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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

Before The Honorable Charles R. Breyer, Judge

In re Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation, )  
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) NO. C 15-md-02672 CRB  
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San Francisco, California  
Thursday, November 3, 2016

**TRANSCRIPT OF PROCEEDINGS**

**APPEARANCES:**

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Reported By:

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Official Court Reporter

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**BY: MATTHEW SLATER**

Also present: Various interested parties

1 Thursday - November 3, 2016

8:00 a.m.

2 P R O C E E D I N G S

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4 **THE COURT:** Good morning, ladies and gentlemen. Would  
5 you state your appearances for the record.

6 **MR. STELLINGS:** Good morning, Your Honor. David  
7 Stellings for the Plaintiff Steering Committee.

8 **MR. VAN EATON:** Good morning, Your Honor. Josh Van  
9 Eaton with the Department of Justice for the United States,  
10 with my colleague Beth Engel.

11 **THE COURT:** Good morning.

12 **MR. VAN EATON:** Good morning.

13 **MR. AKERS:** Good morning, Your Honor. Nick Akers for  
14 the state of California.

15 **THE COURT:** Good morning, Mr. Akers.

16 **MR. COHEN:** Good morning, Your Honor. Jonathan Cohen  
17 for the Federal Trade Commission, and with me today is my  
18 colleague Simon Han.

19 **THE COURT:** Good morning.

20 **MR. GIUFFRA:** Good morning, Your Honor. Robert  
21 Giuffra, Sullivan & Cromwell, for the Volkswagen defendants.  
22 With me are my partners Sharon Nelles and Mike Steinberg, as  
23 well as Jeff Chase, co-liaison counsel from Herzfeld & Rubin.  
24 And it's good to be here again. Thank you.

25 **THE COURT:** Good morning.

1           **MS. DAWSON:** Good morning, Your Honor. Cari Dawson,  
2 Alston & Bird, for the Porsche defendants.

3           **THE COURT:** Good morning.

4           **MR. SLATER:** Good morning, Your Honor. Matthew Slater  
5 of Cleary, Gottlieb for Robert Bosch GmbH and Robert Bosch,  
6 LLC.

7           **THE COURT:** Good morning. Thank you.

8           This is the time that we designated for a report on the  
9 3-liter issue. There are somewhere in the neighborhood of  
10 80,000 vehicles, 85,000 3-liter, Mr. Giuffra?

11           **MR. GIUFFRA:** Your Honor, just the number that are on  
12 the road --

13           **THE COURT:** Yes.

14           **MR. GIUFFRA:** -- as opposed to dealer inventory or  
15 scrapped cars is just under 80,000.

16           **THE COURT:** Just under 80,000. So, obviously, we  
17 wanted to address that issue, and the Court asked that the  
18 parties give a progress report on the resolution of those  
19 vehicles.

20           I'm very pleased to advise you the fact that -- the  
21 parties in front of me know, but perhaps the public does not --  
22 that there has been, according to the Settlement Master's  
23 report to the Court, substantial progress among the parties in  
24 reaching a resolution. There have been continual meetings and  
25 exchange of information. There have been negotiations. And I

1 am very optimistic that we will achieve a resolution of the  
2 3-liter vehicles. To that end, I am going to set December 1st  
3 as a deadline for a report as to the -- as to resolution of  
4 this issue.

5 And, in that regard, I want to urge the parties, with the  
6 assistance of Director Mueller, who has been instrumental in  
7 his -- in bringing about, he and his team, in bringing about a  
8 resolution to these issues to meet continually -- you get  
9 Thanksgiving off, but the day after is a different issue -- to  
10 meet and to work out the details of a potential resolution.

11 I think it's important to once again stress that  
12 negotiations of this kind are sensitive. They are by their  
13 nature confidential at this point. Ultimately, if there is a  
14 resolution, it all becomes public, and every consumer knows  
15 exactly what the terms are before deciding whether or not it's  
16 acceptable.

17 And so not unlike judicial decisions, how a decision is  
18 arrived at may be interesting to the parties in who follow  
19 these sorts of things. But what depends -- what's important  
20 here is the result, the conclusion, the resolution, and in that  
21 regard it's extremely important that the parties observe a  
22 strict confidentiality order. So I'm asking the Department of  
23 Justice, on behalf of the EPA, to submit a proposed  
24 confidentiality order that will ensure and protect -- ensure  
25 the confidentiality of these discussions, and protect these

1 discussions while they are ongoing. So if you would do that,  
2 Mr. Van Eaton, I would be --

3 **MR. VAN EATON:** I would be happy to, Your Honor.  
4 Thank you.

5 **THE COURT:** Thank you very much.

6 I would now like to turn to the 2-liter. We've had some  
7 experience now, having approved the settlement on October 25th,  
8 we've now had some experience, and I would call on both  
9 sides -- Mr. Nelles, I think, is going to give the report.

10 And I just want to remind you to speak into the  
11 microphone, because we're on Court Call, and people throughout  
12 the country are listening.

13 **MS. NELLES:** Absolutely, Your Honor.

14 Sharon Nelles for Volkswagen. And I am very happy to  
15 report that there's been an overwhelmingly positive response to  
16 the settlement approval. To date, we have over 370,000  
17 registrants on our settlement web site, over 197,000 completed  
18 claim submissions, over 70,000 document packages have been  
19 reviewed by Volkswagen for eligibility and passed on to the  
20 Claims Supervisor, or where necessary we've gone back to  
21 claimants and asked for more information. And of those  
22 document packages that have been passed on, 28,000 of those  
23 have already been validated by the Claim Supervisor or in a  
24 final quality control check process. So in other words, just a  
25 little over a week into a two-year program we already have

1 75 percent of the Class registered, and 25 percent of the Class  
2 has made a full submission.

3 The next step will be for Volkswagen to prepare offer  
4 letters for the validated claims. Those are already in  
5 process, and we expect the first offers will be extended as  
6 soon as the end of this week, and we will continue to do that  
7 on a rolling basis throughout the process.

8 Obviously, this is an exceptional participation rate, and  
9 it is a true testament to the settlement, and I know all  
10 parties are very pleased.

11 Volkswagen, given the high volume of activity, has gone  
12 ahead and taken some additional measures to enhance the  
13 experience for people. We have increased the number of servers  
14 and are monitoring activity on the site realtime. This boost  
15 in capacity will help avoid any slowing during heavy use  
16 periods. We also are running a help line, and there has been  
17 exponential increase in calls to that help line. Before  
18 approval we were averaging about 1,700 calls a day. We are now  
19 averaging about six -- 6,500 calls.

20 **THE COURT:** 6,500? Six thousand five hundred?

21 **MS. NELLES:** Six thousand five hundred calls per day.

22 And understand that those calls are very much people at  
23 Volkswagen working hand-in-hand with claimants to help them  
24 through the process of submitting claims, and it is a complex  
25 process.



1 We have currently 150 team members on the phones, and we  
2 are continuing to increase call center staffing, having added  
3 about 250 additional team members since the approval date of  
4 October 25. Those will all be up and running no later than  
5 around November 11.

6 We've also added ability for consumers to simply request a  
7 call-back at a time that's convenient. We have automated  
8 frequently -- answers to frequently asked questions, and this  
9 has and will continue to minimize any wait times that anyone  
10 might experience.

11 And finally, I really do want to assure the Court and all  
12 of our customers that Volkswagen is working around the clock on  
13 this settlement. We are listening to people's comments. We  
14 are responding to them. We appreciate that feedback during  
15 these early days while we are fine-tuning the process.

16 And I also know that the Plaintiff's Steering Committee,  
17 too, stands ready and able to answer settlement-related  
18 questions and assist with the process. And their contact  
19 information, as you are well aware, is available right on the  
20 front page of the Court's web site.

21 And it's very much a team effort. We are working  
22 together, and we will continue to do so to make the claims  
23 process a positive and successful one for everyone.

24 **THE COURT:** Well, thank you, Ms. Nelles. I appreciate  
25 that.

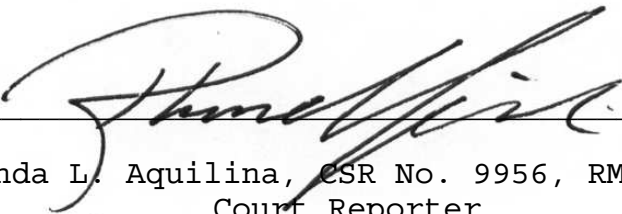


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CERTIFICATE OF REPORTER

I certify that the foregoing is a correct transcript  
from the record of proceedings in the above-entitled matter.

DATE: Thursday, November 3, 2016



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Rhonda L. Aquilina, CSR No. 9956, RMR, CRR  
Court Reporter