

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

GILLES COHEN, MUHAMMAD
ADNAN, DONNY WOO, BENJAMIN
MOORE, MARY LOU PLANTE,
MEREDITH MEIN DE VERA, DAN
ROSENTHAL, ALEXANDRA EFANTIS,
BLAISE FONTENOT, JOHN MICKLO,
TROY PERRY, JAQUELINE
FERGUSON, KATHERINE GRIFFIN,
KATHERINE MUTSCHLER,
BENJAMIN CHRISTENSEN, JENNIFER
LILLEY, STEVEN BIONDO, CHANTEL
NELSON, JACQUELINE BROCKMAN,
MARTY BROWN, CHRISTINE KING,
KEVIN KING, PAULA WEEKS,
MARTIN TORRESQUINTERO, COLE
SWEETON, CHRISTINE SCHULTZ,
DAVID SROELOV, individually and on
behalf of all others similarly situated,

Plaintiffs,

v.

SUBARU OF AMERICA, INC. and
DENSO INTERNATIONAL OF
AMERICA, INC.,

Defendants.

Civil Action No. 1:20-cv-08442-
JHR-AMD

**ORDER GRANTING
PRELIMINARY
APPROVAL OF CLASS
ACTION SETTLEMENT**

WHEREAS, pursuant to Fed. R. Civ. P. (“Rule”) 23(a), 23(b)(3), and 23(e), the parties seek entry of an order, *inter alia*, preliminarily approving the Class Settlement of this Action (“Settlement”) pursuant to the terms and provisions of the Settlement Agreement dated May 30, 2024, with attached exhibits (“Settlement Agreement”); preliminarily certifying the Settlement Class for settlement purposes only; directing Notice to the Settlement Class pursuant to the parties’ proposed

Notice Plan; preliminarily appointing the Settlement Class Representatives, Settlement Class Counsel and the Settlement Administrator; directing the timing and procedures for any objections to, and requests for exclusion from, the Settlement; setting forth other procedures, filings and deadlines; and scheduling the Final Fairness Hearing;

WHEREAS, the Settlement has been filed with the Court, and Plaintiffs have filed an Unopposed Motion for Preliminary Approval of Settlement, Certification of the Proposed Class for Settlement Purposes, Directing Notice to the Class, and Related Relief (the “Motion”); and

WHEREAS, the Court has read and considered the Motion, the Settlement Agreement and its exhibits, the record in these proceedings, the representations and recommendations of counsel, and the requirements of the law,

NOW, IT IS HEREBY ORDERED THAT:

1. This Order incorporates by reference the definitions in the Settlement Agreement, and all terms used in this Order shall have the same meanings as set forth in the Settlement Agreement.

2. The Court preliminarily approves the Settlement Agreement, and its Settlement terms, as fair, reasonable and adequate under Rule 23, subject to further consideration at the Final Fairness Hearing.

3. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, the Court preliminarily certifies, for settlement purposes only, the following Class:

All individuals or legal entities who, at any time as of the Initial Notice Date, own or owned, purchase(d) or lease(d) Covered Vehicles¹ in any of the fifty States, the District of Columbia, Puerto Rico, and all other United States territories and/or possessions. Excluded from the Settlement Class are: (a) Subaru, its officers, directors and employees;

¹ The Covered Vehicles are the Additional Vehicles and Recalled Vehicles, as identified in Exhibits 1 and 2 to the Settlement Agreement.

its affiliates and affiliates' officers, directors and employees; its distributors and distributors' officers, directors and employees; and Subaru Dealers and Subaru Dealers' officers and directors; (b) Denso, its officers, directors and employees; its affiliates and affiliates' officers, directors and employees; its distributors and distributors' officers, directors and employees; (c) Plaintiffs' Counsel; and (d) judicial officers and their immediate family members and associated court staff assigned to this case. In addition, persons or entities are not Class Members once they timely and properly exclude themselves from the Settlement Class, as provided in the Settlement Agreement and this Order, once the exclusion request is finally approved by the Court.

4. The Court appoints James E. Cecchi of Carella, Byrne, Cecchi, Olstein, Brody & Agnello, P.C., Christopher A. Seeger of Seeger Weiss LLP, and W. Daniel "Dee" Miles III of Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. as Class Counsel for the Settlement Class.

5. The Court appoints Plaintiffs Gilles Cohen, Muhammad Adnan, Donny Woo, Benjamin Moore, Mary Lou Plante, Meredith Mein De Vera, Dan Rosenthal, John Micklo, Troy Perry, Jaqueline Ferguson, Katherine Griffin, Alexandra Efantis, Blaise Fontenot, Katherine Mutschler, Benjamin Christensen, Jennifer Lilley, Steven Biondo, Chantel Nelson, Jacqueline Brockman, Marty Brown, Christine King, Kevin King, Paula Weeks, Martin Torresquintero, Cole Sweeton, Christine Schultz, and David Sroelov as Settlement Class Representatives.

6. The Court appoints JND Legal Administration as the Settlement Administrator ("Settlement Administrator").

7. The Court preliminarily finds, solely for purposes of the Settlement, that the Rule 23 criteria for certification of the Settlement Class exists in that: (a) the Settlement Class is so numerous that joinder of all Settlement Class Members in the Action is impracticable; (b) there are questions of law and fact common to the Settlement Class that predominate over any individual questions; (c) the claims of the Settlement Class Representatives are typical of the claims of the Settlement

Class; (d) the Settlement Class Representatives and Class Counsel have and will continue to fairly and adequately represent and protect the interests of the Settlement Class; and (e) a class action is superior to all other available methods for the fair and efficient adjudication of the controversy.

8. In addition, the Court preliminarily finds that certification of the Settlement Class is appropriate when balanced against the risks and delays of further litigation. The proceedings that occurred before the Parties entered into the Settlement Agreement afforded counsel the opportunity to adequately assess the claims and defenses in the Action, the positions, strengths, weaknesses, risks and benefits to each Party, and as such, to negotiate a Settlement Agreement that is fair, reasonable and adequate and reflects those considerations.

9. The Court also preliminarily finds that the Settlement Agreement has been reached as a result of intensive, arm's-length negotiations of disputed claims, and that the proposed Settlement is not the result of any collusion.

10. The Court approves the form and content of the Direct Mail Notice (Exhibit 6 to the Settlement Agreement), the Long Form Notice (Exhibit 5 to the Settlement Agreement) and the Claim Form (Exhibit 7 to the Settlement Agreement). The Court further finds that the mailing of the Direct Mail Notice in the manner set forth in the Settlement Agreement, as well as the establishment of a settlement website and other forms of notice provided in the Notice Plan (Exhibit 4 to the Settlement Agreement), satisfy Rule 23, due process, and constitute the best notice practicable under the circumstances. The Notice Plan set forth in the Settlement Agreement is reasonably calculated to apprise the Settlement Class of the pendency of the Action, the certification of the Settlement Class for settlement purposes only, the terms of the Settlement, its benefits and the Release of Claims, the Settlement Class Members' rights including the right to, and the deadlines and procedures for, requesting exclusion from the Settlement or objecting to the

Settlement, Class Counsel's application for Fees and Expenses and/or the application for Settlement Class Representative Service Awards, the deadline, procedures and requirements for submitting a Claim for Reimbursement pursuant to the Settlement terms, the time, place, and right to appear at the Final Fairness hearing, and other pertinent information about the Settlement and the Settlement Class Members' rights. The Court authorizes the Parties to make non-material modifications to the Direct Mail Notice prior to mailing, and to the Long Form Notice and Claim Form, if they jointly agree that any such changes are appropriate.

11. The notices and Notice Program constitute sufficient notice to all persons and entities entitled to notice. The notices and Notice Program satisfy all applicable requirements of law, including, but not limited to, Rule 23 and the constitutional requirement of due process. The Court finds that the forms of notice are written in simple terminology, are readily understandable by Class Members and comply with the Federal Judicial Center's illustrative class action notices. The Court orders that the notices be disseminated to the Class as per the Notice Program. Accordingly, the Court approves, and directs the implementation of, the Notice Plan pursuant to the terms of the Settlement Agreement.

12. The Settlement Administrator is directed to perform all settlement administration duties set forth in, and pursuant to the terms and time periods of, the Settlement Agreement, including mailing of the CAFA Notice, implementing and maintaining the Settlement website, disseminating the Class Notice to the Settlement Class, the processing, review and determination of timely submitted and proper Claims for Reimbursement under the Settlement terms, and the submission of any declarations and other materials to counsel and the Court, as well as any other duties required under the Settlement Agreement.

13. The Departments of Motor Vehicles within the United States, the District of Columbia, Puerto Rico, Guam, and all other United States territories

and/or possessions are ordered to provide approval to the Settlement Administrator, through data aggregators such as Experian, IHS Automotive, Driven by Polk, or otherwise, to obtain and utilize vehicle registration information for the purpose of identifying the names and contact information of purchasers and lessees of Settlement Class Vehicles for the purposes of disseminating the Settlement Class Notice to the Settlement Class Members. Vehicle registration information includes, but is not limited to, owner/lessee name and address information, registration date, year, make, and model of the vehicle. Experian, or any other data aggregator company so retained by the Settlement Administrator or the Parties, is ordered to license the Settlement Class Members' contact information to the Settlement Administrator and/or Defendants solely for the use of providing Settlement Class Notice in the Action and for no other purpose.

14. Any Settlement Class Member who wishes to be excluded from the Settlement Class must mail, by first-class mail, postmarked on or before the date ordered by the Court below, a written request for exclusion ("Request for Exclusion") to the Settlement Administrator at the address specified in the Class Notice. To be effective, the Request for Exclusion must include:

- a. The case name and number of the Action;
- b. The excluding class member's full name, current residential address, mailing address (if different), telephone number, and e-mail address;
- c. An explanation of the basis upon which the excluding Class Member claims to be a Class Member, including the make, model year, and VIN(s) of the Subject Vehicle(s);
- d. A request that the Class Member wants to be excluded from the Class; and
- e. The excluding Class Member's dated, handwritten signature (an electronic signature or attorney's signature is not sufficient).

15. The Settlement Administrator shall forward copies of any written requests for exclusion to Class Counsel, Denso's Counsel, and Subaru's Counsel. A list reflecting all timely requests for exclusion shall be filed with the Court by the Settlement Administrator no later than forty-two (42) days before the Fairness Hearing.

16. Any Settlement Class Member who fails to submit a timely and complete Request for Exclusion sent to the proper addresses shall remain in the Settlement Class and shall be subject to and bound by all determinations, orders and judgments in the Action concerning the Settlement, including but not limited to the Released Claims set forth in the Settlement Agreement, Final Order and Judgment in the Action, even if he, she, they, or it has litigation pending or subsequently initiates litigation against Subaru and/or Denso relating to the claims and transactions released in the Action. Subaru's Counsel shall provide to the Settlement Administrator, within twenty (20) business days of the entry of the Preliminary Approval Order, a list of all counsel for anyone who has then-pending litigation against Subaru relating to claims involving the Covered Vehicles. Denso's Counsel shall provide to the Settlement Administrator, within twenty (20) business days of the entry of the Preliminary Approval Order, a list of all counsel for anyone who has then-pending litigation against Denso relating to claims involving Denso low-pressure fuel pumps in the Covered Vehicles.

17. Any Settlement Class Member who has not submitted a Request for Exclusion may object to the fairness of the Settlement Agreement and/or the requested amount of Class Counsel Fees and Expenses and/or Settlement Class Representative service awards.

- a. To object, a Settlement Class Member must either, on or before the date ordered by the Court below: (1) file their objection electronically with the Court, or (2) mail their objection to (a) the Clerk of the Court,

Mitchell H. Cohen Building & U.S. Courthouse, 4th & Cooper Streets, Camden, NJ 08101; (b) James E. Cecchi, Esq., Carella, Byrne, Cecchi, Olstein, Brody & Agnello, P.C., 5 Becker Farm Rd, Roseland, NJ 07068, on behalf of Class Counsel; (c) Homer B. Ramsey, Esq., Shook, Hardy & Bacon L.L.P., 1 Rockefeller Plaza, Suite 2801, New York, NY 10020 on behalf of Defendant Subaru's counsel; and (d) Daniel Rustmann, Esq., Butzel Long, P.C., 150 West Jefferson, Suite 100, Detroit, MI 48226 on behalf of Defendant Denso's counsel, postmarked on or before the date ordered by the Court below.

- b. Any objecting Settlement Class Member must include the following with their objection: (i) The case name and number of the Action; (ii) The objector's full name, current residential address, mailing address (if different), telephone number, and e-mail address; (iii) An explanation of the basis upon which the objector claims to be a Class Member, including the make, model year, and VIN(s) of the Covered Vehicle(s), and whether the Covered Vehicle is currently owned or currently leased by the Class Member; (iv) whether the objection applies only to the objector, to a specific subset of the Class, or to the entire Class, and all grounds for the objection, accompanied by any legal support for the objection, and any documents or other evidence the objector believes supports the objection; (v) the number of times the objector has objected to a class action settlement within the five years preceding the date that the objector files the objection to this Settlement, the caption and case number of each case in which the objector has made such objection and the caption and case number of any related appeal, and a copy of any orders related to or ruling upon the objector's prior such objections that were issued by the trial and

appellate courts in each listed case; (vi) the full name, telephone number, mailing address, and e-mail address of all counsel who represent the objector, including any former or current counsel who may be entitled to compensation for any reason related to the objection to the Settlement Agreement and/or the request for Attorneys' Fees, Costs and Expenses; (vii) the identity of all counsel representing the objector who will appear at the Fairness Hearing; (viii) the number of times the objector's counsel has objected to a class action settlement within the five years preceding the date that they have filed the objection, and the caption and case number of each case in which objector's counsel has made such objection and the caption and case number of any related appeal; (ix) if the Class Member or his or her counsel have not made any such prior objection, the Class Member shall affirmatively so state in the written materials provided with the objection; (x) a list of all persons who will be called to testify at the Fairness Hearing in support of the objection; (xi) a statement confirming whether the objector intends to personally appear and/or testify at the Fairness Hearing, and; (xii) the objector's original signature and date of signature. Each objection must be personally signed by the objector (an electronic signature or attorney's signature is not sufficient). Any objection that fails to satisfy these requirements shall not be considered by the Court.

- c. Subject to the approval of the Court, any Settlement Class Member who has properly filed a timely objection may appear, in person or by counsel, at the Final Fairness Hearing to explain why the proposed Settlement should not be approved as fair, reasonable and adequate, or to object to any motion for Class Counsel Fees and Expenses or

Settlement Class Representative service awards. In order to appear, any Settlement Class Member must, no later than the objection deadline, file with the Clerk of the Court and serve upon all counsel designated in the Class Notice, a Notice of Intention to Appear at the Final Fairness Hearing. The Notice of Intention to Appear must include copies of any papers, exhibits or other evidence and the identity of all witnesses that the objecting Settlement Class Member (or the objecting Settlement Class Member's counsel) intends to present to the Court in connection with the Final Fairness Hearing. Any Settlement Class Member who does not provide a Notice of Intention to Appear in accordance with the deadline and other requirements set forth in this Order and the Class Notice shall be deemed to have waived any right to appear, in person or by counsel, at the Final Fairness Hearing.

- d. Any Settlement Class Member who has not properly filed a timely objection in accordance with the deadline and requirements set forth in this Order and the Class Notice shall be deemed to have waived any objections to the Settlement and any adjudication or review of the Settlement Agreement by appeal or otherwise.

18. In the event the Settlement is not granted final approval by the Court, or for any reason the parties fail to obtain a Final Order and Final Judgment as contemplated in the Settlement Agreement, or the Settlement is terminated pursuant to its terms for any reason, then the following shall apply:

- a. All orders and findings entered in connection with the Settlement shall become null and void and have no further force and effect, shall not be used or referred to for any purposes whatsoever, and shall not be admissible or discoverable in this or any other proceeding, judicial or otherwise;

- b. All of the Parties' respective pre-Settlement claims, defenses and procedural rights will be preserved, and the parties will be restored to their positions *status quo ante*;
- c. Nothing contained in this Order is, or may be construed as, any admission or concession by or against Defendants, Released Parties or Plaintiffs on any allegation, claim, defense, or point of fact or law in connection with this Action;
- d. Neither the Settlement terms nor any publicly disseminated information regarding the Settlement, including, without limitation, the Class Notice, court filings, orders and public statements, may be used as evidence in this or any other proceeding, judicial or otherwise; and
- e. The preliminary certification of the Settlement Class pursuant to this Order shall be vacated automatically, and the Action shall proceed as though the Settlement Class had never been preliminarily certified.

19. Pending the Final Fairness Hearing and the Court's decision whether to grant final approval of the Settlement, no Settlement Class Member, either directly, representatively, or in any other capacity (including those Settlement Class Members who filed Requests for Exclusion from the Settlement which have not yet been reviewed and approved by the Court at the Final Fairness Hearing), shall commence, prosecute, continue to prosecute, or participate in, against any of the Released Parties, any action or proceeding in any court or tribunal (judicial, administrative or otherwise) asserting any of the matters, claims or causes of action that are to be released in the Settlement Agreement. Pursuant to 28 U.S.C. § 1651(a) and 2283, the Court finds that issuance of this preliminary injunction is necessary and appropriate in aid of the Court's continuing jurisdiction and authority over the Action.

20. Pending the Final Fairness Hearing and any further determination thereof, this Court shall maintain continuing jurisdiction over these Settlement proceedings.

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

22. Based on the foregoing, the Court sets the following Settlement deadlines. If any deadline set forth in this Order falls on a weekend or federal holiday, then such deadline shall extend to the next business day. These deadlines may be extended by order of the Court, for good cause shown, without further notice to the Class. Settlement Class Members must check the Settlement website regularly for updates and further details regarding this Settlement:

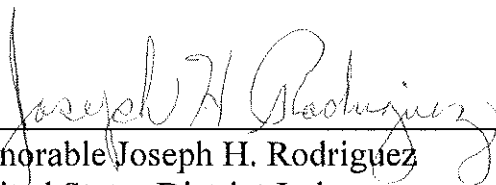
Event	Deadline
Commencement of Class Notice Program	July 15, 2024
Subaru's Counsel shall provide to the Settlement Administrator a list of all counsel for anyone who has then-pending litigation against Subaru involving claims concerning Denso low-pressure fuel pumps in the Covered Vehicles, and Denso's Counsel shall provide to the Settlement Administrator a list of all counsel for anyone who has	July 31, 2024

then-pending litigation against Denso involving claims concerning Denso low-pressure fuel pumps in the Covered Vehicles.	
Class Notice Substantially Completed	September 24, 2024
Plaintiffs' Motion for Final Approval of the Settlement to be filed	September 30, 2024
Class Counsel's Fee and Expense Application and Request for Service Awards for Class Representatives, with accompanying expert report(s)	September 30, 2024
Postmark Deadline for submission to the Clerk of all objections by Class Members.	October 29, 2024
Deadline for filing Notice of Intent to Appear at Fairness Hearing by Class Members and/or their personal attorneys.	October 29, 2024
Postmark Deadline for Class Members to Mail their Requests for Exclusion (Opt-Out) from the Settlement.	October 29, 2024
Settlement Administrator shall file with the Court a declaration (i) reporting the names of all persons and entities that submitted timely Requests for Exclusion; and (ii) attesting that Notice was disseminated in accordance with the Settlement Agreement and this Preliminary Approval Order.	November 4, 2024

Any submissions by the Parties concerning Final Approval of Settlement and in response to any objections and requests for exclusion	November 13, 2024
Fairness Hearing will be held at Mitchell H. Cohen Building & U.S. Courthouse, 4th & Cooper Streets, Camden, NJ 08101, Courtroom 5D or by video conference as determined by the Court.	December 3, 2024 at 10 a.m.

SO ORDERED:

Date: July 11, 2024



Honorable Joseph H. Rodriguez
United States District Judge