

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
FORT PIERCE DIVISION**

**ELLEN BERMAN on behalf of herself and
all others similarly situated,**

Plaintiffs,

v.

**GENERAL MOTORS LLC, a Delaware
limited liability company,**

Defendant.

**CASE NO. 2:18-cv-14371
ROSENBERG/MAYNARD**

**JOINT STIPULATION FOR ENTRY OF ORDER
PERMITTING SUPPLEMENTAL MAILING OF CLASS NOTICE**

NOW INTO COURT, through undersigned counsel, come Plaintiff Ellen Berman, on behalf of herself and the settlement class, and Defendant General Motors LLC (“GM”), who represent as follows:

RECITALS:

1. As detailed in the accompanying Declaration of L. Joseph Lines III (Exhibit 1), GM has discovered that there was an inadvertent error in compiling the listing of model year 2013 Vehicle Identification Numbers (“VINs”) that was used to generate the mailing list that the Settlement Administrator used for initial class notice and notice of the Court’s order approving the class action settlement in this matter (“Settlement”). Due to this error, approximately 41,000 VINs were not included on the original model year 2013 VIN list, and as a result a number of owners of model year 2013 owners who are covered by the Settlement did not receive class notice or notice of the final approval of the Settlement. This error affects approximately five percent of the approximately 852,000 VINs that are covered by the Settlement. GM is working with IHS/Polk

(“Polk”) to determine the exact number of affected current and former owners. Provided that the Court enters the proposed Order, a Consolidated Class Notice (Exhibit 2) will be mailed to all affected owners advising them of their rights under the Settlement.

2. Upon learning of the error, GM promptly corrected the model year 2013 VIN list and entered the omitted VINs in its Investigate Vehicle History (“IVH”) data base with the notation that these vehicles are eligible for the benefits of the new model year 2013 Special Coverage Adjustment (“SCA”) as provided in the approved Settlement. When a vehicle is presented to a GM dealer for service, pursuant to normal business practices, the dealer queries IVH by VIN to determine whether there are open recalls or applicable Special Coverages. As a result, model year 2013 owners whose vehicles were inadvertently omitted from the original VIN list and who now take their vehicles to a GM dealership for an oil consumption concern should learn from the dealer that their vehicles are covered by the model year 2013 SCA (subject, of course, to the SCA time and mileage limits). What these owners have not received, however, are the two class notices advising them of (1) their right to opt out and (2) their entitlement if they do not opt out to free repairs or repair reimbursement for oil consumption issues under the model year 2013 SCA.

3. GM wishes to rectify its error by mailing a Consolidated Class Notice to all model year 2013 owners whose vehicles were omitted from the initial VIN list. GM has consulted with plaintiffs’ counsel who agree with GM that the Court should enter an order permitting and directing the mailing of a Consolidated Class Notice in the form attached hereto as Exhibit 2. This supplemental mailing will be paid for by GM and the Settlement Administrator will send the notice by U.S. Mail pursuant to the same procedures used for mailing the previous notices.

4. The proposed form of notice (1) preserves the right of owners of the omitted vehicles to opt out of the Settlement should they choose to do so (provided that they have not

already availed themselves of the Settlement benefits by obtaining free repairs or repair reimbursements under the SCA) and (2) provides direct mail notice to these owners who do not opt out that they are covered by the new model year 2013 SCA, that they can seek diagnosis and repairs pursuant to the terms, conditions and limitations of the SCA, and that they may submit Claim Forms for reimbursement of prior repair expenses covered by the SCA.

5. Paragraph 102 of the Settlement Agreement approved by the Court provides as follows: “The Court shall retain jurisdiction to protect, preserve, and implement the Agreement, including but not limited to, the release contained herein. The Court expressly retains jurisdiction to enter such further orders as may be necessary or appropriate in administering and implementing the terms and provisions of this Agreement.”

STIPULATION

Now, therefore, **IT IS HEREBY STIPULATED**, by and between Plaintiff and GM that the Court in the exercise of its retained jurisdiction under paragraph 102 of the approved Settlement Agreement may issue its order as follows:

1. GM is directed forthwith to instruct the Settlement Administrator to promptly mail to all potential model year 2013 Class Members whose vehicles were omitted from the initial model year 2013 VIN list the Consolidated Class Notice in the form attached hereto as Exhibit 2.

2. All Requests for Exclusion by potential Class Members shall be submitted to the Settlement Administrator post-marked no later than thirty (30) days after the date upon which the Consolidated Class Notice is mailed to potential Class Members.

3. All Claim Forms shall be submitted to the Settlement Administrator no later than one hundred twenty (120) days after the date upon which the Consolidated Class Notice is mailed to potential Class Members. No potential Class Member who has obtained repairs or repair

reimbursements under the model year 2013 SCA shall be permitted to submit a Request for Exclusion, and any such Requests shall be denied.

4. The Court shall retain jurisdiction to address any issues or disputes arising out of the mailing of the Consolidated Class Notice.

Dated: April 1, 2020

Respectfully submitted,

/s/ Rachel Soffin

Rachel Soffin, FL Bar No. 0018054

Gregory F. Coleman*

Adam A. Edwards*

Mark E. Silvey*

GREG COLEMAN LAW PC

First Tennessee Plaza

800 S. Gay Street, Suite 1100

Knoxville, TN 37929

Telephone: (865) 247-0080

Facsimile: (865) 522-0049

rachel@gregcolemanlaw.com

greg@gregcolemanlaw.com

adam@gregcolemanlaw.com

mark@gregcolemanlaw.com

**Pro hac vice*

Attorneys for Plaintiff and the Settlement Class

/s/ Laurie M. Riley

Laurie M. Riley, Esq., FL Bar No. 657751

Jones Walker LLP

201 South Biscayne Boulevard, Suite 2600

Miami, FL 33131

Telephone: 305-679-5728

Facsimile: 305-679-5816

Email: lriley@joneswalker.com

AND

Thomas A. Casey, Jr.

Admitted Pro Hac Vice

Jones Walker LLP

201 St. Charles Avenue, 49th Floor

New Orleans, Louisiana 70170

Telephone: (504) 582-8000
Facsimile: (504) 582-8011
E-mail: tcaseyjr@joneswalker.com

Counsel for Defendant, General Motors LLC

CERTIFICATE OF SERVICE

The undersigned hereby states a copy of the foregoing was served through the Court's CM/ECF system on all parties of record on April 1, 2020.

/s/ Laurie M. Riley.
Laurie M. Riley, Esq.
Jones Walker LLP
201 South Biscayne Boulevard, Suite 2600
Miami, FL 33131
Telephone: 305-679-5728
Facsimile: 305-679-5818
Email: lriley@joneswalker.com

