

REE

**IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN
DISTRICT OF ILLINOIS**

EASTERN DIVISION

JOHN G. CHRISTENSEN, III,)	
CATHERINE KILPATRICK and)	
LAWRENCE WU, Individually and on)	
Behalf of All Others Similarly Situated,)	
)	Judge Joan B. Gottschall
Plaintiffs)	Magistrate Judge Martin C. Ashman
)	
v.)	
)	
VOLKSWAGEN GROUP OF)	Case No. 1:10-CV-06484
AMERICA, INC.)	
)	
Defendant.)	

PRELIMINARY APPROVAL ORDER

Plaintiffs, John G. Christensen, III (“Christensen”), Catherine Kilpatrick (“Kilpatrick”) and Lawrence Wu (“Wu”) (collectively, “Plaintiffs”) and Defendant, Volkswagen Group of America, Inc. (“VWGoA”) (with Plaintiffs, the “Parties”), having filed a Joint Motion for Preliminary Approval of Class Action Settlement (“Motion”) approving the settlement agreement (“Agreement”) entered into by the Parties, the Court, having reviewed such Motion and the Agreement attached thereto, and the supporting papers submitted therewith, and the Court being fully advised:

IT IS HEREBY ORDERED THAT:

1. The Agreement¹ and the Settlement set forth therein are preliminarily approved as fair, reasonable and adequate. This determination is not a final finding that the Settlement Agreement is fair, reasonable, and adequate, but instead is a determination that there is probable cause to submit the proposed Settlement Agreement to Settlement Class Members and to hold a hearing concerning final approval of the proposed settlement, and ultimately approve the Settlement.

2. The Parties have made a sufficient showing, under the provisions of Rule 23 of the Federal Rules of Civil Procedure, as applicable in the context of settlement classes, to establish probable cause, following Notice to members of the proposed Settlement Class, to hold a hearing to determine if a Class should be certified for Settlement purposes only, consisting of persons who meet the following criteria:

All Persons who purchased or leased the Settlement Class Vehicles, not for resale, in the United States and Puerto Rico. **“Settlement Class Vehicles” means the following vehicles distributed by VWGoA: model year 2010 Volkswagen Jetta Sedans (in trim levels Limited, SE, and Wolfsburg), model year 2010 Jetta SportWagens (in trim levels SE, and TDI) and model year 2010 Golfs (in trim level TDI) as well as model year 2010 Volkswagen Jetta Sedan S, Jetta SportWagon S, and Golf 2.5 vehicles originally purchased or leased with the Bluetooth® option.**

Excluded from the Settlement Class are: Persons who validly and timely exclude themselves from the Settlement Class; Persons who have settled with and released Defendant from individual claims substantially similar to those alleged in this Litigation or Persons who have had adjudicated claims substantially similar to those alleged in this Litigation; Officers, directors or employees of VWGoA or its subsidiaries and affiliates; Persons who have suffered personal injury as a result of the defects alleged; Insurers

¹ Unless otherwise noted, all capitalized terms shall have the same meaning as the definitions in Section 1 of the Agreement.

or other providers of extended service contracts or warranties for the Settlement Class Vehicles; United States residents that have purchased Settlement Class Vehicles in the United States but have since transported the Settlement Class Vehicle outside the United States; and The Honorable Judge Joan B. Gottschall.

If, for any reason, the proposed Settlement is not approved, any order certifying a Settlement Class shall be vacated nunc pro tunc and the Litigation shall proceed as though the Settlement Class had never been certified, without prejudice to the Parties' rights to either request or oppose class certification for purposes of litigation.

3. This Court has both subject matter jurisdiction and personal jurisdiction as to this action and all Parties before it.

4. In making the findings set forth in Paragraph 2, the Court has exercised its discretion in conditionally certifying the Settlement Class on a nationwide basis. The Court appoints Named Plaintiffs Christensen, Kilpatrick and Wu as the named Class Representatives.

5. The Court appoints Shepherd, Finkelman, Miller & Shah, LLP, Holland, Groves, Schneller & Stolze, LLC, and Mauriello Law Firm, APC as Class Counsel.

6. Plaintiffs can, and have, fairly, fully and adequately, protect the interests of the Class. Plaintiffs' counsel are experienced in prosecuting complex class action litigation, and Plaintiffs and their counsel have no interest that conflicts with, or is adverse to, the interests of the Settlement Class.

7. The Court hereby appoints Rust Consulting, Inc. as the Claims Administrator in this Action.

8. The Court finds that the manner and content of the Notice substantially specified in the Agreement and the Class Notice will provide the best practicable notice of the Settlement to Class Members and fully satisfies the requirements of due process. The Court further orders that the Claims Administrator shall, by direct mail, provide all Settlement Class Members with the Notice and Claim Form, as substantially described in Exhibits A and B to the Agreement. Additionally, Notice shall be published on the websites of Class Counsel and on a Settlement website created by the Claims Administrator for the purpose of notifying Class Members of the Action and Settlement. Pursuant to the terms of the Agreement, Defendant will bear all costs of providing Notice and otherwise administering the Settlement. The Court authorizes the Parties to make minor revision to the Class Notice as they may jointly deem necessary or appropriate, without the necessity of further Court action or approval.

9. A Fairness Hearing shall be held by this Court to consider and finally determine:

- (a) Whether the Agreement should be finally approved as fair, reasonable and adequate;
- (b) Whether the requested attorneys' fees and expenses and incentive awards should be awarded; and
- (c) The merits of any objections to the Agreement and the Settlement set forth therein, or any of its terms.

The Fairness Hearing described in this paragraph may be postponed, adjourned, or continued by Order of the Court without further notice to the Class Members.

10. Any Settlement Class Member who wishes to object to the proposed Settlement must send or file an objection with this Court. Objections must contain all information described in the Settlement Agreement. The envelope containing the Objection to the Settlement must be postmarked on or before the date set forth in the Mailed Notice, which shall be thirty (30) days after completion of Notice pursuant to the Settlement Agreement. Only Settlement Class Members may object to the Settlement. Any objecting Settlement Class Member shall also mail a copy of such papers by First Class mail, postmarked on that same date, to each of the following persons:

Counsel for the Class:

James P. Shah
Shepherd, Finkelman, Miller & Shah, LLP
35 E. State Street
Media, PA 19063

Counsel for Defendant:

S. Mark Varney
Carroll, Burdick & McDonough LLP
44 Montgomery Street, Suite 400
San Francisco, CA 94104

Claims Administrator:

Rust Consulting, Inc.
Subject: Christensen v. VWGoA
PO Box 2657
Faribault, MN 55021-9657

11. Any Settlement Class Member who does not submit an Objection to the Settlement in complete accordance with this Order and the applicable provisions of the Settlement Agreement shall not be permitted to object to the Settlement. Any Class Member who does not make his or her objection to the Settlement or request for

intervention in the manner provided herein and in the Agreement and in compliance with applicable law, shall be deemed to have waived such objection or right to intervene for purposes of appeal, collateral attack or otherwise.

12. Any objecting Settlement Class Member may appear at the hearing on the fairness of the proposed Settlement (the “Fairness Hearing”) held by the Court, in person or by counsel, to show cause why the Settlement Agreement should not be approved as fair, reasonable and adequate, or to object to any petitions for attorneys’ fees and reimbursement of Litigation costs and expenses; provided, however, that the objecting Settlement Class Member must send or file with the Clerk of the Court and serve upon the Claims Administrator and counsel, at the addresses described in Paragraph 11 of this Order, a notice of intention to appear at the Fairness Hearing (a “Notice of Intention to Appear”) on or before the date set forth in the Mailed Notice, which shall be thirty (30) days after the completion of Notice pursuant to the Settlement Agreement. The Notice of Intention to Appear must include all information and documents required by the Settlement Agreement. Any Settlement Class Member who does not provide a Notice of Intention to Appear in complete accordance with the deadlines and other specifications set forth in the Settlement Agreement, and who has not filed an Objection to the Settlement in complete accordance with the deadlines and other specifications set forth in the Settlement Agreement, will be barred from speaking or otherwise presenting any views at any Fairness Hearing.

13. The Claims Administrator shall also have the obligations enumerated in the Settlement Agreement.

14. Anyone who wishes to be excluded from the Settlement Class must submit a written Request for Exclusion (as described in the Notice and Settlement Agreement) by sending it to the Claims Administrator at the address described in the Notice by First-Class U.S. mail. Requests for Exclusion must contain all information described in the Settlement Agreement. The envelope containing the Request for Exclusion must be postmarked on or before the date set forth in the mailed Notice, which shall be thirty (30) days after the completion of Notice pursuant to the Settlement Agreement.

15. Anyone who falls within the Settlement Class definition and does not submit a Request for Exclusion in complete accordance with the deadlines and other specifications set forth in this Order and the Settlement Agreement shall become a Settlement Class Member and shall be bound by all proceedings, orders, and judgments of this Court pertaining to the Settlement Class.

16. The Settlement Agreement is for Settlement purposes only. Neither the fact of, any provision contained in, nor any action taken under the Settlement Agreement, shall be construed as an admission of the validity of any claim or any factual allegation that was or could have been made by Plaintiffs and Settlement Class Members in the Action, or of any wrongdoing, fault, violation of law, or liability of any kind on the part of Defendant or the Released Persons. The Settlement Agreement shall not be offered or be admissible in evidence by or against Defendant or the Released Persons or cited or referred to in any other action or proceeding, except one (1) brought by or against the Parties to enforce or otherwise implement the terms of the Settlement Agreement, (2)





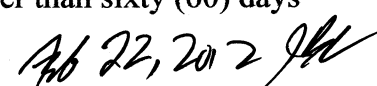
involving any Plaintiff or Settlement Class Member to support a defense of res judicata, collateral estoppel, release, or other theory of claim preclusion, issue preclusion, or similar defense, or (3) involving an attempt to enforce a stay of other litigation pursuant to the terms set forth in the Settlement Agreement and the Court's Order preliminarily approving the Settlement Agreement.

17. All discovery and other pretrial proceedings in this Action are stayed and suspended until further order of this Court, except as otherwise agreed to by the Parties or as may be necessary to implement the Agreement or this Order.

18. All other pending litigation or proceedings addressing the same subject matter as this case is stayed and suspended until further order of this Court and members of the Settlement Class who do not request exclusion from the Settlement Class in accordance with this Order and the Settlement Agreement shall be enjoined from commencing and thereafter prosecuting any action, suit, proceeding, claim or cause of action (except those based on or relating to personal injury or wrongful death), in any jurisdiction or court against Defendant or the Released Parties relating to or arising out of the subject matter of this Action.

19. The dates of performance of this Order are as follows:

- (a) The Class Notice shall be mailed, published and otherwise disseminated in accordance with Section 5 of the Agreement. The Parties shall use their best efforts to complete publication of the Class Notice within thirty (30) days of the date of this Order.
- (b) Requests for exclusion must be postmarked within thirty (30) days of the mailing of the Class Notice.

- (c) Objections to the Settlement, requests for intervention and notices of intention to appear at the Fairness Hearing shall be deemed timely only if filed with the Court and mailed to **Class Counsel and Defendant's counsel and postmarked within thirty (30) days of the mailing of the Class Notice.**
- (d) Not later than fourteen (14) days after the deadline for submission of Requests for Exclusion, the Claims Administrator shall provide to Class Counsel and Defense Counsel a complete exclusion list, together with copies of the exclusion requests. 1/27 
- (e) Class Counsel shall file and serve papers in support of final approval of the Settlement, responding to any objections or motions to intervene, if any, and requesting attorneys' fees, costs and expenses, no later than sixty (60) days after the mailing of the Class Notice. 2/13 
- (f) Defendant's counsel may file and serve papers in support of final approval of the Settlement, responding to any objections or motions to intervene, if any, no later than sixty (60) days after the mailing of the Class Notice. 2/22  2/13 
- (g) The Fairness Hearing shall be held on ~~March~~ ^{Feb 22, 2012} 7, 2012, at 9:30 a.m. 

ENTERED this 14 day of December, 2011



THE HONORABLE JOAN B. GOTTSCHALL