NELSON MULLINS RILEY & SCARBOROUGH LLP
Jahmy S. Graham (SBN 300880)
jahmy.graham@nelsonmullins.com
Michael E. Seager (SBN 354564)
michael.seager@nelsonmullins.com
19191 South Vermont Avenue, Suite 900
Torrance, CA 90502
Telephone: 424.221.7400
Facsimile: 424.221.7499

Attorneys for Defendant
Mazda Motor America, Inc. d/b/a Mazda North American Operations

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

SOUTHERN DIVISION

Gary Guthrie, Stephanie Crain, Chad Hinton, Julio Zelaya, Anna Gilinets, Marcy Knysz, Lester Woo, and Amy Bradshaw, *on behalf of themselves and all others similarly situated*,

Plaintiffs,

vs.

Mazda Motor of America, Inc.,

Defendant.

Case No. 8:22-cv-01055-DOC-DFM

[*Assigned to: Hon. David O. Carter*]

DEFENDANT MAZDA MOTOR OF AMERICA, INC.'S RESPONSE TO OBJECTIONS AND IN SUPPORT OF THE PROPOSED CLASS SETTLEMENT

[*Filed concurrently with Declaration of Jahmy S. Graham]*

Date: August 5, 2024
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Defendant Mazda Motor of America, Inc. d/b/a Mazda North American Operations ("MNAO") submits this brief in support of the Plaintiffs' Motion for Final Approval (the "Motion") and responds to the objections of Francis J. Farina ("Farina"), Bobby Young ("Young"), and Pamela Delk Farr ("Farr"). The Motion should be granted because the Proposed Class Settlement is fundamentally fair and adequate, while the objections lack merit, should be overruled, and should not prevent or delay final approval of the settlement.

I. INTRODUCTION

MNAO agrees with Plaintiffs that the proposed settlement is fundamentally fair and adequate, and that the Court should grant final approval and certify the settlement class. MNAO submits this separate brief to further respond to the objections that have been made, including and especially the objections submitted by putative class member Farina, the lone named plaintiff in a stayed class action pending in North Carolina directed to the same issue as here.

Plaintiffs and MNAO (collectively, the "Parties") reached the proposed class settlement agreement following extensive arm's-length negotiations and under the supervision of an experienced and neutral JAMS mediator. (*See* Dkt. 91-2, Settlement Agreement ("SA").) The settlement resolves Plaintiffs' claims pertaining to excessive oil consumption in certain Mazda vehicles, and provides three substantial benefits to class members: (1) a free and effective repair for the excessive oil consumption, (2) a powertrain warranty extension, and (3) out-of-pocket cost reimbursement. MNAO is committed to ensuring that Mazda drivers are satisfied with their vehicle and trust in its reliability. That is why MNAO chose to work with class counsel to structure a settlement that gives each class member not only a free and effective repair for the issue, but added peace of mind with the powertrain warranty extension.

On March 11, 2024, this Court granted preliminary approval of the settlement, finding that the proposed settlement was "reached in the absence of collusion, and is

the product of informed, good faith, arm's-length negotiations between the parties and their capable and experienced, well-respected and neutral Meditator . . . ." (Dkt. 102 ¶ 4.) The Court further found that the Settlement itself is "sufficiently fair, reasonable and adequate to justify preliminary approval." (*Id.*)

Following notice to the class and an opportunity to object, the response to the proposed settlement has been overwhelmingly positive. The 103,859 Court-approved Postcard Notices sent to potential class members yielded only seven timely requests for exclusion and only three objectors. This overwhelmingly positive response—over 99.99% of those to whom notice was sent—confirms what the Court found in preliminarily approving the settlement: the settlement is fundamentally fair, adequate, and appropriate. The few objections submitted do not establish otherwise.

The Court should overrule the objections and grant final approval.

II. FACTUAL BACKGROUND

A. The Settlement Agreement, Class Notice, and Class Response

Following almost two years of litigation and more than six months of mediation under the supervision of the Hon. Dickran M. Tevrizian (Ret.) of JAMS, the Parties reached an agreement to settle Plaintiffs' claims that certain Mazda vehicles contain valve stem seals that cause excessive oil consumption.[1]

The proposed settlement provides substantial benefits to a nationwide class of more than 86,000 purchasers or lessees of class vehicles. First, the settlement provides a free, effective, and quick repair program for the valve stem seal in all class vehicles that have manifested excessive oil consumption as described in the settlement. (SA 10–11.) Plaintiffs conducted discovery and investigation into the efficacy of this repair and concluded that the repair is "effective and dramatically reduces the Class Vehicles' oil consumption issues." (Dkt. 91, at 5.) Per the terms of the Settlement,

[1] The class vehicles are 2021-2022 Mazda, CX-30, 2021 CX-5, 2021 CX-9, 2021-2022 Mazda3, and 2021 Mazda6.

this repair program was operationalized when the Court granted preliminary approval. (SA 11.)

Second, in connection with the issues in this case, consumers will receive an automatic powertrain warranty extension that extends that warranty from the earlier of 60 months/60,000 miles to 84 months/84,000 miles. (SA 11–12.) This extension is fully transferable. (*Id.* at 12.)

Finally, MNAO will reimburse the settlement class for any documented out-of-pocket costs consumers incurred for oil and oil changes they had to obtain before the vehicle's normal oil change interval. (SA 12–13.)

Following the Court's preliminary approval of the settlement, the settlement administrator issued the Court-approved class notice. (Decl. of Jahmy S. Graham ("Graham Decl."), Ex. 1 ("Heubach Decl."), ¶ 9.) Specifically, the settlement administrator mailed 103,859 Court-approved Postcard Notices via first-class mail. (*Id.*) 1,020 notices were forwarded, and 3,011 notices were returned undeliverable. Of those notices returned undeliverable, 1,522 were remailed to updated addresses.[2] (*Id.* ¶ 11.) The settlement administrator also launched an information settlement website, which has registered more than 13,476 unique visitors and 40,643 page views. (Heubach Decl. ¶ 12.) Additional resources—a toll-free information line and email address—have received 925 calls (220 of which involved speaking with a live operator) and 562 email inquiries, all of which received a response. (Heubach Decl. ¶¶ 13–14.) MNAO submits that this notice process provided the best practicable notice to the potential class members.

[2] The settlement administrator also mailed 86 notices directed to potential class members who had ten or more settlement class vehicles. Of the 86 notices sent, four were returned undeliverable and one was forwarded. The settlement administrator is continuing to conduct advance searches to identify updated verified addresses for these returned notices. (Heubach Decl. ¶¶ 9, 11.)

Following notice, the settlement class's response to the proposed settlement shows overwhelming support. Just three class members submitted objections—Farina, Young, and Farr—and the settlement administrator received only eight requests for exclusion (seven timely). (*See* Heubach Decl. ¶¶ 15, 16; Dkts. 107, 123, 128.) Meanwhile, class members have already submitted 761 claims for out-of-pocket cost reimbursements. (Heubach Decl. ¶ 17.)

B. Farina's Attempts to Disrupt the Settlement and His Serial Objections.

This Court is well aware that Farina is the named plaintiff in a copycat lawsuit he brought in the Western District of North Carolina in January 2023 (the "*Farina* action") on behalf of the same putative class at issue and addressed to the same putative class vehicles and the same valve stem seal issue as here. (*See* Dkt. 116-10, *Farina* First Am. Compl. ("*Farina* FAC"), ¶¶ 1–2.) Farina attempted to set his class action apart from this one, positing that the valve stem seal issue has emissions implications and bringing emissions-warranty claims and claims under the Clean Air Act for alleged violations of reporting requirements. (*Farina* FAC at 23–26.) Despite alleging that the defect causes unreported emissions and damage to emissions components, Farina's operative complaint does *not* allege that his own vehicle has ever failed an emissions test or actually experienced damaged or deteriorated emissions components. (*Generally Farina* FAC.) Meanwhile, the repair records and vehicle history available to MNAO show no repair has been sought for any emissions components. (Graham Decl. ¶ 6.)

Farina did not file his action until January 2023, several months after this action was filed. (*See generally id.*) By that time, the Parties here had already undergone multiple motions to dismiss and amendments to the complaint and, shortly thereafter, the Parties were ordered to mediation. (*See* Dkt. 58.) By the time MNAO responded to Farina's complaint, the *Guthrie* Parties had set a mediation date. (*See* Dkt. 61.)

Over the course of the next several months, Farina opposed MNAO's motion to dismiss stay or transfer under the first-to-file rule, instead insisting that his action should proceed separate and apart from this action, and despite his stated understanding that this action was proceeding through mediation and toward a potential nationwide settlement. (*See, e.g.*, Dkt. 116-15 (*Farina* Dkt. 34), at 1–2.) While Farina continuously opposed transfer and potential consolidation with this matter for several months, the *Guthrie* parties continued mediation efforts, during which time the *Guthrie* Plaintiffs' counsel was appointed interim class counsel. (Dkt. 66.)

In June 2023, the *Farina* court stayed Farina's action under the first-to-file rule, (Dkt. 116-18, *Farina* Dkt. 42, at 18), and in August 2023, after four months of negotiations, the *Guthrie* Parties informed the court that they had reached a proposed nationwide settlement. (Dkt. 71.) The Parties here spent the next several months finalizing a written agreement, and in January 2024, the Plaintiffs moved for preliminary approval. (Dkt. 91.)

Since the Motion for Preliminary Approval was brought, Farina has undertaken a series of motions and filings in this action attempting to disrupt this settlement. First, he filed a "Notice of Motion to Lift Stay in *Farina* to Intervene Herein." (Dkt. 98). Next, he appeared through counsel at the preliminary approval hearing here. (*Generally* Dkt. 116-28, Preliminary Approval Tr. ("PA Tr.").) He followed that with a Motion to Intervene, which this Court denied. (Dkts. 105–106, 124).

Next, he filed his first objection (First Farina Objection). (Dkt. 107 ("First Farina. Obj.").) Then he filed a "Motion for Order Requiring Production of Documents" which he did not properly notice for hearing and which therefore remains outstanding due to this procedural noncompliance. (Dkt. 112.) He then filed his second objection, directed at the Plaintiffs' motion for attorney's fees, expenses, and service awards. (Dkt. 123 ("Second Farina Obj.").)

A short time later, Farina filed a "Witness List" that lists the witnesses Farina purports to be able to call at the final fairness hearing, which includes some of the Plaintiffs, an MNAO employee, the parties' counsel, Plaintiffs' experts and consultants, and an unidentified "30(b)(6)" corporate witness from MNAO. (Dkt. 125.) Next, Farina purported to subpoena some of those witnesses, despite *not* being a party to the action and lacking any authority to do so. After that, Farina filed a "Motion to Compel" the appearances of Plaintiffs Gary Guthrie and Amy Bradshaw.[3] (Dkt. 127.) Finally, Farina filed his third objection, a purported objection to "(1) Adequacy of Representation and (2) the Intended Use of Rank Hearsay at Final Hearing." (Dkt. 128 ("Third Farina Obj.").)

The essence of Farina's objections (and every one of his other serial filings) is that the proposed settlement is the result of a concerted effort by the Parties to "contract away" Farina's emissions-warranty and Clean Air Act claims for "no value."

C. The Young and Farr Objections

Young and Farr are the only other objectors to the proposed settlement. Generally, Young expresses concern that the repair is ineffective and that dealership technicians are not qualified to perform it. (Dkt. 139-7 ("Young Obj."), at 2–3.) However, Young does not assert that he has sought the repair, nor that his repair work was improperly performed or ineffective. (*See id.*)

Farr asserts that the powertrain warranty extension is of little value to her because it represents only a year of use. (Dkt. 139-6 ("Farr Obj."), at 2–3.) However, she likewise does not assert that she has sought a repair. (*See id.*)

[3] As stated in MNAO's Joinder to Plaintiffs' Opposition to Farina's Motion to Compel, Farina's attempts to turn the final fairness hearing into a trial on his objections are improper, including his attempts to compel the parties' appearances by motion and subpoena.

III. ARGUMENT

"The 'universally applied standard' in determining whether a court should grant final approval to a class action settlement is whether the settlement is 'fundamentally fair, adequate, and reasonable.'" *Nat'l Rural Telecomms. Coop. v. DIRECTV, Inc.*, 221 F.R.D. 523, 525 (C.D. Cal. 2004). Applicable factors include the strength of the plaintiff's case, the risk, complexity, and likely duration of further litigation, the risk of maintaining a class action status throughout trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and views of counsel, and the reaction of the class members. *Id.*

The classwide settlement here is fundamentally fair, adequate, and reasonable, and provides substantial benefits to the settlement class and should be finally approved. Moreover, the objections lack merit, should be overruled, and should not prevent or delay final approval of the settlement.

A. Farina's objections are harassing and baseless.

Like all of Farina's filings, his objection is disorganized, repetitive, and confusing, with many points, little supporting explanation, and a penchant for disparaging the Parties. But broadly speaking, the objections raise three arguments to support Farina's general contention that the settlement is improper.

First, Farina asserts the powertrain warranty extension does not cover the valve stem seal issue and is otherwise worthless to the class because it does not provide relief under the class vehicles' emissions warranties (recall that Farina posits, without evidentiary support, that the valve stem seal issue damages the class vehicles' emissions components). (*See generally, e.g.*, First Farina Obj. 2–3.) MNAO denies these allegations.

Second, Farina asserts, in an apparent attempt to create an illusion of support for the merits of his otherwise unsupported Clean Air Act claims and arguments, in essence, that MNAO has "publicly acknowledged" liability for his Clean Air Act

claims based on the existence of a line item in Mazda Motor Corporation's[4] ("Mazda") financial statements called the "Provision related to environmental regulations" (the "Environmental Regulations Provision"). Farina himself has authored and signed declarations that purport to support these speculative and conclusory assertions. (*See generally, e.g.*, First Farina Obj. 2.) MNAO denies these allegations.

Third, Farina attempts to portray the settlement as a "reverse auction" or otherwise the product of collusion. (*See, e.g.*, Second Farina Obj. ¶ 13.) MNAO denies these allegations.

Finally, Farina argues that notice to the class was misleading because it did not mention his claims. The class notice, which is entirely appropriate and not misleading, was approved by this Court after thoughtful deliberation, including after the Court gave Farina's counsel an opportunity to be heard at the preliminary approval hearing.

Simply put, none of Farina's arguments (or those of other objectors) have merit. The Court should thus overrule these objections in their entirety.

1. The settlement does not provide "illusory benefits," as Farina asserts.

Farina asserts that the settlement provides only "illusory" benefits. This argument essentially asserts that only an extension of MNAO's emissions warranties would provide meaningful relief to the class because: first, the powertrain warranty does not cover the valve stem seal at issue, which is instead covered by the emissions warranties and "excluded" from coverage after 24,000 miles; second, the powertrain warranty does not provide protection for emissions components that are allegedly being damaged by excessive oil consumption. (*E.g.*, First Farina Obj. ¶¶ 41–45.) Neither holds up to scrutiny or otherwise establishes that the settlement is inadequate.

[4] Mazda Motor Corporation is MNAO's parent company.

First, Farina's assertions that the powertrain warranty extension is an "illusory" benefit because it "excludes" the affected valve stem seals from coverage are unsupported, but Farina does not even adequately support his assertion that the valve stem seal is not covered by the powertrain warranty. He asserts that component is not part of the "powertrain," (First Farina Obj. ¶ 41), but just three paragraphs later acknowledges that it is part of the engine (i.e., part of the powertrain). (First Farina Obj. ¶ 43.) Yet he concludes "[i]n no way could anyone who understands auto mechanics and these manufacturer warranties confuse this with a powertrain component." (First Farina Obj. ¶ 43.)

As an objector to the proposed settlement, Farina "bears the burden of proving any assertions [he] raise[s] challenging the reasonableness of the class action settlement." *Noll v. Ebay, Inc.*, 309 F.R.D. 593, 602 (N.D. Cal. 2015). His arguments do not even raise an inference that the valve stem seal is not covered by the powertrain warranty, let alone provide competent evidence conclusively establishing it. Regardless, MNAO has been covering the valve stem seals the under the powertrain warranty in connection with the repair program in the Settlement Agreement, and will continue to do so as part of the classwide settlement.

Second, Farina claims the powertrain warranty is an illusory benefit because it does not cover emissions components that he claims are "necessarily effected" by the excessive oil consumption in the vehicles. (*E.g.*, First Farina Obj. ¶¶ 41, 44–45.) Again, however, Farina bears the burden of proving his assertions. But all he offers is his own conclusory allegations that the excessive oil consumption causes damage to emissions components. This is insufficient. Indeed, at no point has he presented ***any*** support or evidence of damage to emissions components from the oil consumption issue—not to his vehicle nor to anyone else's.

The Court should reject Farina's arguments for what they are—an attempt to define the value of the settlement solely through the lens of what he believes to be the

merits of his own invented claims, particularly his emissions warranty claims and his Clean Air Act claims. Moreover, those claims lack support. In particular, while insisting that the valve stem seal issue in the class vehicles necessarily effects the vehicles' emissions and causes damage to emissions components, Farina himself does not even allege—let alone provide evidence to support—that his vehicle (1) has actually failed any emissions tests, or (2) that the emissions components in his vehicle are actually damaged or otherwise deteriorating, or (3) point to the existence of any regulatory investigation by the EPA or otherwise regarding Mazda's valve stem seals at issue in this case. (*See generally Farina* FAC.) That is why MNAO has moved to dismiss Farina's claims entirely. (*See generally* Dkt. 116-13, *Farina* Dkt. 33, at 9–11.) Farina's claims are unsupported.

2. Farina's assertions that Mazda has set aside money to pay and "acknowledged" liability for CAA fines are baseless and false.

Farina has filed multiple declarations[5] that purport to analyze Mazda's financial statements and supposedly reveal that Mazda has "publicly acknowledged" liability

[5] Farina's first declaration, styled "Declaration of Francis J. Farina Concerning Mazda's Annual Reports and Audited Financial Statements" dated February 1, 2024 (the "February Declaration"), was filed in the *Farina* action as document 46-17. Farina's second declaration, styled "Declaration of Francis J. Farina in Support of Motion to Intervene" and dated March 20, 2024 (the "March Declaration"), was filed here as document number 105-29 in support of Farina's Motion to Intervene. The third declaration, styled "Supplemental Declaration of Francis J. Farina in Support of Objection to the Settlement and Fee Petition" and dated June 20, 2024 (the "June Declaration"), was filed here as document number 129-1.

First, this response addresses the March and June Declarations because those are the declarations relied on in Farina's objections. However, while not relied on by Farina in his objections, the February Declaration is substantially similar to the March Declaration as it relates to Farina's claims that Mazda has acknowledged liability for or designated a reserve to pay fines related to his CAA claims. As such, any deficiencies in the March Declaration apply with equal force to the February Declaration.

related to his Clean Air Act claims. His declarations are based almost entirely on the presence of the Environmental Regulations Provision in Mazda financial report, along with Farina's self-serving and unsupported speculation in terms of what that line item was intended to address.

Farina's March Declaration lays out Farina's purported forensic-accounting analysis that supposedly establishes his conclusion that Mazda is setting aside money to pay for CAA fines related to his claims. Although the declaration's analysis consists of 18 paragraphs, the first seventeen are completely unrelated to the Environmental Regulations Provision. (March Decl. ¶¶ 20–27.) Instead, those paragraphs describe accounting and auditing principles as purportedly applied to Mazda's "Reserve for Warranty Expenses," a different line item in Mazda's financial statement. (March Decl. ¶¶ 20-27.)

In a complete non sequitur, Farina then concludes in paragraph 28:

> In addition to the Reserve for Warranty Expenses, Note 2 of the 2023 [Mazda Audited Financial Statements (MAFS)], Summary of Significant Accounting Policies states that a Provision Related to Environmental Regulations 'provides for estimated costs of complying with environmental regulations at the end of the fiscal year.' There is no discussion of this provision in Note 3, Significant Accounting Estimates footnote, nor did KPMG mention it as a Key Audit Risk. However, the Provision related to environmental regulations amount of this Reserve set forth in the Selling General and Administrative Expenses footnote is $102,925,000. (2023 MAFS at 59.) There was no comparable provision in any prior year, indicating that this reserve – which was made after the filing of the Farina Action Amended Complaint, and 30 days after the North

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Second, although the June Declaration is titled "Supplemental Declaration of Francis J. Farina in Support of Objection to the Settlement and Fee Petition," that Declaration post-dates Farina's objection to the fee petition, and is only referenced in the Third Objection, Farina's "Objection to (1) Adequacy of Representation and (2) the Intended Use of Rank Hearsay at Final Hearing." (Third Farina Obj.) This title is apparently error.

> Carolina Court stayed the Farina Action – is most likely related to the Clean Air Act claim set forth in the Farina Action."

(March Decl. ¶ 28 (emphasis omitted).)

Farina's claim in paragraph 28 that the Environmental Regulation Provision is "most like related" to his Clean Air Act claims is completely unsupported and insufficient to meet Farina's burden of proving all assertions made to support his challenge to the proposed settlement. *Noll*, 309 F.R.D. at 602. Farina offers nothing but a post hoc ergo proctor hoc logical fallacy—*i.e.*, because this line item mentioned "environmental regulations" and appeared in a report after he filed his action, the line item must be *because* of his action. MNAO denies his specious allegations. Meanwhile, the entire preceding discussion is completely unrelated to the discussion of and conclusions regarding the Environmental Regulation Provision in paragraph 28. The only support Farina has for his conclusions in paragraph 28 is . . . his own say-so in paragraph 28.

Yet paragraph 28 is, in turn, the sole basis for Farina's repeated assertions in his first two objections—and in the subsequent June Declaration, discussed below—that the $102,925,000 designated in Environmental Regulation Provision as of March 2023 is "clearly intended" to be used for payment of fines or other liability related to Farina's Clean Air Act claims:

- "Meanwhile, clearly unbeknownst to Guthrie's counsel, and as the Declaration of Francis J. Farina In Support of Motion to Intervene ("Farina Dec.") outlines, in addition to setting aside reserves for warranty claims due to the defective valve stems, Mazda has set aside $102,925,000 for the "estimated costs of complying with environmental regulations:' [quoting and citing paragraph 28]. This reserve is clearly intended only for the CAA fines . . ." (First Farina Obj. 2–3; *id.* ¶¶ 17–18; *see also* Dkt. 123 ("Second Farina Obj."), at 3 ("The environmental regulation reserve is clearly intended only for paying the CAA fines . . .").)

- "Moreover, the subject reserve – ***which was made after the filing of the Farina Action Amended Complaint, and 30 days after the North Carolina Court stayed the Farina Action –*** is most plainly related to the CAA claim set forth in the *Farina* action." (First Farina Obj. 3; *see also* Second Farina Obj. 3 ("The environmental reserve – ***which was made after the filing of the Farina Action Amended Complaint, and 30 days after the North Carolina Court stayed the Farina Action –*** is most plainly related to the CAA claims set forth in the Farina action." (emphasis original)).)

- "In sum, Farina seeks to intervene because while Guthrie's counsel claims to have 'investigated' Farina's claims and found them to be worthless, Mazda has publicly acknowledged (without adequate disclosure) CAA fines alone totaling $102,925,000." (First Farina Obj. 3.; *id.* ¶ 20–21; *see also* Second Farina Obj. 4 ("Moreover, while Guthrie counsel claims to have 'investigated' Farina's claims and found them to be worthless, Mazda has publicly acknowledged (without adequate disclosure) an accounting reserve to pay regulatory fines of $102,925,000 for the emissions violations which caused damages to class members' exhaust systems.").)

To put a finer point to it, Farina's objections repeatedly assert that the $102,925,000 in the Environmental Regulations Provision is "clearly" intended for payment of fines related to his CAA claims based solely on . . . his own declaration asserting that the $102,925000 is "most likely" related to his CAA claims. Again, his assertions are unsubstantiated. Worse, he goes further, asserting that the Environmental Regulations Provision is a "public acknowledgement" of liability for fines related to his Clean Air Act claims. This is a downright falsity.

Farina's June Declaration is no better. In the June Declaration, Farina notes that the Environmental Regulation Provision now sits at $203,482,759 as of March 2024. In this Declaration, however, he re-theorizes, asserting: "As previously explained to the Court, this reserve is not intended to pay any class claims. Instead, it appears to be an amount payable to regulatory authorities concerning false representations for tests reported to regulatory authorities – e.g., emissions systems on class vehicles like

mine." (June Decl. ¶ 11.) But again, Farina has never alleged, much less presented any evidence to substantiate, a failed emissions test—not for his vehicle or any other.

This is again why MNAO has moved to dismiss Farina's claims in their entirety. His entire theory of this case rests on the assertion that his and the class vehicles are non-compliant with emissions standards, yet he does not allege that his own vehicle has failed an emissions test, nor offer anything more than conclusory statements of non-compliance in the class vehicles at large. Indeed, the very formulation of Farina's CAA claims confirms that he does not allege his vehicle's emissions are elevated: Farina's CAA claims are for alleged "reporting" violations, *not* emissions violations. And as MNAO showed in moving to dismiss Farina's claims, Farina's reporting claims—while also lacking facts to support any violation thereof—are *not* actionable under the citizen suit provision Farina invokes, which is limited to permitting enforcement of an "emission standard or limitation." (*See* Dkt. 116-14, *Farina* Dkt. 33, at 14–19 (citing, *e.g.*, *In re Volkswagen Clean Diesel Mktg. Sales Practices & Prods. Liab. Litig.*, 894 F.3d 1030, 1039 (9th Cir. 2018)).)

In other words, there are no facts to support Farina's claims that the valve stem seal issue has any emissions implications, whether that be on the vehicles' actual emissions levels or to its emissions-warranty components. To the contrary, MNAO's publicly available testing data under the EPA's In-Use Verification Program (IUVP) rebuts any notion of emissions violations as Farina's claims summarily allege, showing no emissions violations for vehicles in the settlement class with data from both 2021 and 2022 models. *See generally* Light-Duty Manufacturer-Run In-Use Testing Data, ENV'T PROT. AGENCY (May 2024), *available at* https://www.epa.gov/compliance-and-fuel-economy-data/manufacturer-run-use-testing-program-data-light-duty-vehicles. This EPA-required continuous testing is part of vehicle manufactures' CAA compliance and the results are reported to the EPA and publicly available. This testing ensures that in-use vehicles (i.e., in the field

post-purchase) continue to comply with requisite emissions standards. *See generally id.* Moreover, MNAO has repeatedly raised this data with Farina, yet he has always ignored it, just as he ignores that he has never alleged, let alone provided proof, that his own vehicle has failed an emissions test or had a repair for an emissions component. (*See, e.g.*, Dkt. 116-8, *Farina* Dkt. 26, at 15–16.)

While the Court can overrule Farina's Environmental Regulations Provision arguments based solely on the deficiencies in his self-authored declarations—his only support for his claims—Farina's declaration can also be overruled based on publicly available documents. Farina's entire declaration is based on the premise that the Environmental Regulations Provision was implemented "after the filing of the Farina Action Amended Complaint, and 30 days after the North Carolina Court stayed the Farina Action." (March Decl. ¶ 28.) But it was not. The provision was implemented in the first quarter of Mazda's fiscal year 2023, *i.e.*, in the period covering April through June of *2022*, months *before* Farina's action was initiated, and more than a year before his First Amended Complaint was filed. (Graham Decl. ¶ 7.) Farina's declaration—and any statements based thereon—again, are entirely speculative and unsupported.

3. Farina's insinuations of a "reverse auction" are meritless.

Farina charges that this settlement is a "reverse auction" or otherwise the product of collusion. (*See, e.g.*, Second Farina Obj. ¶ 13 (citing case law describing a "reverse auction" and stating "Mazda and Guthrie counsel have contracted to get rid of Farina"); Third Farina Obj. ¶ 17 (again citing case law describing a "reverse auction").) His attempts at portraying a "reverse auction" generally fall into two categories.

First, he argues the parties "bargained away" Farina's claims for no value or investigation. (*See, e.g.*, First Farina Obj. ¶ 16 (stating that the parties have "contracted" to get rid of Farina); Second Farina Obj. ¶ 13 (referencing reverse

auctions and stating "Mazda and Guthrie counsel have contracted to get rid of Farina" and his claims "with absolutely no settlement relief"); Third Farina Obj. ¶ 14 ("Farina points to the facts and circumstances that bring him before the Court and asserts that Mazda and Guthrie counsel have contracted to 'deal with' Farina – and all of the claims he asserts – with absolutely no relief, and all in exchange for a payday for Guthrie, the straw North Carolinian, and Guthrie counsel." (citations omitted).)

Second, Farina asserts North Carolina plaintiff Amy Bradshaw lacks standing and is the product of the Parties' attempt to "cover" their bargaining away Farina's claims with no compensation. (*See, e.g.*, First Farina Obj. ¶¶ 12–13 (asserting Mazda "stipulated in Guthrie to the addition of a North Carolina resident as a named plaintiff, who has been promised a $2,200 incentive award if settlement in Guthrie is approved" and describing Ms. Bradshaw as a "convenience plaintiff" who "clearly lacks standing" and was added to "provide facial cover for Guthrie and Mazda to bargain away Farina's claims"); *see also* Second Farina Obj. ¶¶ 9–10; Third Farina Objection ¶ 2.)

The Court already found this settlement was not the product of collusion when it preliminarily approved the settlement. (Dkt. 102 ¶ 2.) Farina's assertions that the settlement is a "reverse auction" are unavailing. The *Tuttle* case Farina cites is instructive. As *Tuttle* explains, a reverse auction occurs when "the defendant in a series of class actions picks the most ineffectual class lawyers to negotiate a settlement with the hope that the district court will approve a weak settlement that will preclude other claims against the defendant." *Tuttle v. Audiophile Music Direct Inc.*, No. 2:22-cv-1081, 2023 WL 3318699, at *4 (W.D. Wash. May 9, 2023). As that court explained, those "challenging a settlement as resulting from an alleged reverse auction must provide 'concrete evidence' of collusion." *Id.* "Otherwise, the 'reverse auction argument would lead to the conclusion that no settlement could ever occur in the circumstances of parallel or multiple class actions–none of the competing cases

could settle without being accused by another of participating in a collusive reverse auction." The *Tuttle* court identified three "hallmarks" of a reverse auction: "ineffectual lawyers, evidence that the defendant negotiated with those lawyers *because of* their supposed ineffectiveness, and overly generous attorneys' fees compared to the relief offered to the class." *Tuttle*, 2023 WL 3318699, at *4 (emphasis original).

Rather than provide "concrete evidence" of collusion, Farina offers only unsupported conspiracy theories. Meanwhile, he ignores the facts and reality.

This settlement has none of the "hallmarks" of a reverse auction. First, there is no evidence that Plaintiffs' counsel is "ineffectual," let alone that MNAO chose to negotiate with Plaintiffs *because* of their allegedly ineffectual counsel. To the contrary, the Court found in granting preliminary approval that counsel for both parties were "capable and experienced." (Dkt. 102 ¶ 2.) And while Farina attempts to portray the sequence of negotiations as a joint venture to purposefully exclude him, the reality is that Farina filed a copycat class action months *after* the *Guthrie* action was filed. After MNAO first sought Farina's consent to have his case transferred to and heard by this Court where *Guthrie* was already pending, MNAO moved to dismiss, stay, or transfer Farina's action here under the first-to-file rule. Farina then spent months opposing all relief, including transfer for potential consolidation with this action. In the meantime, the *Guthrie* Plaintiffs' counsel was appointed interim class counsel (Dkt. 66) and the parties began mediating a potential classwide settlement. Moreover, the resulting negotiations were extensive, adversarial, and overseen by a neutral, experienced JAMS mediator (Ret. Judge Tevrizian)—one whom this Court is presumably well aware, in light of his well-earned reputation as a former District Court Judge in this District. Accepting Farina's bare assertions of a "reverse auction" here would, as the *Tuttle* court stated, "lead to the conclusion that no settlement could ever occur in the circumstances of parallel or multiple class

actions–none of the competing cases could settle without being accused by another of participating in a collusive reverse auction." *Tuttle*, 2023 WL 3318699, at *4.

The third hallmark—overly generous attorneys' fees compared to the relief offered to the class—is also absent. Farina argues that MNAO and "Guthrie counsel have contracted to get rid of Farina – and all of the claims he asserts – with absolutely no settlement relief in exchange for a payday for Guthrie counsel negotiated by the Mediator which appears to have no relationship to the value obtained for the class." (Second Farina Obj. ¶ 13.) But Farina's assertions rest on his belief that the settlement is "valueless," which it is not. The settlement provides substantial benefits to the class, notwithstanding Farina's continuous attempts to define the value of the settlement based solely on the claims *he* would assert, claims which, as MNAO has shown, are ultimately unsupported and worthless. Moreover, the amount of attorney's fees in this action was not negotiated until after the settlement was finalized and preliminarily approved, and the amount was the result of extensive, adversarial arm's length negotiations, again under the supervision of a neutral, experienced mediator and former District Court Judge in this District.

Respectfully, the Court should reject Farina's attempt to disparage Judge Tevrizian, the Parties, and counsel of record for MNAO and Plaintiffs.

4. Farina's criticisms of the Class Notice are unfounded.

Farina complains the class notice was misleading because it failed to notify the class about his claims. Farina raised this same argument before the Court at the preliminary approval hearing, and the Court rejected it, instead permitting Farina's objection to be posted to the class website, which it has been.

The Court acted properly in overruling Farina's objections to the notice at the preliminary approval hearing, and Farina continues to fail to show otherwise. Under Rule 23, "[p]otential class members must receive the 'best notice practicable under the circumstances.'" *Shaffer v. Cont'l Cas. Co.*, 362 Fed. App'x 627, 631 (9th Cir.

2010). "Notice is satisfactory if it generally describes the terms of the settlement in sufficient detail to alert those with adverse viewpoints to investigate and to come forward and be heard." *Id.* The Notice here satisfies this standard. It straightwardly describes the benefits of the settlement, the claims that are being released, procedures to submit a claim for reimbursement, and the procedures for objecting or opting out. This is all that is required. *See id.*

While Farina essentially asserts that failing to specifically identify his claims as released claims is misleading, he fails to point to authority requiring the notice to detail every specific cause of action that could have been brought based on the facts in the complaint. Farina briefly cites to *Chavez v. PVH Corp.*, No. 5:13-cv-1797, 2015 WL 581382, at *5 (N.D. Cal. Feb. 11, 2015), but that case dealt with a distinct set of facts. There, the parties had falsely assured the court that the release in the proposed class settlement was a release limited to claims that could have been asserted in the complaint, as required under Ninth Circuit standards. *Chavez*, 2015 WL 581382, at *5–6. Later, however, the Parties changed their position, and asserted to the Court that they intended the release to cover claims in another case that was based on different facts. *Id.* The court therefore found that the release was improper and the notice misleading. *Chavez* does not, as Farina states, state that a notice must "alert class members to the existence of the related action" in order not to be misleading. (*See* Second Farina Obj. ¶ 44.)

What's more, Farina's attempt to add an element of deceit here is based solely on his own fabricated assertion that Mazda has "publicly acknowledged" liability for his CAA claims or that Mazda "knows" and "has known" that the valve stem seals are, as Farina alleges, causing damage to emissions components. (*E.g.*, First Farina Obj. ¶¶ 21, 45–46.) But again, MNAO maintains that Farina's claim lacks any merit; Farina himself does not allege that his vehicle has experienced elevated emissions or damage to emissions components. At this stage, the only support Farina has for his

claims is Farina's own say-so, either with respect to his emissions-warranty claims, or the supposed hundreds of millions that Mazda has supposedly set aside in "reserve" to fines related to Farina's CAA claims. It is not misleading not to provide notice to the class of Farina's claims on this basis.

B. Neither the Young nor the Farr objections present valid grounds for denying final approval either.

1. Young's objection is procedurally improper and, in any event, is not supported by the record.

The Young objection does not comply with the Court's Preliminary Approval Order because it does not provide the VIN of Mr. Young's vehicle, nor proof of purchase, and it fails to affirmatively state whether Mr. Young has objected to a class action settlement in the last five years. (*See* Dkt. 102 ¶ 10(c), (f); Dkt. 139-7, at 2–3.) Accordingly, the Court may overrule Mr. Young's objection as procedurally deficient.

Nevertheless, even if considered, his objection should be overruled on the merits. The Young objection states that "the dealerships are not qualified to do the Valve Stem Seal correctly" because it "was put together at a factory by skilled employees." (Dkt. 139-7 at 2.) Mr. Young further states, without support and in direct contravention to what confirmatory discovery has shown, that the "replacement parts have not been tested" and there is no guarantee the replacement is better than the current valve stem seals. (*Id.*) Mr. Young's concerns should be overruled because lead class counsel investigated the efficacy of the repair—which is already being implemented in dealerships—and concluded that the repair is effective. (*E.g.*, Dkt. 91. at 5.) Young's concerns—while understandable—are ultimately unfounded.

2. Farr's objection does not present a valid criticism of the overall fairness of the settlement.

Farr's objection asserts that the powertrain warranty component of the settlement is insufficient because, for her, it represents only a little over a year of use. Farr proposes a buy-back remedy instead. (Dkt. 139-6, at 3.)

Farr's objection appears to be based on her own personal circumstances, and therefore does not affect the overall fairness or value of the settlement itself. *See, e.g.*, *Nunez v. Bae Systems San Diego Ship Repair Inc.*, 292 F. Supp. 3d 1018, 1042 (S.D. Cal. 2017). In other words, this is not a problem with the settlement, it is simply her preference for a different outcome. Farr could have opted out instead. She has not. Accordingly, her objection should be overruled.

IV. CONCLUSION

The settlement is fundamentally fair, reasonable, and adequate—notwithstanding the three dissenting voices out of more than 80,000 (from objectors Farina, Young, and Farr). Respectfully, the Court should thus grant final approval.

Dated: July 29, 2024

Respectfully submitted.

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: */s/ Jahmy S. Graham*
Jahmy S. Graham
Michael E. Seager

Attorneys for Defendant
MAZDA MOTOR OF AMERICA, INC. d/b/a MAZDA NORTH AMERICAN OPERATIONS

CERTIFICATE OF SERVICE

I hereby certify that on July 29, 2024, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system and I served a copy of the foregoing pleading on all counsel for all parties, via the CM/ECF system and/or mailing same by United States Mail, properly addressed, and first class postage prepaid, to all counsel of record in this matter.

By: */s/ Jahmy S. Graham*
Jahmy S. Graham