

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

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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.

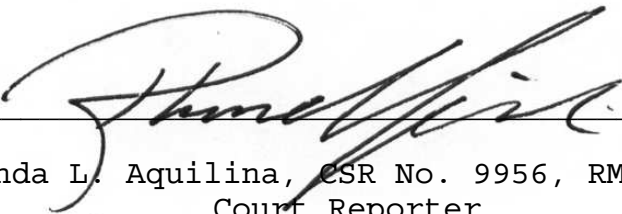
24 **THE COURT:** Well, thank you, Ms. Nelles. I appreciate
25 that.

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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



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