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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE CHRYSLER-DODGE-JEEP
ECODIESEL MARKETING, SALES
PRACTICES, AND PRODUCTS
LIABILITY LITIGATION.

Case No. [17-md-02777-EMC](#)

**PRETRIAL ORDER NO. 6: ORDER
APPOINTING KENNETH FEINBERG
AS SETTLEMENT MASTER**

The Court previously provided notice of its intent to appoint Kenneth Feinberg as settlement master. *See* Docket No. 182 (order). The Court gave the parties an opportunity to respond to the Court’s notice by July 12, 2017. The date for the parties to respond has passed, and no party has objected in principle to the appointment of Mr. Feinberg.¹ Accordingly, the Court hereby orders as follows:

1. The Court appoints Kenneth Feinberg to facilitate settlement discussions among all parties to this multi-district litigation. Should any potential conflict arise in the future, Mr. Feinberg shall immediately notify the Court and the parties.

2. Mr. Feinberg’s authority is limited to facilitating settlement discussions. Mr. Feinberg will not adjudicate, or assist the Court with adjudicating, any issues in these proceedings.

3. As settlement master, Mr. Feinberg has the authority to schedule, at his discretion, any settlement discussions; to decide who shall participate in the discussions, including what party

¹ The government has not opposed appointment of Mr. Feinberg but argues that, to avoid the appearance of partiality, Mr. Feinberg’s duties should not begin until after his consulting contract with Volkswagen (“VW”) expires. Although Mr. Feinberg previously disclosed that the contract would expire on September 1, 2017, Mr. Feinberg has now informed the Court that he can terminate the contract as of July 31, 2017. Attached is a statement from Mr. Feinberg memorializing that the contract will be terminated as of July 31, 2017.

1 representatives are needed; and to choose where and how the discussions are to occur.

2 4. Mr. Feinberg, all parties (including their counsel), and any other persons or entities
3 participating in settlement conferences or discussions shall treat as “confidential information” the
4 contents of any written settlement statements or other settlement-related communications,
5 anything that happened or was said during or as a part of a settlement conference or discussion,
6 and any position or view expressed by any participant in connection with any settlement
7 conference or discussion. “Confidential information” shall not be:

- 8 a. Disclosed to anyone not involved in the litigation absent the affected
9 parties’ consent;
- 10 b. Disclosed to the Court absent the affected parties’ consent; or
- 11 c. Used for any purpose, including impeachment, in any pending or future
12 proceeding.

13 5. To facilitate settlement discussions, Mr. Feinberg may have ex parte
14 communications with any party (including a party representative). If a party does not want Mr.
15 Feinberg to share any contents of an ex parte communication with another party, the former shall
16 expressly make that desire clear to Mr. Feinberg; otherwise it shall be presumed that such
17 communications may be shared with another party at Mr. Feinberg’s discretion. Mr. Feinberg
18 may also communicate with persons, agencies, and entities who have an interest in the litigation
19 but are not formally named as parties.

20 6. As stated in paragraph 4(b) above, upon the agreement of all participating parties,
21 Mr. Feinberg may communicate “confidential information” to the Court without violating this
22 order or the rules governing confidentiality of settlement discussions. Without the consent of the
23 parties, Mr. Feinberg may communicate nonconfidential matters to the Court – *e.g.*, procedural
24 issues, matters informing case management, and updates on the progress of settlement
25 communications. As explained above, however, he shall not communicate any substantive
26 settlement matters to the Court absent the parties’ agreement.

27 7. The non-government plaintiffs and defendants shall jointly compensate Mr.
28 Feinberg and any personnel working under his direction. The non-government plaintiffs and

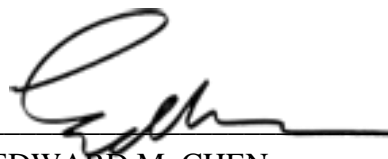
1 defendants shall promptly meet and confer with Mr. Feinberg to negotiate a reasonable fee for his
2 services (*e.g.*, a monthly fee). The fee agreement negotiated by the parties shall be subject to
3 approval by the Court. In addition, Mr. Feinberg may incur necessary expenses and costs at
4 reasonable amounts to permit him to fully facilitate settlement of these actions, and the non-
5 government plaintiffs and defendants shall jointly reimburse Mr. Feinberg for such reasonable
6 costs and expenses. Such costs and expenses may consist of, but are not limited, the engagement
7 of additional necessary personnel outside his firm, including any outside experts. Costs and
8 expenses shall be billed on a monthly basis to both Plaintiffs' Lead Counsel and counsel
9 designated by Defendants. Any disputes regarding compensation, costs and expenses, or the
10 allocation of payment of such fees and costs among the parties shall be promptly brought to the
11 Court's attention.

12 8. The Court orders Mr. Feinberg to appear at the case management conference
13 scheduled for Tuesday, August 8, 2017, at 10:00 a.m. Immediately after the conference
14 concludes, all parties shall meet with Mr. Feinberg. The parties should be prepared to meet with
15 Mr. Feinberg separately or together, as Mr. Feinberg may, in the exercise of his discretion, direct.
16 The Court expects settlement discussion to commence expeditiously.

17 The Court thanks Mr. Feinberg and his staff in advance for their service to the parties and
18 the Court.

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20 **IT IS SO ORDERED.**

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22 Dated: July 13, 2017

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26 EDWARD M. CHEN
27 United States District Judge
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