. Typicality: The Mitsubishi Plaintiffs’ claims are typical of the
21 Mitsubishi Settlement Class for purposes of this Settlement because they concern
22 the same general alleged conduct, arise from the same legal theories, and allege the
23 same types of harm and entitlement to relief. Rule 23(a)(3) is therefore satisfied.
24 *See In re ZF-TRW ACUs*, 2023 WL 6194109, at *11 (typicality satisfied where “the
25 named Toyota plaintiffs suffered similar injuries as other Class members” based on
26 overpayment of their Subject Vehicles); *see also FCA EcoDiesel*, 2019 WL
27 536661, at *5 (finding typicality satisfied where the plaintiffs’ claims were based
28 on the same pattern of wrongdoing as those brought on behalf of class members).

1 Courts permissively construe commonality and typicality. *Hanlon v. Chrysler*
2 *Corp.*, 150 F.3d 1011, 1020 (9th Cir. 1998), *overruled on other grounds by Wal-*
3 *Mart Stores, Inc. v. Dukes*, 564 U.S. 338 (2011).

4 d. Adequacy: Rule 23(a)(4) requires that the “representative parties
5 will fairly and adequately protect the interests of the class.” Fed. R. Civ. P.
6 23(a)(4). Courts determine adequacy by analyzing: (1) whether the proposed
7 Mitsubishi Settlement Class Representatives have interests antagonistic to the
8 Mitsubishi Settlement Class; and (2) whether the proposed class counsel has the
9 competence to undertake the litigation at issue. *See In re Volkswagen “Clean*
10 *Diesel” Mktg., Sales Practices, & Prods. Liab. Litig. (“VW Clean Diesel”)*, No.
11 2672 CRB (JSC), 2017 WL 672820, at *5 (N.D. Cal. Feb. 16, 2017). Rule 23(a)(4)
12 is satisfied here because there are no conflicts of interest between the Mitsubishi
13 Plaintiffs and the Mitsubishi Settlement Class, and the Mitsubishi Plaintiffs have
14 retained competent counsel to represent them and the Mitsubishi Settlement Class.
15 Settlement Class Counsel here regularly engage in consumer class litigation and
16 other complex litigation like the present Action and have dedicated substantial
17 resources to the prosecution of the Action. Moreover, the Mitsubishi Plaintiffs and
18 Settlement Class Counsel have vigorously and competently represented the
19 Mitsubishi Class members’ interests in the Action. *See In re ZF-TRW ACUs*, 2023
20 WL 6194109, at *12 (finding adequacy 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 tens of thousands of Mitsubishi Settlement Class members in a single,
25 coordinated proceeding is superior to tens of thousands of individual lawsuits
26 addressing the same legal and factual issues. With respect to predominance, Rule
27 23(b)(3) requires that “[c]ommon issues of fact and law . . . ha[ve] a direct impact
28 on every class member’s effort to establish liability that is more substantial than the

1 impact of individualized issues in resolving the claim or claims of each class
2 member.” *Sacred Heart Health Sys., Inc. v. Humana Mil. Healthcare Servs., Inc.*,
3 601 F.3d 1159, 1170 (11th Cir. 2010) (internal quotation marks and citation
4 omitted). Based on the record currently before the Court, the predominance
5 requirement is satisfied for settlement purposes because common questions present
6 a significant aspect of the case and can be resolved for all Mitsubishi Class
7 members in a single common judgment. *See In re ZF-TRW ACUs*, 2023 WL
8 6194109, at *12; *VW Clean Diesel*, 2017 WL 672820, at *8.

9 Superiority is also met because the Settlement Agreement’s cash payment of
10 \$250 per Mitsubishi Class Vehicle renders the adjudication of individual Mitsubishi
11 Class member claims substantially less efficient than their simultaneous
12 adjudication on a class wide basis, especially considering the complex legal and
13 technical nature of this Action. *See In re ZF-TRW ACUs*, WL 6194109, at *13 (“In
14 light of the large number of Class members and the cost of bringing an individual
15 claim relative to the potential recovery, it would be substantially less efficient for
16 Class members to pursue their claims on an individual basis than on a classwide
17 basis.”). Finally, the fact that the Parties have executed the Settlement Agreement
18 obviates any potential class management issues. *Id.*; *see also Windsor*, 521 U.S. at
19 620.

20 6. The Court previously appointed Roland Tellis and David Stellings Co-
21 Lead Counsel in this litigation, *see* ECF 106, and Settlement Class Counsel for the
22 Toyota Settlement Class in this MDL, *see In re ZF-TRW ACUs*, 2023 WL 6194109,
23 at *23-24.

24 7. Mr. Tellis and Mr. Stellings now apply for appointment of themselves
25 and the Plaintiffs’ Steering Committee members as Settlement Class Counsel for
26 the Mitsubishi Settlement Class. Having considered that application, the Court
27 hereby appoints the following as Settlement Class Counsel for purposes of the
28 Settlement only: Baron & Budd, P.C., Lief Cabraser Heimann & Bernstein, LLP,

1 Ahdoot & Wolfson, PC, Beasley, Allen, Crow, Methvin, Portis & Miles, P.C.,
2 Bleichmar Fonti & Auld LLP, Boies, Schiller & Flexner LLP, Casey Gerry Schenk
3 Francavilla Blatt & Penfield, LLP, DiCello Levitt Gutzler LLC, Gibbs Law Group
4 LLP, Keller Rohrback LLP, Kessler Topaz Meltzer and Check LLP, Podhurst
5 Orseck, P.A., Pritzker Levine LLP, Robbins Geller Rudman & Dowd LLP, and
6 Robins Kaplan LLP.

7 8. Co-Lead Counsel have further applied for appointment of proposed
8 Mitsubishi Settlement Class Representatives: Gaylynn Darling (nee Sanchez),
9 Michael Nearing, and John Sancomb. Having considered that application, the Court
10 hereby appoints these individuals as Settlement Class Representatives for purposes
11 of the Settlement only.

12 **Preliminary Approval of the Settlement**

13 9. Upon preliminary evaluation, there are no indications that the
14 settlement is the product of fraud or overreaching by, or collusion between, the
15 negotiating parties. *See Officers for Just. v. Civil Serv. Comm'n of City and Cnty. of*
16 *S.F.*, 688 F.2d 615, 625 (9th Cir. 1982). The settlement appears to be the result of
17 extensive, good-faith, arm's-length negotiations that took place between the Parties
18 by counsel who are experienced in similar litigation along with the assistance of the
19 Settlement Special Master Patrick A. Juneau—who was appointed Settlement
20 Special Master by this Court on June 7, 2022 (Dkt. No. 493)—and which followed
21 substantial discovery that was sufficient to enable counsel and the Court to make
22 informed decisions. *See Manual for Complex Litigation (Third)* § 30.42 (West
23 1995) (“A presumption of fairness, adequacy, and reasonableness may attach to a
24 class settlement reached in arm's-length negotiations between experienced, capable
25 counsel after meaningful discovery.”); *see also* Juneau Decl., ¶¶ 6-7.

26 10. The proposed Settlement Agreement provides for a Settlement Fund
27 that will be used for the following purposes: (a) to pay valid and approved claims
28 submitted by eligible Mitsubishi Settlement Class members; (b) to pay notice and

1 related costs, (c) to pay for settlement and claims administration, including
2 expenses associated with the Settlement Notice and Claims Administrator, taxes,
3 fees, and related costs; (d) to pay Settlement Class Counsel’s fees and expenses as
4 the Court awards; (e) to make service award payments to the Mitsubishi Plaintiffs;
5 and (f) to pay Taxes.³ The Settlement Fund may also be utilized for additional
6 outreach and notice costs that the Parties jointly agree is necessary in furtherance of
7 the terms of the Settlement, and after consulting with the Settlement Notice and
8 Claims Administrator, if necessary.

9 11. Certain notice and settlement administration costs will be accrued prior
10 to any final approval of the Settlement. As such, Mitsubishi has agreed to deposit
11 the \$8,500,000.00 less those initial notice and settlement administration costs, into
12 the Mitsubishi Airbag Control Unit Class Action Settlement Fund QSF (“QSF”) no
13 later than one (1) month prior to the date set by this Court for the Fairness Hearing,
14 to fund the Settlement Fund. If this Court does not grant final approval to the
15 Settlement, any funds remaining in the QSF shall revert to Mitsubishi.

16 12. The proposed Settlement Agreement provides the following Cash
17 Benefits to the Class:

18 a. After deducting expenses for settlement and claims
19 administration, and Settlement Class Counsel’s fees and expenses as the Court
20 awards, the remaining Settlement Amount will be allocated evenly, on a per-capita
21 basis, among all Mitsubishi Class Vehicles for which the Settlement Notice and
22 Claims Administrator has received a valid claim form.

23 b. Settlement cash payments shall be up to \$250.00 per Mitsubishi
24 Class Vehicle. If more than one Mitsubishi Settlement Class member submits a
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26 ³ The Settlement Agreement provides payment of Taxes as follows, “All: (a) taxes
27 on the income of the Escrow Account; and (b) expenses and costs incurred with
28 taxes paid from the Escrow Account (including, without limitation, expenses of tax
attorneys, accountants, and the Tax Administrator) (collectively, “Taxes”) shall be
timely paid out of the Escrow Account without prior Order of the Court.” SA
§ III.A.1.

1 valid Claim Form for the same Mitsubishi Class Vehicle, then the original owner
2 who purchased the Mitsubishi Class Vehicle new shall receive 60% of the funds
3 allocated to that Mitsubishi Class Vehicle, and the remaining 40% will be
4 distributed evenly to or among the remaining Class member(s) who submit a valid
5 Claim Form on that Mitsubishi Class Vehicle. This allocation is fair and reasonable
6 considering Plaintiffs' allegations of overpayment damages incurred at the point of
7 purchase.

8 c. Mitsubishi Settlement Class members may submit one Claim
9 Form for each Mitsubishi Class Vehicle they own(ed) or lease(d).

10 d. The Settlement shall be non-reversionary, meaning that no
11 amount of the Settlement Amount will revert to Mitsubishi, unless the Court does
12 not grant final approval of the Settlement. If there are any unclaimed funds
13 remaining from the Settlement Amount, the Parties will attempt a second cash
14 distribution of up to \$750.00 to all Mitsubishi Settlement Class members who
15 received a cash payment as part of the initial distribution, if economically feasible
16 to do so. If it is not feasible and/or economically unreasonable to attempt a second
17 distribution to Class members who already submitted a valid and timely Claim
18 Form, or if the Settlement Amount is not exhausted after the second cash
19 distribution, then the remaining Settlement Amount shall be distributed to *cy pres*
20 recipients recommended by the Parties, subject to the Court's approval. The Parties
21 have agreed to work together to identify mutually agreeable *cy pres* candidates and
22 to not unreasonably withhold approval of any candidates proposed by each other.

23 13. If the Court issues an order finally approving the Settlement,
24 Mitsubishi shall also institute the Settlement Inspection Program protocol that is
25 attached as Exhibit 3 to the Settlement Agreement. The Settlement Inspection
26 Program provides meaningful non-monetary benefits to the Mitsubishi Settlement
27 Class by assuring that Mitsubishi continues to monitor the alleged ACU defect at
28 issue in the Mitsubishi Class Vehicles.

1 14. The Court concludes that the proposed settlement between the Parties
2 is sufficiently fair, adequate, and reasonable to warrant preliminary approval. There
3 is a sufficient “record supporting the conclusion that the proposed settlement will
4 likely earn final approval after notice and an opportunity to object.” Fed. R. Civ. P.
5 23(e)(1), 2018 advisory committee notes. The Court finds that it will likely be able
6 to approve the proposed Mitsubishi Settlement Class under Rule 23(e)(2), because
7 the Class and its representatives likely meet all relevant requirements of Rule 23(a)
8 and Rule 23(b)(3).

9 **Approval of the Class Notice Program and Direction to Effectuate the Notice**

10 15. The Parties have proposed the appointment of JND Legal
11 Administration LLC (“JND”) as Settlement Notice and Claims Administrator.
12 Having considered the resume and declaration of JND, the Court hereby approves
13 this appointment.

14 16. The Court has also considered the form and content of the Class
15 Notice Program submitted by JND (including those attached to the Declaration of
16 Jennifer M. Keough as Exhibits B-G), and finds that the Notice Program and
17 methodology as described in the Settlement Agreement and in the Declaration of
18 Jennifer M. Keough: (a) meet the requirements of due process and Federal Rules of
19 Civil Procedure 23(c) and (e); (b) constitutes the best notice practicable under the
20 circumstances to all persons entitled to notice; and (c) satisfies the Constitutional
21 requirements regarding notice.

22 17. The Court finds that the Class Notice Program: (a) apprises Mitsubishi
23 Settlement Class members of the pendency of the Action, the terms of the proposed
24 settlement, their rights and deadlines under the settlement; (b) is written in simple
25 terminology; (c) is readily understandable; (d) provides sufficient notice of
26 Settlement Class Counsel’s request for attorneys’ fees and costs and incentive
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1 awards to Mitsubishi Class Representatives; and (e) complies with the Federal
2 Judicial Center’s illustrative class action notices.

3 18. The Court hereby approves the Class Notice Program and the
4 methodology described in the Settlement Agreement and in the Declaration of
5 Jennifer M. Keough in all respects, and it hereby orders that notice be commenced
6 no later than October 1, 2024.

7 19. The Court authorizes the Settlement Notice and Claims Administrator,
8 through data aggregators or otherwise, to request, obtain and utilize vehicle
9 registration information from the Department of Motor Vehicles for all 50 states,
10 the District of Columbia, Puerto Rico, Guam, the U.S. Virgin Islands, and all other
11 United States territories and/or possessions for the purposes of providing the
12 identity of and contact information for purchasers and lessees of Mitsubishi Class
13 Vehicles. Vehicle registration information includes, but is not limited to,
14 owner/lessee name and address information, registration date, year, make and
15 model of the vehicle.

16 20. The Settlement Notice and Claims Administrator shall send the Direct
17 Mail Notice, substantially in the form attached to the Declaration of Jennifer M.
18 Keough as Exhibits B and C, by e-mail and/or first-class U.S. Mail, proper postage
19 prepaid to Mitsubishi Class members. The mailings of the Direct Mail Notice to the
20 persons and entities identified by shall be substantially completed by December 16,
21 2024.

22 21. The Court further approves, as to form and content, the notices, which
23 are attached to the Declaration of Jennifer M. Keough as Exhibits B-G. The Court
24 also approves the establishment of an internet website for the settlement. The
25 website shall conform to the terms of the Settlement Agreement, and shall include
26 documents relating to the settlement, orders of the Court relating to the settlement
27 and such other information as Mitsubishi and Co-Lead Counsel mutually agree
28 would be beneficial to potential Mitsubishi Settlement Class members. The website

1 shall also accept electronically filed Claim Forms and shall be optimized for search
2 engines and for use on mobile phones. Mitsubishi shall pay the costs of the Class
3 Notice in accordance with the Settlement Agreement. The Parties are hereby
4 authorized to establish the means necessary to implement the notice and/or other
5 terms of the Settlement Agreement.

6 **Establishment of Qualified Settlement Fund**

7 22. The Court finds that the Escrow Account is to be a “qualified
8 settlement fund” as defined in Section 1.468B-1(c) of the Treasury Regulations in
9 that it satisfies each of the following requirements:

10 a. The Account is to be established pursuant to an Order of this
11 Court and is subject to the continuing jurisdiction of this Court;

12 b. The Account is to be established to resolve or satisfy one or
13 more claims that have resulted or may result from an event that has occurred and
14 that has given rise to at least one claim asserting liabilities; and

15 c. The assets of the Account are to be segregated from other assets
16 of Defendants, the transferor of the payment to the Settlement Fund, and controlled
17 by an Account Agreement.

18 23. Under the “relation back” rule provided under Section 1.468B-
19 1(j)(2)(i) of the Treasury Regulations, the Court finds that Mitsubishi may elect to
20 treat the Account as coming into existence as a “qualified settlement fund” on the
21 latter of the date the Account meets the requirements of Paragraphs 21(b) and 21(c)
22 of this Order or January 1 of the calendar year in which all of the requirements of
23 Paragraph 21 of this Order are met. If such a relation-back election is made, the
24 assets held by the Settlement Funds on such date shall be treated as having been
25 transferred to the Account on that date.

26 24. The name of the Qualified Settlement Fund shall be “Mitsubishi
27 Airbag Control Unit Class Action Settlement QSF.”

28 25. The Court approves Citi Private Bank as the Escrow Agent.

1 insufficient). The Settlement Notice and Claims Administrator shall forward copies
2 of any written requests for exclusion to Co-Lead Counsel and to Mitsubishi's
3 Counsel. If a potential Mitsubishi Settlement Class member files a request for
4 exclusion, he or she may not file an objection to the Settlement.

5 31. Potential Mitsubishi Settlement Class members who timely and validly
6 exclude themselves from the Class shall not be bound by the Settlement
7 Agreement, the settlement, or the Final Order and Final Judgment.

8 32. Any potential Mitsubishi Settlement Class member who does not file a
9 timely written request for exclusion shall remain a Class member and shall be
10 bound by all subsequent proceedings, orders and judgments, including, but not
11 limited to, the Release, Final Approval Order, and Final Judgment in the Action,
12 even if he or she has litigation pending or subsequently initiates litigation against
13 Mitsubishi or the Released Parties asserting the claims released in Section VII of
14 the Settlement Agreement.

15 33. Any Mitsubishi Settlement Class member who has not submitted a
16 timely written request for exclusion and who wishes to object to the fairness,
17 reasonableness, or adequacy of the Settlement Agreement or Fee Request or service
18 awards to the proposed Settlement Class Representatives must deliver to Co-Lead
19 Counsel and to Mitsubishi's Counsel, and file with the Court, on or before January
20 16, 2025, a written statement of his or her objections.

21 34. For an objection to be considered by the Court, the objection must
22 comply with the terms of Section VI.A of the Settlement Agreement and the Long
23 Form Notice.

24 35. An objection that fails to satisfy these requirements and any other
25 requirements found in the Long Form Notice shall not be considered by the Court.

26 36. The filing of an objection shall allow Co-Lead Counsel or counsel for
27 Mitsubishi to, at their discretion, notice the deposition of the objecting Mitsubishi
28 Settlement Class member and/or to seek the production of documents and tangible

1 things relevant to the objections on an expedited basis, so as to promote and ensure
2 the efficient administration of justice, the timely resolution of objections and of this
3 settlement, and the orderly presentation of any Class member's objection to the
4 settlement, in accordance with the due process rights of all Mitsubishi Settlement
5 Class members. Consistent with these objectives, service of a deposition notice
6 and/or a request to produce documents and tangible things in lieu of a formal
7 subpoena shall be sufficient. Likewise, any such deposition may take place
8 remotely, or at an agreed upon location at an agreed upon date and time, but, in no
9 event more than 15 days following service of a deposition notice, a request to
10 produce documents and other tangible things. Any objections to the scope of a
11 deposition notice or a request to produce documents or other tangible things issued
12 or served in connection with this provision shall be brought before this Court for
13 resolution on an expedited basis.

14 37. The Court may take such action it deems just and appropriate in the
15 event an objecting Mitsubishi Settlement Class member fails to appear for
16 deposition or comply with a request to produce documents or other tangible things.

17 38. If the Court determines the objection is frivolous or made for an
18 improper purpose, the Court may take such action it deems just and appropriate.
19 Prior to doing so, however, the Court may allow an objector to voluntarily
20 withdraw their objection.

21 39. The Mitsubishi Plaintiffs shall file their motion for final approval,
22 which shall include responses to validly submitted objections (if any), and
23 Settlement Class Counsel's Fee Request, no later than December 16, 2024. Copies
24 of the Mitsubishi Plaintiffs' motion for final approval and Settlement Class
25 Counsel's Fee Request shall be posted on the settlement website.

26 40. Any Mitsubishi Settlement Class member who files and serves a
27 written objection and has not excluded themselves from the Class may appear at the
28 Fairness Hearing, either in person or through personal counsel hired at the Class

1 member's expense, and may be heard, to the extent allowed by the Court, either in
2 support of or in opposition to the settlement and/or the Fee Request. However, no
3 Class member shall be heard at the Fairness Hearing unless such person/entity files
4 a "Notice of Intent to Appear in In re ZF-TRW Airbag Control Units Products
5 Liability Litigation" with the Clerk of Court and deliver to Co-Lead Counsel and to
6 Mitsubishi's Counsel this same Notice on or before the date listed in the deadlines
7 chart below.

8 41. Mitsubishi Settlement Class members who intend to object at the
9 Fairness Hearing must also have followed the procedures for objecting in writing as
10 set forth in this Order. Class members or their attorneys who intend to make an
11 appearance at the Fairness Hearing must deliver a notice of intention to appear to
12 Co-Lead Counsel and to Mitsubishi's Counsel, and file said notice with the Court,
13 at least 10 days before the Fairness Hearing. Any Mitsubishi Settlement Class
14 member who has requested permission to speak must be present at the start of the
15 Fairness Hearing on February 24, 2025, at 8:30 a.m.

16 42. The deadlines set forth in this Order, including the date and time of the
17 Fairness Hearing, shall be subject to extension by the Court without further notice
18 to the Mitsubishi Settlement Class members other than that which may be posted at
19 the Court, and/or the settlement website at www.ACUSettlement.com. Mitsubishi
20 Settlement Class members should check the settlement website regularly for
21 updates and further details regarding the settlement and extensions of the deadlines
22 thereunder.

23 43. The Court retains jurisdiction to consider all further applications
24 arising out of or in connection with the settlement. The Court may approve the
25 settlement, with such modifications as may be agreed to by the Parties to the
26 settlement, if appropriate, without further notice to the Mitsubishi Settlement Class,
27 except that notice of such modifications shall be posted on the settlement website.
28

1 44. Not later than 10 days before the date of the Fairness Hearing, the
2 Settlement Notice Administrator shall file with the Court: (a) a list reflecting all
3 timely, valid requests for exclusion; and (b) the details outlining the scope, methods
4 of distribution, and results of the Class Notice.

5 **Settlement Deadlines**

6 45. The Court hereby establishes the following schedule, in accordance
7 with the Settlement Agreement, which shall govern the settlement proceedings in
8 this Action unless continued or otherwise modified by the Court:

EVENT	DEADLINES
Begin Class Notice Program	No later than October 1, 2024
Mitsubishi’s Counsel shall provide to the Settlement Notice and Claims Administrator a list of all counsel for anyone who has then-pending economic-loss litigation against Mitsubishi relating to ZF-TRW ACU claims involving the Mitsubishi Class Vehicles and/or otherwise covered by the Release, other than those counsel in the Actions	No later than August 16, 2024
Substantial Completion of Direct Notice	No later than December 16, 2024
Plaintiffs’ Motion for Final Approval and Attorneys’ Fees and Expenses	No later than December 16, 2024
Exclusion Deadline	January 16, 2025
Postmark Objection Deadline	January 16, 2025
Deadline to file Notice of Intent to Appear	February 3, 2025
Reply Memoranda in Support of Final Approval and Fee/Expense Motion	February 6, 2025
Fairness Hearing	February 24, 2025, at 8:30 a.m.

23 **Effect of Failure to Approve the Settlement or Termination**

24
25 46. In the event the Court does not approve the Settlement, or for any
26 reason the Parties fail to obtain a Final Order and Final Judgment as contemplated
27 in the Settlement, or the Settlement is terminated pursuant to its terms for any
28 reason, then the following shall apply:

1 a. The Settlement Agreement shall be null and void and shall have
2 no force or effect, and no Party to the Settlement Agreement shall be bound by any
3 of its terms, except for the terms of Section X.D of the Settlement Agreement;

4 b. The Parties will petition the Court to have any stay orders
5 entered due to the Parties' settlement negotiations lifted;

6 c. All of its provisions, and all negotiations, statements, and
7 proceedings relating to the Settlement Agreement shall be without prejudice to the
8 rights of Mitsubishi, Mitsubishi Plaintiffs or any Class member, all of whom shall
9 be restored to their respective positions existing immediately before the execution
10 of the Settlement Agreement, except that the Parties shall cooperate in requesting
11 that the Court set a new scheduling order such that no Party's substantive or
12 procedural rights are prejudiced by the settlement negotiations and proceedings;

13 d. The Mitsubishi Plaintiffs and all other Class members, on behalf
14 of themselves and their heirs, assigns, executors, administrators, predecessors, and
15 successors, expressly and affirmatively reserve and do not waive all motions as to,
16 and arguments in support of, all claims, causes of actions or remedies that have
17 been or might later be asserted in the Actions including, without limitation, any
18 argument concerning class certification, and treble or other damages;

19 e. Mitsubishi and the other Released Parties expressly and
20 affirmatively reserve and do not waive all motions and positions as to, arguments in
21 support of, and substantive and procedural rights as to all defenses to the causes of
22 action or remedies that have been sought or might be later asserted in the actions,
23 including without limitation, any argument or position opposing class certification,
24 liability or damages;

25 f. Neither the Settlement Agreement, the fact of its having been
26 made, nor the negotiations leading to it, nor any discovery or action taken by a
27 Party or Class member pursuant to the Agreement shall be admissible or entered
28 into evidence for any purpose whatsoever;

1 g. Any settlement-related order(s) or judgment(s) entered in this
2 Action after the date of execution of this Agreement shall be deemed vacated and
3 shall be without any force or effect;

4 h. All costs incurred in connection with the Settlement, including,
5 but not limited to, notice, publication, and customer communications, shall be paid
6 from the Settlement Fund and all remaining funds shall revert to Mitsubishi as soon
7 as practicable. Neither the Mitsubishi Plaintiffs nor Settlement Class Counsel shall
8 be responsible for any of these costs or other settlement-related costs; and

9 i. Any Attorneys' Fees and Expenses previously paid to
10 Settlement Class Counsel shall be returned to Mitsubishi within 14 calendar days of
11 termination of the Agreement.

12 **General Provisions**

13 47. The Parties are authorized to take all necessary and appropriate steps
14 to establish the means necessary to implement the Settlement Agreement. Co-Lead
15 Counsel and Mitsubishi's Counsel are hereby authorized to use all reasonable
16 procedures in connection with approval and administration of the settlement that are
17 not materially inconsistent with this Order or the Settlement Agreement, including
18 making, without further approval of the Court, minor changes to the Settlement
19 Agreement, to the form or content of the Class Notice or to any other exhibits that
20 the Parties jointly agree are reasonable or necessary.

21 48. As set forth in the Settlement Agreement, if the Settlement Agreement
22 is not finally approved by the Court or is terminated for any reason (in whole or in
23 part) the settlement will be rescinded and will be without further legal effect. The
24 Parties will then litigate the lawsuit as if this settlement had never occurred, without
25 prejudice to any claims or defenses they may have. Pursuant to Fed. R. Evid. 408,
26 the settlement, the Settlement Agreement, and all related briefing, arguments,
27 transcripts, and documents will be inadmissible in any proceeding to prove or
28 disprove the validity of any claim, defense, or allegation asserted in the Action. The

1 provisional certification of the Class pursuant to this Order shall be vacated
2 automatically and the Action shall proceed as though the Class had never been
3 certified. The Parties shall have all the rights, defenses, and obligations they would
4 have had absent the Settlement Agreement.

5 49. The terms and provisions of the Settlement Agreement may be
6 amended, modified, or expanded by written agreement of the Parties and approval
7 of the Court; provided, however, that after entry of the Final Order and Final
8 Judgment, the Parties may by written agreement effect such amendments,
9 modifications, or expansions of this Settlement Agreement and its implementing
10 documents (including all exhibits) without further notice to the Class or approval by
11 the Court if such changes are consistent with the Court's Final Order and Final
12 Judgment and do not limit the rights of Class members under the Settlement
13 Agreement.

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

25 **IT IS SO ORDERED:**

26 Date: _____, 2024

27 _____
28 HON. JOHN A. KRONSTADT
United States District Court