

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

SUNIL AMIN and TRUSHAR :  
PATEL, on behalf of themselves :  
and others similarly situated, :

Plaintiffs, :

v. :

MERCEDES-BENZ USA, LLC, and :  
DAIMLER AG, :

Defendants. :

CIVIL ACTION NO.  
1:17-cv-01701-AT

**ORDER GRANTING MOTION FOR PRELIMINARY APPROVAL OF  
CLASS SETTLEMENT AND DIRECTION OF CLASS NOTICE**

This matter is before the Court on Plaintiffs’ Motion for Preliminary Approval of Class Settlement and Direction of Class Notice. [Doc. 63.] The Motion is **GRANTED**, subject to the following provisions:

WHEREAS, a proposed Class Action Settlement Agreement and Release (the “Settlement”) has been reached between Plaintiffs’ counsel on behalf of a defined proposed Settlement Class of certain current and former owners and lessees of Mercedes-Benz 204 and 205 C-Class (model years 2008-2019), 204 GLK-Class (model years 2010-2015), 218 CLS-Class (model years 2012-2017), 207, 212 and 213 E-Class (model years 2010-2019), 156 GLA-Class (model years 2015-2019), 166 GL-Class (model years 2013-2016), 166 GLE-Class (model years 2016-2019), 166 GLS-Class (model years 2017-2019), 166 M-Class (model years 2012-2015), or 253 GLC-

Class (model years 2016-2019) vehicle (the “Subject Vehicles”), which resolves certain claims against Defendants pertaining to the Subject Vehicles listed below;

WHEREAS, the Court, for the purposes of this Order, adopts all defined terms as set forth in the Settlement;

WHEREAS, this matter has come before the Court pursuant to Plaintiffs’ Motion for Preliminary Approval of Class Settlement and Direction of Class Notice (the “Motion”);

WHEREAS, the Motion seeks leave to file an amend complaint;

WHEREAS, Defendants do not oppose the Court’s entry of the proposed Preliminary Approval Order;

WHEREAS, the Court finds that it has jurisdiction over the Action and each of the Parties for purposes of settlement and asserts jurisdiction over the Class Representatives for purposes of considering and effectuating this Settlement;

WHEREAS, this Court has considered all of the presentations and submissions related to the Motion and, having presided over and managed this Action, with the facts, contentions, claims and defenses as they have developed in these proceedings, and is otherwise fully advised of all relevant facts in connection therewith.

**IT IS HEREBY ORDERED AS FOLLOWS:**

**I. PRELIMINARY APPROVAL OF THE CLASS ACTION SETTLEMENT:**

1. The proposed Settlement appears to be the product of intensive, thorough, serious, informed, and non-collusive mediation overseen by the Honorable Edward Infante of JAMS; has no obvious deficiencies; does not improperly grant preferential treatment to the Class Representatives or segments of the Class; and appears to be fair, reasonable, and adequate, such that notice of the Settlement should be directed to the Class Members, and a Final Approval Hearing should be set.

2. Accordingly, the Motion is **GRANTED**.

**II. THE CLASS, CLASS REPRESENTATIVES, AND CLASS COUNSEL**

3. “Class” or “Settlement Class” means, for purposes of this Class Action Settlement only, all current and former owners and lessees of Subject Vehicles who purchased or leased their Subject Vehicles in the United States. The following entities and individuals are excluded from the Class:

- a) Persons who have settled with, released, or otherwise had claims adjudicated on the merits against Defendants arising from the same core allegations or circumstances as the Litigation Claims, except that such persons shall remain eligible to receive Qualified Future Repairs and reimbursement for Qualified Past Repairs (both subject to applicable limitations and proof requirements) occurring after the date of such settlement, release, or adjudication on the merits;
- b) Employees of Defendants; and

- c) The Honorable Terry J. Hatter, Jr., the Honorable Rozella A. Oliver, the Honorable Amy Totenberg, the Honorable Madeline Cox Arleo, the Honorable Michael A. Hammer, and members of their respective families.

### **III. PRELIMINARY FINDINGS**

4. The Court finds that it will likely be able to approve, under Rule 23(e)(2), the proposed Settlement Class as defined above, consisting of current and former owners and lessees over 2.5 million Subject Vehicles.

5. The Court furthermore finds that it will likely be able to certify the class for purposes of judgment on the proposal, because the Settlement Class likely meets the numerosity requirement of Rule 23(a)(1), as well as the commonality and predominance requirements of Rule 23(a)(2) and (b)(3).

### **IV. NOTICE TO CLASS MEMBERS**

6. Under Rule 23(c)(2), the Court finds that the content, format, and method of disseminating Notice, as set forth in the Motion, the Declaration of Jennifer M. Keough filed on December 20, 2019, and the Settlement Agreement and Release, including Revised 5"x7" Postcard Notice<sup>1</sup> to all known Class Members, is the best notice practicable under the circumstances and satisfies all requirements provided in Rule 23(c)(2)(B) and due process. The Court approves such notice, and hereby

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<sup>1</sup> In the January 15, 2020 telephone conference, the Court directed the Parties to make substantial revisions to the Postcard Notice and provide a sample of the Postcard Notice in a larger size. (*See* Doc. 69.) The Parties submitted the revised Postcard Notice on January 24, 2020 in both a 4"x6" and a 5"x7" format. (*See* 5"x7" Postcard Notice, Doc. 72-3; *see also* 4"x6" Postcard Notice, Doc. 72-5.) The Court **DIRECTS** the Parties to utilize the larger, 5"x7" revised Postcard Notice.

directs that such notice be disseminated in the manner set forth in the proposed Settlement Agreement to Class Members under Rule 23(e)(1), except that the Parties are directed to use the revised 5"x7" Postcard Notice submitted to the Court on January 24, 2020 (Doc. 72-3).

**V. SCHEDULE AND PROCEDURES FOR DISSEMINATING NOTICE, FILING CLAIMS, REQUESTING EXCLUSION FROM THE CLASS, FILING OBJECTIONS TO THE CLASS ACTION SETTLEMENT, AND FILING THE MOTION FOR FINAL APPROVAL**

	Date	Event
30 Days from Preliminary Approval Order	April 13, 2020	Motion for Attorneys' Fees and Expenses filed
60 Days from Preliminary Approval Order	May 11, 2020	Notice mailed to Class Members and Settlement website available to Class Members ("Notice Date")
75 Days after Notice Date	July 25, 2020	Deadline to Object or to Opt Out of Settlement
35 days before Final Approval Hearing	August 5, 2020	Deadline to file Final Approval Motion
At least 180 days after entry of Preliminary Approval Order	September 9, 2020	Final Approval Hearing

**VI. FINAL APPROVAL HEARING**

7. The Final Approval Hearing shall take place on September 9, 2020 at 10:30 a.m. at the United States District Court for the Northern District of Georgia, 2388 Richard B. Russell Federal Building and United States Courthouse, 75 Ted Turner Drive, SW Atlanta, GA 30303-3309, before the Honorable Amy Totenberg, to determine whether the proposed Class Settlement is fair, reasonable, and adequate,

whether it should be finally approved by the Court, and whether the Released Claims should be dismissed with prejudice under the Settlement.

## **VII. OTHER PROVISIONS**

8. Lieff Cabraser Heimann & Bernstein, LLP and Corpus Law Patel, LLC are hereby appointed as class counsel under Rule 23(g)(3) (“Class Counsel”). Class Counsel and Defendants are authorized to take, without further Court approval, all necessary and appropriate steps to implement the Settlement, including the approved Notice Program.

9. The deadlines set forth in this Preliminary Approval Order, including, but not limited to, adjourning the Final Approval Hearing, may be extended by Order of the Court, for good cause shown, without further notice to the Class Members, except that notice of any such extensions shall be included on the Settlement Website. Class Members should check the Settlement Website regularly for updates and further details regarding extensions of these deadlines. Exclusions and Objections must meet the deadlines and follow the requirements set forth in the approved notice in order to be valid.

10. Class Counsel and Defendants’ Counsel are hereby authorized to use all reasonable procedures in connection with approval and administration of the Settlement that are not materially inconsistent with the Preliminary Approval Order or the Class Action Settlement, including making, without further approval of the Court, minor changes to the Settlement, to the form or content of the Class Notice, or to any other exhibits that the Parties jointly agree are reasonable or necessary.

11. The Court shall maintain continuing jurisdiction over these proceedings for the benefit of the Class as defined in this Order.

12. For the reasons stated in the motion, Plaintiffs' Unopposed Motion for Leave to File an Amended Complaint [Doc. 63 at 32] is **GRANTED**.

**IT IS SO ORDERED** this 12th day of March, 2020.

  
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**AMY TOTENBERG**  
**UNITED STATES DISTRICT JUDGE**