

**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

GLENN KESSELMAN, *et al.*, individually
and on behalf of similarly situated individuals,

Plaintiff,

v.

TOYOTA MOTOR SALES, U.S.A., INC., *et al.*,

Defendants.

No.: 2:21-cv-06010-TJH-JC
Hon. Terry J. Hatter, Jr.

SETTLEMENT AGREEMENT

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WHEREAS, Plaintiffs' Fifth Amended Class Action Complaint in the Action (all terms as defined below) allege that the hands-free phone system in the Subject Vehicles is defective, such that when the driver of the Toyota vehicle uses the hands-free phone system to make or receive a call, the person on the other end of the call hears an echo of his or her own words (the "Echo Issue");

WHEREAS, Class Counsel have conducted substantial discovery, have investigated the facts and underlying events relating to the subject matter of the Action and the Related Action, have retained various experts and independent consultants to analyze the alleged defect, have carefully analyzed the applicable legal principles, and have concluded, based upon their investigation and decisions issued by the Court, and taking into account the risks, uncertainties, burdens, and costs of further prosecution of their claims, and the substantial benefits to be received pursuant to this Settlement Agreement, that a resolution and compromise on the terms set forth herein is fair, reasonable, adequate, and in the best interests of Class Representatives and the other Class Members, and treats Class Members fairly and equitably in relation to one another;

WHEREAS, Toyota, for the purpose of avoiding the burden, expense, risk, and uncertainty of continuing to litigate the claims, and in exchange for the Release described herein, and without any admission of liability or wrongdoing, desires to enter into this Settlement Agreement pursuant to Rule 23(b)(2) of the Federal Rules of Civil Procedure;

WHEREAS, as a result of extensive arm's length negotiations, Class Representatives, Class Counsel, and Toyota have entered into this Settlement Agreement;

WHEREAS, Class Counsel represent and warrant that they are fully authorized to enter into this Settlement Agreement on behalf of Class Representatives, and that Class Counsel have

consulted with and confirmed that all proposed Class Representatives fully support and have no objection to this Settlement Agreement; and

WHEREAS, it is agreed that this Settlement Agreement shall not be deemed or construed to be an admission, concession, or evidence of any violation of any federal, state, or local statute, regulation, rule, or other law, or principle of common law or equity, or of any liability or wrongdoing whatsoever, by Toyota or any of the Released Parties, or of the truth or legal or factual validity or viability of any of the claims Plaintiffs have or could have asserted, which claims and all liability therefore are expressly denied;

NOW, THEREFORE, without any admission or concession by Class Representatives or Class Counsel of any lack of merit to their allegations and claims, and without any admission or concession by Toyota of any liability or wrongdoing or lack of merit in its defenses, in consideration of the mutual covenants and terms contained herein, and subject to both the preliminary and final approval by the Court, Class Counsel, Class Representatives, and Toyota agree as follows:

I. PROCEDURAL HISTORY

A. On July 24, 2019, Plaintiffs Terry Freeman and Andrew Trout, individually and on behalf of a putative class, filed a Class Action Petition in the Circuit Court of St. Louis County, Missouri at Clayton (the “*Freeman Action*”) against TMS, TMNA, and TEMA.

B. On September 12, 2019, TMS, TMNA, and TEMA removed the *Freeman* action to the Eastern District of Missouri and the case was assigned Case No. 4:19-cv-02550-SEP.

C. On October 10, 2019, Plaintiffs Andrew Trout and Terry Freeman filed their First Amended Class Action Complaint.

D. On November 8, 2019, TMS, TMNA, and TEMA filed their Motion to Dismiss the First Amended Complaint in the *Freeman* Action.

E. On November 30, 2020, the Court in the *Freeman* Action issued its Memorandum and Order granting in part and denying in part TMS, TMNA, and TEMA's Motion to Dismiss.

F. On June 1, 2021, the parties stipulated to the filing of a Second Amended Complaint in the *Freeman* Action, which replaced Plaintiffs Terry Freeman and Andrew Trout with Plaintiff Jamie Brown.

G. On June 16, 2021, plaintiff Glenn Kesselman, a resident of California, individually and on behalf of an "unknown" number of plaintiffs, filed a class action complaint (the "Action") in the Superior Court of the State of California, County of Los Angeles, Case No. 21STCV22797. Dkt. No. 1-1. The class action complaint alleges two causes of action against TMS, TMNA, and TEMA, including violation of California's Unfair Competition Law ("UCL") and violation of California's Consumer Legal Remedies Act ("CLRA"). *Id.* at ¶¶ 124-147. The core factual allegations in support of each cause of action relate to plaintiff's purchase or lease of a Toyota vehicle that allegedly contained an undisclosed defect in the vehicle's hands-free phone system, which diminished the vehicle's value. *Id.* at ¶¶ 92-102. Plaintiff purported to represent a putative class defined as: "All citizens of the State of California, who, within the applicable statute of limitations preceding the filing of this lawsuit to the date of class certification, purchased or leased a Toyota vehicle within the State of California with a defective hands-free phone system, such that when the driver of the Toyota uses the hands-free phone system to make or receive a call the person on the other end of the call hears an echo of his or her own words." *Id.* at ¶ 3.

H. On July 26, 2021, TMS, TMNA, and TEMA removed the Action to the Central District of California, and the case was assigned Case No. 2:21-cv-06010-AB-JC. Dkt. No. 1.

I. On August 2, 2021, TMS, TMNA, and TEMA filed a motion to dismiss Plaintiff Kesselman’s class action complaint. Dkt. No. 14. TMS, TMNA, and TEMA argued that Plaintiff (i) failed to provide TMS, TMNA, and TEMA with fair notice of a “defect;” (ii) failed to allege any direct communication that would support his UCL claim based on the purported fraudulent conduct of Toyota; (iii) failed to allege particular facts showing what additional information should have been contained in any direct communication from Toyota; (iv) failed to allege the existence of a duty to disclose; and (v) failed to plausibly allege Toyota’s pre-sale knowledge of a defect. *Id.* at §§ A, B, and C.

J. On August 2, 2021, TMS, TMNA, and TEMA filed a motion to compel arbitration and stay proceedings against plaintiff Kesselman. Dkt. No. 15.

K. On August 12, 2021, Plaintiff Kirk Coviello, individually and on behalf of a putative class, filed a Class Action Petition (“*Coviello* Complaint”) against Toyota Motor Sales, U.S.A., Inc. and Toyota Motor North America, Inc., in the Superior Court of California, County of Los Angeles, Case No. 21STCV30101. The class action complaint alleges two causes of action against TMS and TMNA, including violations of California’s UCL and CLRA. *Coviello* Complaint at ¶¶ 122-145. The core factual allegations in the Related Action involve plaintiff’s purchase or lease of a Toyota vehicle that allegedly contained an undisclosed defect in the vehicle’s hands-free phone system, which diminished the vehicle’s value. *Id.* at ¶¶ 91-101. Plaintiff purported to represent a putative class defined as: “All citizens of the State of California who, within the applicable statute of limitations preceding the filing of this lawsuit to the date of class certification, purchased or leased a Toyota vehicle within the State of California with a defective hands-free phone system, such that when the driver of the Toyota uses the hands-free phone system

to make or receive a call the person on the other end of the call hears an echo of his or her own words.” *Id.* at ¶ 3.

L. On December 2, 2021, the Court denied TMS, TMNA, and TEMA’s motion to dismiss the Action without prejudice and TMS, TMNA, and TEMA’s motion to compel arbitration without prejudice since the parties were taking steps toward filing a consolidated complaint. Dkt. No. 32.

M. On December 29, 2021, Plaintiffs filed their first amended class action complaint in the Action, which added fourteen named plaintiffs in addition to Mr. Kesselman, including Karen Ambrose (Arizona), Paul Arrelano (Colorado), Steven Cecere (New York), Gary Chroniger (Maryland), Jason Donaldson (North Carolina), David Douglas (Washington), Josh Downs (Illinois), Robert Erikson (Pennsylvania), Juan Giraldo (Georgia), Sharon Menzel (Florida), Matthew Shaffer (Ohio), Wayne Slates (Oregon), Joao Sousa (New Jersey), and Mitchell Trockman (Minnesota). Dkt. No. 39 at ¶¶ 7-39. The first amended complaint defined fifteen state classes including the Arizona Class, California Class, Colorado Class, Florida Class, Georgia Class, Illinois Class, Maryland Class, Minnesota Class, New Jersey Class, New York Class, North Carolina Class, Ohio Class, Oregon Class, Pennsylvania Class, and Washington Class. *Id.* The first amended complaint also added twenty causes of action in addition to violation of California’s Unfair Competition Law and the California Consumer Legal Remedies Act, including violation of the Arizona Consumer Fraud Act, violation of the Colorado Consumer Protection Act, violation of Section 349 of the New York General Business Law, violation of Section 350 of the New York General Business Law, violation of the Maryland Consumer Protection Act, violation of North Carolina’s Unfair and Deceptive Act and Practices Act, violation of the Washington Consumer Protection Act, violation of the Illinois Consumer Fraud and Deceptive Business Practice Act,

violation of the Illinois Consumer Fraud and Deceptive Business Practice Act, violation of the Pennsylvania Unfair Trade Practices and Consumer Protection Law, violation no the Georgia Fair Business Practices Act, violation of the Georgia Uniform Deceptive Trade Practices Act, violation of the Florida Deceptive and Unfair Trade Practices Act, unjust enrichment under Florida law, violation of the Ohio Consumer Sales Practices Act, violation of the Oregon Unlawful Trade Practices Act, violation of the New Jersey Consumer Fraud Act, violation of the Minnesota Prevention of Consumer Fraud Act, and violation of the Minnesota Uniform Deceptive Trade Practices Act. *Id.* at ¶¶ 351-700.

N. On January 26, 2022, the Court stayed the individual case of plaintiff Kesselman pending issuance of the Ninth Circuit’s decision in *Ngo v. BMW of N. Am.*, No. 20-56027, which the parties agreed would bear on the issue of whether the *Kesselman* claims are subject to arbitration. Dkt. No. 58.

O. On January 28, 2022, TMS, TMNA, and TEMA filed their motion to dismiss the first amended complaint. Dkt. Nos. 59-60. TMS, TMNA, and TEMA’s arguments included, but were not limited to (i) Plaintiffs engaged in group pleading and did not distinguish among the corporate defendants; (ii) Plaintiffs’ consumer-fraud claims based on affirmative representations failed to allege any representations with particularity, and their nondisclosure theory similarly failed to comply with Rule 9(b), nor did they demonstrate any duty to disclose; (iii) Plaintiffs’ claims under the Arizona Consumer Fraud Act, Georgia Fair Business Practices Act, Colorado Consumer Protection Act, and Maryland Consumer Protection Act were barred by the statutes of limitations; (iv) Plaintiffs failed to identify any conduct previously deemed deceptive by an Ohio administrative rule or an Ohio state court decision; and (v) Plaintiffs failed to identify a specific

communication from any Defendant, and the similar claim based on unfairness must be dismissed as duplicative of the deception claim. Dkt. No. 59.

P. On February 17, 2022, the Court lifted the stay in the individual case of plaintiff Kesselman which the Court stayed pending the issuance of the Ninth Circuit's decision in *Ngo v. BMW of N. Am.*, Case no. 20-56027. Dkt. No. 63. The Ninth Circuit issued its decision, and the Toyota defendants did not refile its prior motion to compel arbitration. The parties also informed the Court that they agreed that the stay of Kesselman's individual case was no longer warranted. *Id.*

Q. On February 22, 2022, the *Coviello* court so ordered by stipulation of the *Coviello* parties to stay the Related Action pending the outcome of the Action and the *Freeman* Action.

R. On February 25, 2022, Plaintiffs filed their opposition to Toyota's motion to dismiss the first amended complaint in the Action. Dkt. No. 64.

S. On March 8, 2022, the Toyota defendants filed a Stipulation to Consolidate Actions to consolidate the Action and *Freeman* actions. Dkt. No. 65.

T. On March 14, 2022, the Court consolidated the Action and the *Freeman* Action and ordered Plaintiffs to file a second amended complaint and a single motion for class certification in the consolidated action. Dkt. No. 67.

U. On March 18, 2022, the Toyota defendants filed their reply in support of its motion to dismiss the first amended complaint. Dkt. No. 69.

V. On March 23, 2022, the Court ordered a continuance for Toyota's motion to dismiss the first amended complaint. Dkt. No. 73.

W. During the litigation, in addition to the Parties exchanging interrogatories, Toyota produced and Plaintiffs analyzed over 8,000 documents totaling over 90,000 pages. Toyota also conducted the deposition of 11 plaintiffs, including plaintiffs from the *Freeman* action.

X. On March 25, 2022, the Court ordered that the second amended complaint will not name TMNA or TEMA as they were dismissed from the Action. Dkt. No. 79. On March 31, 2022, the Court transferred this case from Judge Birotte to Judge Terry J. Hatter. Dkt. No. 84.

Y. On April 8, 2022, Defendant TMS filed its motion to compel arbitration of plaintiff Joao DeSousa (New Jersey). Dkt. No. 88. On May 6, 2022, plaintiffs filed an opposition to TMS's motion to compel arbitration. Dkt. No. 89. On May 20, 2022, TMS filed its reply in support of its motion to compel arbitration. Dkt. No. 91. On June 17, 2022, the Court denied TMS's motion to compel plaintiff Joao DeSousa to arbitrate his claims. Dkt. No. 94.

Z. On September 19, 2022, the Court granted in part and denied in part TMS' motion to dismiss the First Amended Complaint. The Court dismissed without prejudice plaintiffs' equitable claims based on a failure to allege legal remedies were inadequate and denied the motion to dismiss on all other grounds. Dkt. No. 97.

AA. On October 5, 2022, plaintiffs filed a second amended complaint which contained new allegations as to the newly consolidated case of *Freeman et al. v. Toyota Motor Sales, U.S.A. Inc.* Dkt. No. 98. The second amended complaint removed Sharon Menzel (Florida) and Joao Sousa (New Jersey) as plaintiffs and added plaintiff Jamie Brown (Missouri). Dkt. No. 98 at ¶¶ 7-37. The second amended complaint also did not name TMNA or TEMA as defendants. *Id.* at ¶¶ 38-42. On October 19, 2022, TMS filed its answer to the second amended complaint. Dkt. No. 100.

BB. On March 13, 2023, plaintiffs filed a third amended complaint dropping four plaintiffs and adding one new plaintiff to this Action. Dkt. No 108. The third amended complaint named eleven plaintiffs, including Glenn Kesselman (California), Karen Ambrose (Arizona), Paul Arellano (Colorado), Craig Granger (New York), David Douglas (Washington), Josh Downs (Illinois), Juan Giraldo (Georgia), Matthew Shaffer (Ohio), Wayne Slates (Oregon), Jamie Brown (Missouri), and Mitchell Trockman (Minnesota). *Id.* at ¶¶ 7-31. On March 27, 2023, TMS filed an answer to the third amended complaint. Dkt. No. 110.

CC. On March 5, 2024, plaintiffs filed their fourth amended complaint, naming plaintiffs Glenn Kesselman (California), Karen Ambrose (Arizona), Paul Arellano (Colorado), Jamie Brown (Missouri), David Douglas (Washington), Josh Downs (Illinois), Juan Giraldo (Georgia), Craig Grander (New York), Matthew Shaffer (Ohio), Wayne Slates (Oregon), and Mitchell Trockman (Minnesota). Dkt. No. 127 at ¶¶ 7-31. The complaint defined eleven state classes, including California, Arizona, Colorado, Missouri, Washington, Illinois, Georgia, New York, Ohio, Oregon, and Minnesota. *Id.* The fourth amended complaint defined these state classes as: “All citizens of the [State] who, within the applicable statute of limitations preceding the filing of this lawsuit to the date of class certification, purchased or leased a Class Vehicle within the [State].” *Id.* The fourth amended complaint alleged fourteen causes of action, including violation of California’s Unfair Competition Law, violation of California’s Legal Remedies Act, violation of Arizona’s Consumer Fraud Act, violation of Colorado’s Consumer Protection Act, violation of Section 349 of the New York General Business Law, violation of Section 350 of the New York General Business Law, violation of the Washington Consumer Protection Act, violation of the Illinois Consumer Fraud and Deceptive Business Practice Act, violation of the Missouri Merchandising Practice Act, violation of the Georgia Fair Business Practices Act, violation of

Ohio's Consumer Sales Practices Act, violation of Oregon's Unlawful Trade Practices Act, violation of Minnesota's Prevention of Consumer Fraud Act, and violation of Minnesota's Uniform Deceptive Trade Practices Act. *Id.* at ¶¶ 292-512.

DD. On March 19, 2024, TMS filed its answer to the fourth amended complaint. Dkt. No. 130.

EE. On June 25, 2024, the Court ordered that plaintiffs must file their motion(s) for class certification on or before October 21, 2024. Dkt. No. 132. The hearing date for the motion(s) for class certification is April 2, 2025. *Id.* The Court also held that all deadlines related to briefing and discovery in the Court's class certification briefing order, Dkt. No. 129, are vacated. *Id.*

FF. On January 6, 2025, plaintiffs filed their fifth amended complaint (the "Operative Complaint"), naming plaintiffs Glenn Kesselman (California), Kirk Coviello (California), Karen Ambrose (Arizona), Paul Arellano (Colorado), Jamie Brown (Missouri), David Douglas (Washington), Josh Downs (Illinois), Juan Giraldo (Georgia), Craig Grandner (New York), Matthew Shaffer (Ohio), Wayne Slates (Oregon), and Mitchell Trockman (Minnesota). Dkt. No. 139 at ¶¶ 16-40. The Operative Complaint defines eleven state classes, including California, Arizona, Colorado, Missouri, Washington, Illinois, Georgia, New York, Ohio, Oregon, and Minnesota. *Id.* The Operative Complaint defines these state classes as: "All citizens of the [State] who, within the applicable statute of limitations preceding the filing of this lawsuit to the date of class certification, purchased or leased a Class Vehicle within the [State]." *Id.* The Operative Complaint alleges thirteen causes of action, including violation of California's Unfair Competition Law, violation of Arizona's Consumer Fraud Act, violation of Colorado's Consumer Protection Act, violation of Section 349 of the New York General Business Law, violation of Section 350 of the New York General Business Law, violation of the Washington Consumer Protection Act,

violation of the Illinois Consumer Fraud and Deceptive Business Practice Act, violation of the Missouri Merchandising Practice Act, violation of the Georgia Fair Business Practices Act, violation of Ohio's Consumer Sales Practices Act, violation of Oregon's Unlawful Trade Practices Act, violation of Minnesota's Prevention of Consumer Fraud Act, and violation of Minnesota's Uniform Deceptive Trade Practices Act. *Id.* at ¶¶ 319-544.

II. DEFINITIONS

A. As used in this Settlement Agreement and the attached exhibits (which are an integral part of this Settlement Agreement and are incorporated herein in their entirety by reference), the following terms have the following meanings, unless this Settlement Agreement specifically provides otherwise:

1. "Action" means *Kesselman, et al. v. Toyota Motor Sales U.S.A. Inc.*, Case No. 2:21-cv-06010-TJH-JC (C.D. Cal.).

2. "Agreement" or "Settlement Agreement" means this Settlement Agreement and the exhibits attached hereto or incorporated herein, including any subsequent amendments and any exhibits to such amendments, which are, collectively, the settlement (the "Settlement").

3. "Fifth Amended Class Action Complaint" means the Fifth Amended Class Action Complaint, Dkt. 139, filed in this Court on January 6, 2025.

4. "Attorneys' Fees, Costs, and Expenses" means such funds as may be awarded by the Court to compensate Class Counsel and other attorneys representing Plaintiffs in this Action who have assisted in conferring the benefits upon the Class under this Settlement for their fees, costs, and expenses in connection with the Settlement, as described in Section VII of this Settlement Agreement.

5. "Class" means, for settlement purposes only, all individuals or legal entities

who, at any time as of the occurrence of the Initial Notice Date, own(ed), purchase(d), or lease(d) Subject Vehicles in the States of Arizona, California, Colorado, Georgia, Illinois, Minnesota, Missouri, New York, Ohio, Oregon, and Washington. Excluded from the Class are: (a) Toyota, its officers, directors, employees, affiliates and affiliates' officers, directors and employees; distributors and distributors' officers, directors and employees; and Toyota Dealers and Toyota Dealers' officers and directors; (b) Plaintiffs' Counsel; and (c) judicial officers and their immediate family members and associated court staff assigned to this case.

6. "Class Counsel" means Mike Arias and M. Anthony Jenkins of Arias Sanguinetti Wang & Team LLP and Thomas P. Rosenfeld, Kevin P. Green, Daniel S. Levy of Goldenberg Heller & Antognoli, P.C.

7. "Class Member(s)" means a member of the Class.

8. "Class Representatives" or "Plaintiffs" means current or former plaintiffs Glenn Kesselman, Kirk Coviello, Karen Ambrose, Paul Arellano, Craig Granger, David Douglas, Josh Downs, Juan Giraldo, Matthew Shaffer, Wayne Slates, Mitchell Trockman, Jamie Brown, Terry Freeman and Andrew Trout.

9. "Class States" means the States of Arizona, California, Colorado, Georgia, Illinois, Minnesota, Missouri, New York, Ohio, Oregon, and Washington.

10. "Court" means the United States District Court for the Central District of California.

11. "Defendant" means Toyota.

12. "Direct Mail Outreach" means the individual correspondence, substantially in the form as attached hereto as Exhibit 4, sent to Direct Mail Recipients by the Settlement Outreach Administrator as provided in Section IV.C, below, of this Settlement Agreement.

13. “Direct Mail Recipients” means those Class Members whose Subject Vehicle is registered in a Class State as of the date such information is provided to the Settlement Outreach Administrator by IHS Markit, now part of S&P Global.

14. “Fairness Hearing” means the hearing for the purposes of the Court determining whether to approve this Settlement Agreement as fair, reasonable, and adequate, and to award Attorneys’ Fees, Costs and Expenses and Class Representative service awards.

15. “Final Effective Date” means the latest date on which the Final Approval Order and/or Final Judgment approving this Settlement Agreement becomes final. For purposes of this Settlement Agreement:

- a. if no appeal has been taken from the Final Approval Order and/or Final Judgment, “Final Effective Date” means the date on which the time to appeal therefrom has expired; or
- b. if any appeal has been taken from the Final Approval Order and/or Final Judgment, “Final Effective Date” means the date on which all appeals therefrom, including petitions for rehearing or reargument, petitions for rehearing *en banc*, and petitions for certiorari or any other form of review, have been finally disposed of in a manner that affirms the Final Approval Order or Final Judgment; or
- c. subject to Court approval, if Class Counsel and Toyota agree in writing, for purposes of fulfilling the terms of the Settlement Agreement, the “Final Effective Date” can occur on any other agreed date.

- d. For clarity, neither the provisions of Rule 60 of the Federal Rules of Civil Procedure nor the All Writs Act, 28 U.S.C. § 1651, shall be taken into account in determining the above-stated times.

16. “Final Approval Order” means the Court’s order approving the Settlement Agreement and awarding Attorneys’ Fees, Costs and Expenses and Class Representative service awards, which is to be on terms substantially consistent with this Agreement. A proposed form is attached hereto as Exhibit 6.

17. “Final Judgment” means the Court’s final judgment, which is to be on terms substantially consistent with this Agreement. A proposed form is attached hereto as Exhibit 7.

18. “Initial Notice Date” means the date on which the notice is first disseminated by the Settlement Outreach Administrator to the Class.

19. “Long Form Notice” means the Long Form Notice substantially in the form attached hereto as Exhibit 3 that shall be available to Class Members as provided in Section IV.E., below, of this Settlement Agreement.

20. “Notice Program” means the notice plan attached hereto as Exhibit 2 and the plans and methods set forth in Section IV, below, of this Settlement Agreement.

21. “Parties” means Plaintiffs and Toyota, collectively, as each of those terms is defined in this Settlement Agreement.

22. “Plaintiffs’ Counsel” means any other attorney besides Class Counsel working on behalf of Plaintiffs in the Action.

23. “Preliminary Approval Order” means the order to be entered by the Court preliminarily approving the settlement as outlined in Section VIII, below, and to be substantially consistent with this Agreement. A proposed form is attached hereto as Exhibit 1.

24. “Related Action” means *Kirk Coviello v. Toyota Motor Sales, U.S.A., Inc., et al.*, Case No. 21STCV30101 (Superior Court of California, County of Los Angeles).

25. “Release” means the release and waiver set forth in Section VI, below, of this Settlement Agreement and in the Final Judgment and Final Approval Order.

26. “Released Parties” or “Released Party” means any Toyota entity, including, but not limited to, TEMA, TMNA, TMS and its past, present, and future parents, predecessors, successors, spin-offs, assigns, holding companies, joint-ventures and joint-venturers, partnerships and partners, members, divisions, stockholders, bondholders, subsidiaries, related companies, affiliates, officers, directors, employees, associates, dealers, including the Toyota Dealers, representatives, suppliers, vendors, advertisers, marketers, service providers, distributors and sub-distributors, repairers, agents, attorneys, insurers, administrators, and advisors. The Parties expressly acknowledge that each of the foregoing is included as a Released Party even though not identified by specific name herein.

27. “Settlement Outreach Administrator” means the Court-appointed third-party agent or administrator agreed to by the Parties and submitted to the Court for appointment to implement the Outreach Program. The Parties agree that Epiq Systems shall serve as Settlement Outreach Administrator, subject to approval by the Court.

28. “Subject Vehicles” means certain 2014-2019 4Runner, 2015-2018 Avalon, 2015-2018 Avalon HV, 2014-2019 Highlander, 2014-2019 Highlander HV, 2016-2018 Mirai, 2016-2019 Prius, 2017-2019 Prius Prime, 2015-2019 Prius V, 2014-2019 Sequoia, 2015-2017 Sienna, 2014-2019 Tacoma, 2014-2019 Tundra, 2015 Venza, and 2018-2019 Yaris vehicles.

29. “TEMA” means Toyota Motor Engineering & Manufacturing North America, Inc.

30. “TMNA” means Toyota Motor North America, Inc.

31. “Toyota” or “TMS” means Toyota Motor Sales, U.S.A., Inc.

32. “Toyota Dealers” means authorized Toyota dealers in the United States and all of its territories and possessions.

33. “Toyota’s Counsel” means King & Spalding LLP, Shook, Hardy and Bacon LLP, and Spertus Landes and Josephs LLP.

34. “Volume Adjustment Protocol” means the technical instructions provided to eliminate and/or minimize the Echo Issue produced during phone calls using the Subject Vehicles’ Bluetooth feature.

35. “Volume Adjustment Protocol Website” means the website portion of the Outreach Program as described in Section III.A.1.a.

B. Other capitalized terms used in this Settlement Agreement but not defined in this Section shall have the meanings ascribed to them elsewhere in this Settlement Agreement.

C. The terms “he or she” and “his or her” include “them,” “their,” “it,” or “its,” where applicable.

III. SETTLEMENT RELIEF

In consideration for the dismissal of the Action and the Related Action with prejudice, as contemplated in this Settlement Agreement, and for the full and complete Release, Final Judgment, and Final Approval Order, as further specified herein, Toyota shall provide the injunctive-only relief specified in this Section. The incidental costs and expenses associated with providing the relief and otherwise implementing the relief specified in this Section III of this Settlement Agreement shall be provided by Toyota.

A. **Outreach Program**

1. Toyota agrees to provide an Outreach Program, the goal for which is to educate Class Members about the existence of the Echo Issue and how to adjust the volume settings on their cell phones and in their Subject Vehicles in order to address the alleged Echo Issue. The Outreach Program shall be designed to significantly increase understanding of the Volume Adjustment Protocol via outreach efforts beyond those currently being used by Toyota. The multifaceted Outreach Program will include the following items:

- a. A Volume Adjustment Protocol Website, which shall contain (i) detailed customer instructions related to the Volume Adjustment Protocol, the language of which has been negotiated and agreed to by the Parties, (ii) an enhanced video instructing Class Members of the Volume Adjustment Protocol, the script for which has been negotiated and agreed to by the Parties, and (iii) a link to the Settlement website;
- b. Direct contact to Direct Mail Recipients, via U.S. Mail, or where available, by email, further described below in Section IV.C., which includes (i) information about the Echo Issue; (ii) enhanced instructions for the Volume Adjustment Protocol, the language of which has been negotiated and agreed to by the Parties; (iii) a QR code that shall be designed to take Class Members to the Volume Adjustment Protocol Website, and (iv) a QR code which will refer the Class Member to the Settlement website;
- c. Social media program which includes social media ads that target Class Members that will provide settlement-related information to Class

Members including directing the Class Members to the Volume Adjustment Protocol Website; and

- d. A renewed Tech Tip, which will be available to Dealers and will include the enhanced instructions and a link to the Volume Adjustment Protocol Website and enhanced video.

2. The Outreach Program, including access to the Volume Adjustment Protocol Settlement Website, shall begin on the Initial Notice Date and shall terminate three (3) years after the Initial Notice Date.

IV. NOTICE TO THE CLASS

A. As the Settlement Agreement releases only the rights of the Class to seek injunctive relief pursuant to Fed. R. Civ. P. 23(b)(2) and requires no release of any monetary remedies or statutory damages by any member of the Class or the Plaintiffs, the Parties agree that notice to Settlement Class Members and opt-out rights are not necessary. *Padilla v. Whitewave Foods Co.*, No. 2:18-CV-09327-SB-JC, 2021 WL 4902398, at *4 (C.D. Cal. May 10, 2021) (“The Court therefore exercises its discretion and does not direct notice because the settlement does not alter the unnamed class members’ legal rights.”); *Chan v. Sutter Health Sacramento Sierra Region*, No. LACV1502004JAKAGRX, 2016 WL 7638111, at *14 (C.D. Cal. June 9, 2016) (“Because notice is optional for a Rule 23(b)(2) class ... and the Class Members’ rights will not be prejudiced by the Settlement Agreement, notice is not required for purposes of the proposed Settlement Agreement.”). However, out of an abundance of caution, certain notice has been agreed to by the Parties in conjunction with the Outreach Program.

B. Class Notice

1. Class notice as part of the Outreach Program will be accomplished through a combination of Direct Mail Outreach (by both mail and email), notice through the Settlement

website and the Volume Adjustment Protocol Website, Long Form Notice, social media notice, and such other notice as agreed to by Class Counsel or Toyota, through Toyota's Counsel, as well as those in the Preliminary Approval Order, the Notice Program and the Declaration of the Settlement Outreach Administrator (attached hereto as Exhibits 2 and 5), and this Settlement Agreement. The Notice Program shall be carried out in substantially the manner provided in this Settlement Agreement. The costs of the Notice Program, including disseminating the notice and otherwise implementing the notice specified in this Section IV of this Settlement Agreement, shall be paid by Toyota.

C. **Direct Mail Outreach**

1. Consistent with the timeline specified in the Preliminary Approval Order, the Settlement Outreach Administrator shall send the Direct Mail Outreach, substantially in the form attached hereto as Exhibit 4, by e-mail where a valid Direct Mail Recipient's e-mail address is available, or U.S. Mail, proper postage prepaid, to the current registered owners and lessees of Subject Vehicles in the Class States, as identified by data to be forwarded to the Settlement Outreach Administrator by IHS Markit, now part of S&P Global. The Direct Mail Outreach shall inform those persons of information relating to the Settlement and how to obtain the Volume Adjustment Protocol instructions via the Settlement website and/or the Volume Adjustment Protocol Website. In addition, the Settlement Outreach Administrator shall: (a) send a Direct Mail Outreach to any Direct Mail Recipient who was initially sent a Direct Mail Outreach by e-mail and was subsequently determined to be undeliverable; (b) re-mail any notices returned by the United States Postal Service with a forwarding address; (c) by itself or using one or more address research firms, as soon as practicable following receipt of any returned notices that do not include

a forwarding address, research such returned mail for better addresses and promptly mail copies of the applicable notice to any updated addresses so found.

2. The Direct Mail Outreach shall contain two QR codes. One QR code shall direct Class Members to the settlement website. The second QR code shall direct Class Members to the Volume Adjustment Protocol Website.

D. **The Settlement Website**

1. The Settlement website shall inform Class Members of the terms of this Settlement Agreement, their rights, dates and deadlines and related information. The website shall include, in .pdf format, materials agreed upon by the Parties and/or required by the Court, including, but not limited to, the Settlement Agreement, Frequently Asked Questions and Answers, Court documents that may be of interest to most Class Members, and a prominent link to the Volume Adjustment Protocol Website.

E. **Long Form Notice**

1. **Contents of Long Form Notice.**

The Long Form Notice shall be in a form substantially similar to the document attached to this Settlement Agreement as Exhibit 3, and shall advise Class Members of the following:

- a. **General Terms:** The Long Form Notice shall contain a plain and concise description of the nature of the Action, the history of the Action and the Related Action, the preliminary certification of the Class for settlement purposes and as a Rule 23(b)(2) class, and the Settlement Agreement, including information on the identity of Class Members, how the Settlement Agreement would provide relief to the Class and Class

Members, the Release under the Settlement Agreement, and other relevant terms and conditions.

- b. Objection to Settlement: The Long Form Notice shall inform Class Members of their right to object to the Settlement Agreement, the requested award of Attorneys' Fees, Costs and Expenses, and/or the requested Class Representative service awards, and to appear at the Fairness Hearing. The Long Form Notice shall provide the deadlines and procedures for exercising these rights.
- c. Fees and Expenses: The Long Form Notice shall inform Class Members about the amounts being sought by Class Counsel as Attorneys' Fees, Costs and Expenses and individual awards to Class Representatives, and shall explain that Defendant will pay the fees and expenses awarded to Class Counsel and individual awards to Class Representatives in addition to amounts being made available for relief to Class Members by this Settlement Agreement.

2. Dissemination of Long Form Notice.

The Long Form Notice shall be available on the settlement website. The Settlement Outreach Administrator shall send, via first-class mail, the Long Form Notice to those persons who request it in writing or through the toll-free telephone number.

F. **Settlement Toll-Free Telephone Number**

The Settlement Outreach Administrator shall establish a toll-free telephone number that will provide both settlement-related information and for the Volume Adjustment Protocol to Class Members.

G. **Social Media Notifications**

The Settlement Outreach Administrator shall, pursuant to the Parties' agreement, establish a social media program that will provide settlement-related information to Class Members, which includes social media ads that target Class Members.

H. **Class Action Fairness Act Notice**

The Settlement Outreach Administrator shall send to each appropriate State and Federal official, the materials specified in 28 U.S.C. § 1715, and shall otherwise comply with its terms. The identities of such officials and the content of the materials shall be mutually agreeable to the Parties and in all respects comport with statutory obligations.

I. **Duties of the Settlement Outreach Administrator**

1. The Settlement Outreach Administrator shall be responsible for, without limitation: (a) printing, mailing or arranging for the mailing of the Direct Mail Outreach; (b) handling returned mail not delivered to Direct Mail Recipients; (c) attempting to obtain updated address information for any Direct Mail Outreach returned without a forwarding address; (d) making any additional mailings required under the terms of this Settlement Agreement; (e) responding to requests for Long Form Notice; (f) receiving and maintaining on behalf of the Court any Class Member correspondence regarding objections to the Settlement Agreement; (g) forwarding written inquiries to Class Counsel or their designee for a response, if warranted; (h) establishing a post-office box for the receipt of any correspondence; (i) responding to requests from Class Counsel and Toyota's Counsel; (j) establishing and maintaining the two websites and one toll-free voice response unit with message capabilities to which Class Members may refer for information about the Action, the Related Action, the Settlement Agreement, and the Volume Adjustment Protocol; (k) otherwise implementing and/or assisting with the dissemination of the

notice of the Settlement Agreement; and (l) coordinating with the Parties concerning any disputes by Class Members relating to the Settlement. The Settlement Outreach Administrator shall be responsible for establishing the social media program and consulting on Class Notice. The Settlement Outreach Administrator shall perform their responsibilities so as to minimize costs in effectuating the terms of this Settlement Agreement.

2. If the Settlement Outreach Administrator makes a material or fraudulent misrepresentation to any party, conceals requested material information, or fails to perform adequately on behalf of Toyota or the Class, the Parties may agree to remove the Settlement Outreach Administrator. Disputes between the Parties regarding the retention or dismissal of the Settlement Outreach Administrator shall be referred to the Court for resolution.

3. The Settlement Outreach Administrator may retain one or more persons to assist in the completion of his or her responsibilities.

4. The Settlement Outreach Administrator shall file with the Court an affidavit setting forth the details outlining the scope, method, and results of the Outreach Program by the date ordered by the Court in the Preliminary Approval Order.

5. The Settlement Outreach Administrator and the Parties shall, promptly after receipt, provide copies of any objections and/or related correspondence to each other.

V. OBJECTIONS TO SETTLEMENT

A. Any Class Member who wishes to object to the Settlement Agreement, the requested award of Attorneys' Fees, Costs, and Expenses, and/or the requested Class Representative service awards must (1) file their objection electronically with the Court on or before the date specified in the Preliminary Approval Order, or (2) mail their objection to the Clerk of the Court, Class Counsel, and Toyota's counsel with a postmark dated on or before the date specified in the Preliminary Approval Order. For an objection to be considered by the Court, the

objection must be received by the Court on or before the deadline established by the Court for submitting objections. For an objection to be considered by the Court, the objection must also set forth:

1. The case name and number of the Action;
2. The objector's full name, current residential address, mailing address (if different), telephone number, and e-mail address;
3. 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 Subject Vehicle(s), the State in which the Subject Vehicle was purchased or leased, and the date of purchase/lease;
4. 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;
5. 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;
6. 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;

7. The identity of all counsel representing the objector who will appear at the Fairness Hearing;

8. The number of times the objector's counsel has represented an individual or entity on whose behalf 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;

9. 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;

10. A list of all persons who will be called to testify at the Fairness Hearing in support of the objection;

11. A statement confirming whether the objector intends to personally appear and/or testify at the Fairness Hearing; and

12. 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).

B. Any Class Member who fails to comply with the provisions of Section V.A., above, shall be deemed to have waived and forfeited any and all rights he or she may have to appear separately and object, whether by a subsequent objection, intervention, appeal, or any other process, and shall be bound by all the terms of this Settlement Agreement and by all proceedings, orders and judgments, including, but not limited to, the Release, the Final Approval Order, and the Final Judgment in the Action and the Related Action. The exclusive means for any challenge to

the Settlement Agreement shall be through the provisions of this Section V. Without limiting the foregoing, any challenge to the Settlement Agreement, Final Approval Order, or Final Judgment shall be pursuant to appeal under the Federal Rules of Appellate Procedure and not through collateral proceedings.

VI. RELEASES AND WAIVER

A. The Parties agree to the following releases and waiver, which shall take effect upon the Final Effective Date.

B. Settlement Class Release

1. In consideration for the relief provided above, Class Members, on behalf of themselves and any other legal or natural persons and entities who or which may claim by, through, or under them, including their executors, administrators, heirs, assigns, predecessors and successors, agree to fully, finally, and forever release, relinquish, acquit, and discharge the Released Parties from any and all injunctive relief, including claims, demands, suits, petitions, liabilities, causes of action, rights, losses, and relief of any kind and/or type for injunctive relief regarding the subject matter of the Action or the Related Action, including, whether past, present, or future, mature, or not yet mature, known or unknown, suspected or unsuspected, contingent or non-contingent, derivative, vicarious or direct, asserted or un-asserted, including, but not limited to, alleged defects in the use, programming, and/or implementation of the hands-free phone system in the Subject Vehicles, and whether based on federal, state or local law, statute, ordinance, rule, regulation, code, contract, tort, fraud or misrepresentation, common law, violations of any state's or territory's deceptive, unlawful, or unfair business or trade practices, false, misleading or fraudulent advertising, consumer fraud or consumer protection statutes, or other laws, unjust enrichment, any breaches of express, implied or any other warranties, the Magnuson-Moss Warranty Act, or Song-Beverly Act, or any other source, or any claim of any kind seeking any

injunctive relief, in law or in equity, arising from, related to, connected with, and/or in any way involving the Action and/or the Related Action.

C. Plaintiffs' Release

1. In consideration for the relief provided above, Plaintiffs and any other legal or natural persons and entities who or which may claim by, through, or under them, including their executors, administrators, heirs, assigns, predecessors and successors, agree to fully, finally, and forever release, relinquish, acquit, and discharge the Released Parties from any and all relief, including claims, demands, suits, petitions, liabilities, causes of action, rights, losses, damages and relief of any kind and/or type for injunctive relief regarding the subject matter of the Action and/or the Related Action, including, not limited to, injunctive or declaratory relief, compensatory, exemplary, statutory, punitive, restitutionary damages, civil penalties, and expert or attorneys' fees and costs, whether past, present, or future, mature, or not yet mature, known or unknown, suspected or unsuspected, contingent or non-contingent, derivative, vicarious or direct, asserted or unasserted, including, but not limited to, alleged defects in the use, programming, and/or implementation of the hands-free phone system in the Subject Vehicles, and whether based on federal, state or local law, statute, ordinance, rule, regulation, code, contract, tort, fraud or misrepresentation, common law, violations of any state's or territory's deceptive, unlawful, or unfair business or trade practices, false, misleading or fraudulent advertising, consumer fraud or consumer protection statutes, or other laws, unjust enrichment, any breaches of express, implied or any other warranties, the Magnuson-Moss Warranty Act, or Song-Beverly Act, or any other source, or any claim of any kind, in law or in equity, arising from, related to, connected with, and/or in any way involving the Action and/or the Related Action.

D. Related Release Terms

1. If a Class Member commences, files, initiates, or institutes any new legal action or other proceeding against a Released Party for any claim released in this Settlement in any federal or state court, arbitral tribunal, or administrative or other forum, such legal action or proceeding shall be dismissed with prejudice at that Class Member's cost.

2. Notwithstanding the Releases set forth in Section VI of this Agreement, Plaintiffs and Class Members shall hold Released Parties harmless for all Released Claims that may be asserted by another legal or natural person (including but not limited to legal guardians and estate administrators) who claim by, through, or under that Class Representative or Class Member.

3. The Final Approval Order will reflect the terms of these Releases.

4. Class Representatives, on behalf of the other Class Members and through Class Counsel, expressly agree that this Release, the Final Approval Order, and/or the Final Judgment is, will be, and may be raised as a complete defense to, and will preclude any action or proceeding encompassed by, this Release.

5. Class Representatives and Class Members shall not now or hereafter institute, maintain, prosecute, and/or assert any suit, action, claim, and/or proceeding, whether legal, administrative, or otherwise against the Released Parties, either directly or indirectly, on their own behalf, on behalf of a class or on behalf of any other person or entity with respect to claims subject to the Release.

E. In connection with this Agreement, Class Representatives, on behalf of the other Class Members, acknowledge that they may hereafter discover claims encompassed by the Release presently unknown or unsuspected, or facts in addition to or different from those that they now know or believe to be true concerning the subject matter of the Action, the Related Action, and/or

the Release herein. Nevertheless, it is the intention of the Class Representatives in executing this Agreement fully, finally, and forever to settle, release, discharge, and acquit, all such matters, and all existing and potential claims against the Released Parties relating thereto which exist, hereafter may exist, or might have existed (whether or not previously or currently asserted in any action or proceeding) with respect to the Action or the Related Action, to the extent they are encompassed by the Release. Class Representatives and the other Class Members are not releasing claims for personal injury or wrongful death.

1. Class Representatives expressly understand and acknowledge that all Class Representatives will be deemed by the Final Approval Order and Final Judgement to acknowledge and waive Section 1542 of the Civil Code of the State of California, which provides that:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release, and that if known by him or her would have materially affected his or her settlement with the debtor or released party.

Class Representatives expressly waive and relinquish any and all rights and benefits that they may have under, or that may be conferred upon them by, the provisions of Section 1542 of the California Civil Code, or any other law of any state or territory that is similar, comparable or equivalent to Section 1542, to the fullest extent they may lawfully waive such rights.

2. Class Representatives represent and warrant that they are the sole and exclusive owners of all claims that they personally are releasing under this Settlement Agreement. Class Representatives further acknowledge that they have not assigned, pledged, or in any manner whatsoever sold, transferred, assigned, or encumbered any right, title, interest, or claim arising out of or in any way whatsoever pertaining to the Action and/or the Related Action, including, without limitation, any claim for benefits, proceeds, or value under the Action and/or the Related Action, and that Class Representatives are not aware of anyone other than themselves claiming any

interest, in whole or in part, in the individual claims that they are releasing under the Settlement Agreement or in any benefits, proceeds, or values in the individual claims that they are releasing under the Settlement Agreement.

3. Without in any way limiting its scope, and, except to the extent otherwise specified in the Agreement, this Release covers by example and without limitation, any and all claims for attorneys' fees, costs, expert fees, or consultant fees, interest, or litigation fees, costs, or any other fees, costs, and/or disbursements incurred by any attorneys, Class Counsel, Plaintiffs' Counsel, Class Representatives, or other Class Members who claim to have assisted in conferring the benefits under this Settlement upon the Class.

4. Class Representatives, Plaintiffs' Counsel, Class Counsel, and any other attorneys who receive Attorneys' Fees, Costs, and Expenses from this Settlement Agreement acknowledge that they have conducted sufficient independent investigation and discovery to enter into this Settlement Agreement and, by executing this Settlement Agreement, state that they have not relied upon any statements or representations made by the Released Parties or any person or entity representing the Released Parties, other than as set forth in this Settlement Agreement.

5. Pending final approval of this Settlement via issuance by the Court of the Final Approval Order and Final Judgment, the Parties agree that any and all outstanding pleadings, discovery, deadlines, and other pretrial requirements are hereby stayed and suspended in regard to the Action and/or the Related Action. Upon the occurrence of final approval of this Settlement via issuance by the Court of the Final Approval Order and Final Judgment, the Parties expressly waive any and all such pretrial requirements.

6. Nothing in this Release shall preclude any action to enforce the terms of the Settlement Agreement, including participation in any of the processes detailed herein.

7. Class Representatives and Class Counsel hereby agree and acknowledge that the provisions of this Release together constitute an essential and material term of the Settlement Agreement and shall be included in any Final Approval Order and Final Judgment entered by the Court.

VII. ATTORNEYS' FEES, COSTS, AND EXPENSES AND CLASS REPRESENTATIVE SERVICE AWARDS

A. The Parties did not discuss the payment of Attorneys' Fees, Costs, and Expenses, and Class Representative service awards, until after the substantive elements of the Settlement Agreement had been agreed upon.

B. After agreeing to the principal terms set forth in this Settlement Agreement, including negotiation of the language for the Volume Adjustment Protocol and script for the video to be produced by Toyota, and after filing their Notice of Settlement in Principle with the Court on October 18, 2024 (Dkt. 133), Class Counsel and Toyota's Counsel negotiated the amount of Attorneys' Fees, Costs, and Expenses that, separate and apart from the consideration for this settlement, following application to the Court and subject to Court approval, would be paid by Toyota as the fee award and costs and expense reimbursement to Plaintiffs' Counsel. Class Counsel and Toyota's Counsel reached agreement in principle on these terms on December 2, 2024.

C. As a result of these negotiations, Class Counsel agrees to limit any petition for an award of Attorneys' Fees to the amount of \$2,850,000.00 (Two-Million and Eight-Hundred and Fifty Thousand Dollars and No Cents).

D. Additionally, as a result of additional negotiations, Class Counsel agreed to limit any petition for an award of costs and expenses in the Action to \$300,000.00.

E. The Attorneys' Fees, Costs, and Expenses awarded by the Court shall be the sole compensation paid by Toyota for all Plaintiffs' Counsel in the Action and Related Action and/or for work incurred that inured to the benefit of the Class.

F. The Parties also agreed that Class Counsel may petition the Court for Class Representative service awards of up to \$95,000.00 total for the Class Representatives.

G. Separate and apart from the consideration for this Settlement, following application to the Court and subject to Court approval, the Attorneys' Fees, Costs, and Expenses and Class Representative service awards actually awarded by the Court will be paid to an account specified by Class Counsel within thirty (30) days of the Final Effective Date.

H. No order of the Court, or modification or reversal or appeal of any order of the Court, concerning the amount(s) of any Attorneys' Fees, Costs, and Expenses awarded by the Court to Class Counsel, or concerning the amounts of Class Representative service awards that are awarded by the Court to Class Representatives, shall affect whether the Final Order and Final Judgment are final and shall not constitute grounds for cancellation or termination of the Settlement.

VIII. PRELIMINARY APPROVAL ORDER, FINAL APPROVAL ORDER, FINAL JUDGMENT, AND RELATED ORDERS

A. The Parties shall seek from the Court a Preliminary Approval Order in a form substantially similar to Exhibit 1. The Preliminary Approval Order shall, among other things:

1. Certify a settlement-only Class, approve Class Representatives as Class Representatives, and appoint Class Counsel as counsel for the Class, pursuant to Fed. R. Civ. P. 23(b)(2);

2. Preliminarily approve the Settlement Agreement;

3. Require the dissemination of the notice, through the Outreach Program, and the taking of all necessary and appropriate steps to accomplish this task;

4. Determine that Class notice and the Notice Program comply with all legal requirements, if necessary, including, but not limited to, Fed. R. Civ. P. 23 and the Due Process Clause of the United States Constitution;

5. Schedule a date and time for a Fairness Hearing to determine whether the Settlement Agreement should be finally approved by the Court, and whether the requested Attorneys' Fees, Costs and Expenses and Class Representative service awards should be granted;

6. Require Class Members who wish to object to this Settlement Agreement to submit an appropriate and timely written statement as directed in this Settlement Agreement and Long Form Notice;

7. Require attorneys representing Class Members objecting to the Settlement Agreement, at such Class Members' expense, to file a timely notice of appearance with the Court as directed in the Long Form Notice;

8. Appoint the Settlement Outreach Administrator;

9. Authorize Toyota to take all necessary and appropriate steps to establish the means necessary to implement the Settlement Agreement; and

10. Issue other related orders to effectuate the preliminary approval of the Settlement Agreement.

B. After the Fairness Hearing, the Parties shall seek to obtain from the Court a Final Approval Order and Final Judgment in the forms substantially similar to Exhibits 6 and 7, respectively. The Final Judgment and Final Approval Order shall, among other things:

1. Find that the Court has personal jurisdiction over all Class Members, that the Court has subject matter jurisdiction over the claims asserted in the Action, and that venue is proper;
2. Confirm the certification of the Class for settlement purposes only, pursuant to Fed. R. Civ. P. 23(b)(2);
3. Finally approve the Settlement Agreement, pursuant to Fed. R. Civ. P. 23;
4. Find that the Class notice and the Notice Program comply with all laws, if necessary, including, but not limited to, Fed. R. Civ. P. 23 and the Due Process Clause of the United States Constitution;
5. Award Attorneys' Fees, Costs and Expenses and Class Representative service awards;
6. Dismiss the Action with prejudice and without costs (except as provided for herein as to costs);
7. Incorporate the Release set forth in the Agreement and make the Release effective as of the date of the Final Approval Order and Final Judgment;
8. Issue a permanent injunction;
9. Authorize the Parties to implement the terms of the Settlement Agreement;
10. Retain jurisdiction relating to the administration, consummation, enforcement, and interpretation of the Settlement Agreement, the Final Approval Order and Final Judgment, and for any other necessary purpose; and
11. Issue related Orders to effectuate the final approval of the Settlement Agreement and its implementation.

C. Within five (5) business days of the Final Effective Date, the Parties shall file a stipulation of dismissal with prejudice or substantial equivalent in the Related Action, with each party agreeing to bear their own costs in the Related Action.

IX. MODIFICATION OR TERMINATION OF THIS SETTLEMENT AGREEMENT

A. The terms and provisions of this 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 Approval 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 hereto) without further notice to the Class or approval by the Court if such changes are consistent with the Court's Final Approval Order and Final Judgment and do not limit the rights of Class Members under this Settlement Agreement.

B. This Settlement Agreement shall terminate at the discretion of either Toyota or Class Representatives, through Class Counsel, if: (1) the Court, or any appellate court(s), rejects, modifies, or denies approval of any portion of the Settlement Agreement that the terminating party reasonably determine(s) is material, including, without limitation, the terms of relief, the findings, or conclusions of the Court, the provisions relating to notice, the definition of the Class, and/or the terms of the Release; or (2) the Court, or any appellate court(s), does not enter or completely affirm, or alters, narrows or expands, any portion of the Final Approval Order and Final Judgment, or any of the Court's findings of fact or conclusions of law, that the terminating party reasonably determine(s) is material. The terminating party must exercise the option to withdraw from and terminate this Settlement Agreement, as provided in this Section IX.B., only after meeting and conferring in good faith with the opposing Party(ies) as to alternatives to terminating the Settlement Agreement, by a signed writing served on the other Parties no later than 20 days after

receiving notice of the event prompting the termination. The Parties will be returned to their positions status quo ante.

C. If an option to withdraw from and terminate this Settlement Agreement arises under Section IX.B. above, neither Toyota nor Class Representatives, through Class Counsel, are required for any reason or under any circumstance to exercise that option and any exercise of that option shall be in good faith.

D. If, but only if, this Settlement Agreement is terminated pursuant to Section IX.B., above, then:

1. This Settlement Agreement shall be null and void and shall have no force or effect, and no Party to this Settlement Agreement shall be bound by any of its terms, except for the terms of this Section IX.D.;

2. The Parties will petition the Court to have any stay orders entered pursuant to this Settlement Agreement lifted;

3. All of its provisions, and all negotiations, statements, and proceedings relating to it shall be without prejudice to the rights of Toyota, Class Representatives, or any Class Member, all of whom shall be restored to their respective positions existing immediately before the execution of this Settlement Agreement, except that the Parties shall cooperate in requesting that the Court set a new scheduling order such that no Party's substantive or procedural rights are prejudiced by the settlement negotiations and proceedings;

4. Class Representatives, on behalf of themselves and their heirs, assigns, executors, administrators, predecessors, and successors, and on behalf of the Class, expressly and affirmatively reserve and do not waive all motions as to, and arguments in support of, all claims, causes of action, or remedies that have been or might later be asserted in the Action or the Related

Action including, without limitation, any argument concerning class certification, and treble or other damages;

5. Toyota and the other Released Parties expressly and affirmatively reserve and do not waive all motions and positions as to, and arguments in support of, all defenses to the causes of action or remedies that have been sought or might be later asserted in the actions, including without limitation, any argument or position opposing class certification, liability, or damages;

6. Neither the fact of the Settlement Agreement having been made, the negotiations leading to it, nor any discovery or action taken by a Party or Class Member pursuant to this Settlement Agreement shall be admissible or entered into evidence for any purpose whatsoever, except to the extent the Settlement Agreement is filed with the Court, it can be referenced in the Action or the Related Action and any related appeal;

7. Any settlement-related order(s) or judgment(s) entered in this Action after the date of execution of this Settlement Agreement shall be deemed vacated and shall be without any force or effect;

8. All costs incurred in connection with the Settlement Agreement, including, but not limited to, notice, claims administration and customer communications are the responsibility of Toyota and will be paid by Toyota. Neither Class Representatives nor Class Counsel shall be responsible for any of these costs or other settlement-related costs; and

9. Notwithstanding the terms of this paragraph, if the Settlement is not consummated, Class Counsel may include any time spent in settlement efforts as part of any fee petition filed at the conclusion of the case, and Toyota reserves the right to object to the reasonableness of such requested fees.

X. GENERAL MATTERS AND RESERVATIONS

A. Toyota has denied and continues to deny each and all of the claims and contentions alleged in the Action and/or the Related Action, and has denied and continues to deny that it has committed any violation of law or engaged in any wrongful act that was alleged, or that could have been alleged, in the Action. Toyota believes that it has valid and complete defenses to the claims asserted against them in the Action and/or the Related Action and denies that it committed any violations of law, engaged in any unlawful act or conduct, or that there is any basis for liability for any of the claims that have been, are, or might have been alleged in the Action and/or the Related Action. Nonetheless, Toyota has concluded that it is desirable that the Action and the Related Action be fully and finally settled in the matter and upon the terms and conditions set forth in this Settlement Agreement.

B. The obligation of the Parties to conclude the Settlement Agreement is and shall be contingent upon each of the following:

1. Entry by the Court of the Final Approval Order and Final Judgment approving the Settlement Agreement, from which the time to appeal has expired or which has remained unmodified after any appeal(s); and

2. Any other conditions stated in this Settlement Agreement.

C. The Parties and their counsel agree to keep the existence and contents of this Settlement Agreement confidential until the date on which the Motion for Preliminary Approval is filed; provided, however, that this Section shall not prevent Toyota from disclosing such necessary information from this Settlement Agreement, prior to the date on which the Motion for Preliminary Approval is filed, to state and federal agencies, independent accountants, actuaries, advisors, financial analysts, insurers, or attorneys. Nor shall it prevent the Parties and their counsel from disclosing such information to persons or entities (such as experts, courts, co-counsel, and/or

administrators) to whom the Parties agree disclosure must be made to effectuate the terms and conditions of this Settlement Agreement.

D. Class Representatives and Class Counsel agree that the confidential information made available to them solely through the settlement process was made available, as agreed to, on the condition that neither Class Representatives nor their counsel may disclose it to third parties (other than experts or consultants retained by Class Representatives in connection with the Action and/or the Related Action); that it not be the subject of public comment; that it not be used by Class Representatives or Class Counsel in any way in this litigation or otherwise should the Settlement Agreement not be achieved, and that it is to be returned if a settlement is not concluded; provided, however, that nothing contained herein shall prohibit Class Representatives from seeking such information through formal discovery if not previously requested through formal discovery or from referring to the existence of such information in connection with the settlement of the Action or the Related Action.

E. Information provided by Toyota and/or Toyota's Counsel to Class Representatives, Class Counsel, Plaintiffs' Counsel, any individual Class Member, counsel for any individual Class Member, and/or administrators, pursuant to the negotiation and implementation of this Settlement Agreement, includes trade secrets and highly confidential and proprietary business information and shall be deemed "Highly Confidential" pursuant to the protective orders that have been or will be entered in the Action or the Related Action, and shall be subject to all of the provisions thereof. Any materials inadvertently produced shall, upon Toyota's request, be promptly returned to Toyota's Counsel, and there shall be no implied or express waiver of any privileges, rights, and defenses. Within ninety (90) days after the Final Effective Date (unless the time is extended by agreement of the Parties) and subject to the terms and conditions of any Confidentiality

Agreement(s) and/or Protective Order(s) entered in the Action or the Related Action, Class Counsel, Plaintiffs' Counsel, and any expert or other consultant employed by them in such capacity or any other individual with access to such documents provided by Toyota and/or Toyota's Counsel shall either: (i) return to Toyota's Counsel all such documents and materials (and all copies of such documents in whatever form made or maintained), physical evidence, and/or tangible items produced during the settlement process by Toyota and/or Toyota's Counsel and any and all handwritten notes summarizing, describing or referring to such documents; or (ii) certify to Toyota's Counsel that all such documents, physical evidence, tangible items, and/or materials (and all copies of such documents in whatever form made or maintained) produced by Toyota and/or Toyota's Counsel and any and all handwritten notes summarizing, describing or referring to such documents have been destroyed, provided, however, that this Section X.E. shall not apply to any documents made part of a Court filing, nor to Class Counsel's and Plaintiffs' Counsel's work-product. Nothing in this Settlement Agreement shall affect any confidentiality order or protective order in the Action or the Related Action.

F. Toyota's execution of this Settlement Agreement shall not be construed to release – and Toyota expressly does not intend to release – any claim Toyota may have or make against any insurer for any cost or expense incurred in connection with this Settlement Agreement, including, without limitation, for Attorneys' Fees, Costs, and Expenses.

G. Class Counsel represent that: (1) they are authorized by Class Representatives to enter into this Settlement Agreement with respect to the claims in this Action; and (2) they are seeking to protect the interests of the Class.

H. Class Counsel further represent that Class Representatives: (1) have agreed to serve as representatives of the Class proposed to be certified herein; (2) are willing, able, and ready to

perform all of the duties and obligations of representatives of the Class, including, but not limited to, being involved in discovery and fact-finding; (3) have read the pleadings in the Action and the Related Action or have had the contents of such pleadings described to them; (4) are familiar with the results of the fact-finding undertaken by Class Counsel; (5) have been kept apprised of settlement negotiations among the Parties, and have either read this Settlement Agreement, including the exhibits annexed hereto, or have received a detailed description of it from Class Counsel and/or Plaintiffs' Counsel and have agreed to its terms; (6) have consulted with Class Counsel about the Action and the Related Action and this Settlement Agreement and the obligations imposed on representatives of the Class; (7) have authorized Class Counsel to execute this Settlement Agreement on their behalf; and (8) shall remain and serve as representatives of the Class until the terms of this Settlement Agreement are effectuated, this Settlement Agreement is terminated in accordance with its terms, or the Court at any time determines that said Class Representatives cannot represent the Class.

I. The Parties acknowledge and agree that no opinion concerning the tax consequences of the Settlement Agreement to Class Members is given or will be given by the Parties, nor are any representations or warranties in this regard made by virtue of this Settlement Agreement. Each Class Member's tax obligations, and the determination thereof, are the sole responsibility of the Class Member, and it is understood that the tax consequences may vary depending on the particular circumstances of each individual Class Member.

J. Toyota represents and warrants that the individual(s) executing this Settlement Agreement is authorized to enter into this Settlement Agreement on behalf of Toyota.

K. This Settlement Agreement, complete with its exhibits, sets forth the sole and entire agreement among the Parties with respect to its subject matter, and it may not be altered, amended,

or modified except by written instrument executed by Class Counsel and Toyota's Counsel on behalf of Toyota. The Parties expressly acknowledge that no other agreements, arrangements, or understandings not expressed in this Settlement Agreement exist among or between them, and that in deciding to enter into this Settlement Agreement, they rely solely upon their judgment and knowledge. This Settlement Agreement supersedes any prior agreements, understandings, or undertakings (written or oral) by and between the Parties regarding the subject matter of this Settlement Agreement.

L. This Settlement Agreement and any amendments thereto shall be governed by and interpreted according to the law of the State of California notwithstanding its conflict-of-laws provisions.

M. For the purposes of settlement only, Toyota consents to the personal jurisdiction of the United States District Court for the Central District of California and any disagreement and/or action to enforce this Settlement Agreement shall be commenced and maintained only in the United States District Court for the Central District of California. However, Toyota reserves the right to contest personal jurisdiction if the Court does not approve the Settlement.

N. Whenever this Settlement Agreement requires or contemplates that one of the Parties shall or may give notice to the other, notice shall be provided by e-mail and/or next-day (excluding Saturdays, Sundays, and Federal Holidays) express delivery service as follows:

1. If to Toyota, then to:

John P. Hooper
King & Spalding LLP
1185 Avenue of the Americas
34th Floor
New York, NY 10036
Tel.: (212) 556-2220
E-mail: Jhooper@kslaw.com

2. If to the Class, then to:

Mickel M. Arias
Arias Sanguinetti Wang and Torrijos LLP
6701 Center Drive West 14th Floor
Los Angeles, CA 90045
Tel: 310-844-9696
Email: mike@asstlawyers.com

Kevin P. Green
Goldenberg Heller & Antognoli, P.C.
2227 South State Route 157
Edwardsville, Illinois 62025
Tel: 618-656-5150
E-mail: kevin@ghalaw.com

O. All time periods set forth herein shall be computed in calendar days unless otherwise expressly provided. In computing any period of time prescribed or allowed by this Settlement Agreement or by order of the Court, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday or a Federal Holiday, or, when the act to be done is the filing of a paper in court, a day on which weather or other conditions have made the office of the clerk of the court inaccessible, in which event the period shall run until the end of the next day that is not one of the aforementioned days. As used in this Section “Federal Holiday” includes New Year’s Day, Birthday of Martin Luther King, Jr., Presidents’ Day, Memorial Day, Juneteenth, Independence Day, Labor Day, Columbus Day, Veterans Day, Patriot’s Day, Thanksgiving Day, Christmas Day, and any other day appointed as a holiday by the President, the Congress of the United States, or the Clerk of the United States District Court for the Central District of California.

P. The Parties reserve the right, subject to the Court's approval, to agree to any reasonable extensions of time that might be necessary to carry out any of the provisions of this Settlement Agreement.

Q. The Class, Class Representatives, Class Counsel, Toyota, and/or Toyota's Counsel shall not be deemed to be the drafter of this Settlement Agreement or of any particular provision, nor shall they argue that any particular provision should be construed against its drafter. All Parties agree that this Settlement Agreement was drafted by counsel for the Parties during extensive arm's length negotiations.

R. The Parties expressly acknowledge and agree that this Settlement Agreement and its exhibits, along with all related drafts, motions, pleadings, conversations, negotiations, and correspondence, constitute an offer of compromise and a compromise within the meaning of Federal Rule of Evidence 408 and any equivalent rule of evidence in any state. In no event shall this Settlement Agreement, any of its provisions, or any negotiations, statements, or court proceedings relating to its provisions in any way be construed as, offered as, received as, used as, or deemed to be evidence of any kind in the Action or the Related Action, any other action, or in any judicial, administrative, regulatory, or other proceeding, except in a proceeding to enforce this Settlement Agreement or the rights of the Parties or their counsel. Without limiting the foregoing, neither this Settlement Agreement nor any related negotiations, statements, or court proceedings shall be construed as, offered as, received as, used as, or deemed to be evidence or an admission or concession of any liability or wrongdoing whatsoever on the part of any person or entity, including, but not limited to, the Released Parties, Class Representatives, or the Class or as a waiver by the Released Parties, Class Representatives, or the Class of any applicable privileges, claims, or defenses.

S. Class Representatives, through their counsel, expressly affirm that the allegations contained in the Amended Consolidated Complaint and all prior complaints filed in the Action or the Related Action were made in good faith, but consider it desirable for the Action and the Related Action to be settled and dismissed because of the substantial benefits that the Settlement Agreement will provide to Class Members.

T. The Parties, their successors and assigns, and their counsel undertake to implement the terms of this Settlement Agreement in good faith, and to act in good faith in resolving any disputes that may arise in the implementation of the terms of this Settlement Agreement.

U. The waiver by one Party of any breach of this Settlement Agreement by another Party shall not be deemed a waiver of any prior or subsequent breach of this Settlement Agreement.

V. If one Party to this Settlement Agreement considers another Party to be in breach of its obligations under this Settlement Agreement, that Party must provide the breaching Party with written notice of the alleged breach and provide a reasonable opportunity to cure the breach before taking any action to enforce any rights under this Settlement Agreement.

W. The Parties, their successors and assigns, and their counsel agree to publicly support this Settlement Agreement, to cooperate fully with one another in seeking Court approval of this Settlement Agreement and to use their best efforts to affect the prompt consummation of the Settlement Agreement.

X. This Settlement Agreement may be signed with an electronic and/or scanned signature and in counterparts, each of which shall constitute a duplicate original.

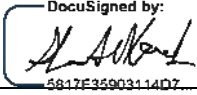
Y. In the event any one or more of the provisions contained in this Settlement Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision if Toyota's Counsel,

on behalf of Toyota, and Class Counsel, on behalf of Class Representatives and Class Members, mutually agree in writing to proceed as if such invalid, illegal, or unenforceable provision had never been included in this Settlement Agreement. Any such agreement shall be reviewed and approved by the Court before it becomes effective.

Z. This Settlement Agreement shall be binding upon and inure to the benefit of, the successors and assigns of the Class and Toyota.

Agreed to on the date indicated below.

AGREED TO BY CLASS REPRESENTATIVES

BY:  _____
Glenn Kesselman

DATE: January 29, 2025

BY: _____
Kirk Coviello

DATE: _____, 2025

BY: _____
Karen Ambrose

DATE: _____, 2025

BY: _____
Paul Arellano

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BY: _____
Craig Granger

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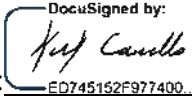
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Craig Granger

DATE: January 29, 2025

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David Douglas

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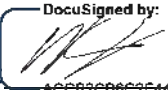
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Terry Freeman

DATE: _____, 2025

BY:  _____
Andrew Trout


DATE: **01/29** _____, 2025

APPROVED AND AGREED TO BY CLASS COUNSEL
AS AUTHORIZED BY CLASS REPRESENTATIVES

BY:  DATE: January 30, 2025
Mickel M. Arias


BY:  DATE: **January 30**, 2025
Kevin P. Green

APPROVED AND AGREED TO BY TOYOTA

BY 
Elizabeth Gibson
TOYOTA MOTOR NORTH AMERICA, INC.

DATE: January 28, 2025

APPROVED AND AGREED TO AS TO FORM
BY TOYOTA'S COUNSEL AS AUTHORIZED BY TOYOTA

BY 
John P. Hooper
KING & SPALDING LLP

DATE: January 28, 2025

Exhibit 1

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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

GLENN KESSELMAN, *et al.*,
*individually and on behalf of similarly
situated individuals,*

Plaintiffs,

v.

TOYOTA MOTOR SALES, U.S.A.,
INC., *et al.*,

Defendants.

Case No.: 2:21-cv-06010-TJH-JC
Hon. Terry J. Hatter, Jr.

**[PROPOSED] ORDER (1) GRANTING
MOTION FOR PRELIMINARY
APPROVAL OF RULE 23(b)(2)
CLASS SETTLEMENT, CERTIFYING
SETTLEMENT CLASS, AND
DIRECTING VOLUNTARY NOTICE
TO THE CLASS; AND (2)
SCHEDULING A FAIRNESS
HEARING**

1 The Parties to the above-captioned action have agreed to a proposed Rule
2 23(b)(2) class action settlement, the terms and conditions of which are set forth in an
3 executed Settlement Agreement.¹ The Parties reached the Settlement through arm's-
4 length negotiations that lasted nearly two years. Under the Settlement Agreement,
5 subject to the terms and conditions therein and subject to Court approval, the Action
6 will be dismissed with prejudice, and proposed Class Representatives and the proposed
7 Class would fully, finally, and forever resolve, discharge, and release their claims for
8 injunctive relief against the Released Parties related to this Action in exchange for the
9 relief set forth in the Settlement Agreement.

10 This Court, with the Honorable Terry J. Hatter presiding, [conducted a hearing
11 regarding Plaintiffs' Motion for Entry of an Order Granting Preliminary Approval of
12 Class Action Settlement and Issuance of Related Orders (the "Motion").] *or* [has
13 reviewed Plaintiffs' Motion for Preliminary Approval of Class Action Settlement and
14 Memorandum of Points and Authorities (the "Motion"), and supportive documentation
15 submitted by Plaintiffs and Toyota, and determined the matter appropriate for decision
16 without oral argument. *See* Fed. R. Civ. P. 78(b); Local Rule 7-15.] Upon considering
17 the Motion and exhibits thereto, the Settlement Agreement and related documents and
18 exhibits, the record in these proceedings, the representations and recommendations of
19 counsel, and the requirements of law, the Court finds that:

- 20 i. this Court has jurisdiction over the subject matter and Parties to these
21 proceedings;
22 ii. the Plaintiffs have standing to seek injunctive relief;
23 iii. the proposed Class meets the requirements of Rule 23(a) and (b)(2) of the
24 Federal Rules of Civil Procedure and should be preliminarily certified for
25 Settlement purposes only;
26

27 ¹ For purposes of this Order, the Court adopts and incorporates all terms and
28 definitions set forth in the Settlement Agreement, unless otherwise defined herein,
including all exhibits and related documents thereto.

- iv. the persons identified below should be appointed Class Representatives, and Class Counsel for Settlement purposes only;
- v. the Settlement is the result of informed, good-faith, arm's-length negotiations between the Parties and their capable and experienced counsel and is not the result of collusion;
- vi. the Settlement is fair, reasonable, and adequate and should be preliminarily approved;
- vii. the proposed Settlement is sufficiently fair, reasonable, and adequate;
- viii. the proposed Outreach Program and proposed forms of voluntary notice satisfy Rule 23 and Constitutional Due Process requirements and are reasonably calculated under the circumstances to apprise the Class of the pendency of the Action, preliminary class certification for settlement purposes only, the terms of the Settlement, details regarding Class Counsel's application for an award of attorneys' fees and expenses ("Fee Application") and request for Plaintiff service awards, and their rights to object to the Settlement;
- ix. good cause exists to schedule and conduct a Fairness Hearing, pursuant to Rule 23(e), to assist the Court in determining whether to grant final approval of the Settlement, certify the Class, for settlement purposes only, and issue a Final Order and Final Judgment, and whether to grant Class Counsel's Fee Application and request for Plaintiff service awards; and
- x. whether the other related matters pertinent to the preliminary approval of the Settlement should also be approved.

Based on the foregoing, **THE COURT HEREBY GRANTS THE MOTION FOR PRELIMINARY APPROVAL AND MAKES THE FOLLOWING FINDINGS AND ORDERS:**

The Court finds that it has jurisdiction over the Action and the Parties pursuant to 28 U.S.C. §§ 1331 and 1332 for purposes of settlement, and venue is proper in this

1 district pursuant to 28 U.S.C. § 1391(a). The Court shall retain continuing jurisdiction
2 for the purpose of enforcing the Settlement Agreement after the entry of a Final Order
3 and Judgment.

4 The Court further finds the Plaintiffs have standing to seek injunctive relief. *See*,
5 *e.g.*, Fifth Am. Compl. ¶¶ 12-15, 104-105; *Davidson v. Kimberly-Clark Corp.*, 889 F.3d
6 956, 969-70 (9th Cir. 2018) (citing *Lilly v. Jamba Juice Co.*, No. 13-cv-02998-JST,
7 2015 U.S. Dist. LEXIS 34498 (N.D. Cal. Mar. 18, 2015)); *In re Ring LLC Priv.*
8 *Litigation*, No. CV 19-10899-MWF (RAOx), 2023 U.S. Dist. LEXIS 235407 (C.D. Cal.
9 Dec. 20, 2023).

10 **Preliminary Class Certification for Settlement Purposes Only, and Appointment**
11 **of Class Representatives and Class Counsel**

12 1. In deciding whether to preliminarily certify a class, for settlement purposes
13 only, the Court must consider the same factors that it would consider in connection with
14 a proposed litigation class—*i.e.*, all Rule 23(a) factors and at least one subsection of
15 Rule 23(b) must be satisfied—except that the Court need not consider the manageability
16 of a potential trial, since the settlement, if approved, would obviate the need for a trial.
17 *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 620 (1997); *Wang v. Chinese Daily*
18 *News, Inc.*, 737 F.3d 538, 542-44 (9th Cir. 2013).

19 2. The Court finds that the requirements of Rule 23 of the Federal Rules of
20 Civil Procedure and other laws and rules applicable to preliminary settlement approval
21 of class actions have been satisfied. The proposed settlement appears to be the product
22 of serious, informed negotiations that were conducted in good faith and at arms' length
23 between the Parties' counsel and falls within the range of possible approval as fair,
24 reasonable, and adequate. *See Rodriguez v. West Publ'g Corp.*, 563 F.3d 948 (9th Cir.
25 2009). Therefore, the Court preliminarily approves the settlement of this Action as
26 memorialized in the Settlement Agreement, and finds it will be likely to certify the
27 following Rule 23(b)(2) Class, for settlement purposes only:
28

1 All individuals or legal entities who, at any time as of the
2 occurrence of the Initial Notice Date, own(ed), purchase(d),
3 or lease(d) certain 2014-2019 4Runner, 2015-2018 Avalon,
4 2015-2018 Avalon HV, 2014-2019 Highlander, 2014-2019
5 Highlander HV, 2016-2018 Mirai, 2016-2019 Prius, 2017-
6 2019 Prius Prime, 2015-2019 Prius V, 2014-2019 Sequoia,
7 2015-2017 Sienna, 2014-2019 Tacoma, 2014-2019 Tundra,
8 2015 Venza, and 2018-2019 Yaris vehicles in the States of
9 Arizona, California, Colorado, Georgia, Illinois, Minnesota,
10 Missouri, New York, Ohio, Oregon, and Washington.

11 Excluded from the Class are: (a) Toyota, its officers,
12 directors, employees, affiliates and affiliates' officers,
13 directors and employees; distributors and distributors'
14 officers, directors and employees; and Toyota Dealers and
15 Toyota Dealers' officers and directors; (b) Plaintiffs'
16 Counsel; and (c) judicial officers and their immediate family
17 members and associated court staff assigned to this case.

18 3. Specifically, the Court finds, for settlement purposes, that the Class likely
19 satisfies the following factors of Rule 23(a):

20 a. Numerosity: In the Action, the owners and lessees of over 1.8 million
21 Subject Vehicles, spread out across the States of Arizona, California, Colorado,
22 Georgia, Illinois, Minnesota, Missouri, New York, Ohio, Oregon, and Washington,
23 are members of the proposed Class. Their joinder is impracticable. Thus, the Rule
24 23(a)(1) numerosity requirement is met. *See In re Chrysler-Dodge-Jeep EcoDiesel*
25 *Mktg., Sales Pracs., & Prod. Liab. Litig. ("FCA EcoDiesel")*, No. 17-MD-02777-
26 EMC, 2019 WL 536661, at *5 (N.D. Cal. Feb. 11, 2019) (numerosity satisfied where
27 "there are approximately 100,000 vehicles that were sold or leased to consumers in the
28 United States").

1 b. Commonality: The threshold for commonality under Rule 23(a)(2) is not
2 high. The common question “must be of such a nature that it is capable of classwide
3 resolution – which means that determination of its truth or falsity will resolve an issue
4 that is central to the validity of each one of the claims in one stroke.” *Wal-Mart*
5 *Stores, Inc. v. Dukes*, 564 U.S. 338, 350 (2011). Here, the commonality requirement is
6 satisfied for settlement purposes because there are multiple questions of law and fact
7 that center on Toyota’s sale of Subject Vehicles equipped with allegedly defective
8 Bluetooth Echo systems, as alleged in the Fifth Amended Class Action Complaint.

9 c. Typicality: The Plaintiffs’ claims are typical of the Class for purposes of
10 this Settlement because they concern the same general alleged conduct, arise from the
11 same legal theories, and allege the same types of harm and entitlement to relief. Rule
12 23(a)(3) is therefore satisfied. *See Armstrong v. Davis*, 275 F.3d 849, 868 (9th Cir.
13 2001) (finding typicality is “satisfied when each class member’s claim arises from the
14 same course of events, and each class member makes similar legal arguments to prove
15 the defendant’s liability.”).

16 d. Adequacy: Adequacy under Rule 23(a)(4) relates to: (1) whether the
17 proposed Class Representatives have interests antagonistic to the Class; and (2)
18 whether the proposed class counsel has the competence to undertake the litigation at
19 issue. *See In re Volkswagen “Clean Diesel” Mktg., Sales Practices, & Prods. Liab.*
20 *Litig.* (“*VW Clean Diesel*”), No. 2672 CRB (JSC), 2017 WL 672820, at *5 (N.D. Cal.
21 Feb. 16, 2017); *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1020 (9th Cir. 1998)). Rule
22 23(a)(4) is satisfied here because there are no conflicts of interest between the
23 Plaintiffs and the Class, and Plaintiffs have retained competent counsel to represent
24 them and the Class. Class Counsel here regularly engage in consumer class litigation
25 and other complex litigation similar to the present Action, and have dedicated
26 substantial resources to the prosecution of the Action. Moreover, the Plaintiffs and
27 Class Counsel have vigorously and competently represented the Class Members’
28 interests in the Action.

1 e. Injunctive Relief is Appropriate: Rule 23(b)(2) is satisfied where “the
2 party opposing the class has acted or refused to act on grounds that apply generally to
3 the class, so that final injunctive relief or corresponding declaratory relief is
4 appropriate respecting the class as a whole.” Fed. R. Civ. P. 23(b)(2). Here, as set
5 forth above, Plaintiffs’ claims regarding the allegedly defective Bluetooth Echo
6 systems and Toyota’s disclosures regarding same are generally applicable to the Class.
7 Moreover, the terms of the Settlement provide an Outreach Program to that class as a
8 whole that appears to remedy Plaintiffs’ and the Class’s claims by providing users
9 with notice of the existence of the Echo Issue, clarification and disclosure of the
10 Volume Adjustment Protocol, which alleviates an ongoing issue in the Subject
11 Vehicles and restores confidence to rely on Toyota’s future representations. *See, e.g.*,
12 Fifth Am. Compl. ¶¶ 12-15, 104-105.

13 4. After considering the application for Class Counsel, the Court hereby
14 appoints Mike Arias, Craig S. Momita, and M. Anthony Jenkins of Arias Sanguinetti
15 Wang & Team LLP and Thomas P. Rosenfeld, Kevin P. Green, and Daniel S. Levy of
16 Goldenberg Heller & Antognoli, P.C. as Class Counsel.

17 5. Class Counsel have further applied for appointment of proposed Class
18 Representatives: Glenn Kesselman, Kirk Coviello, Karen Ambrose, Paul Arellano,
19 Craig Granger, David Douglas, Josh Downs, Juan Giraldo, Matthew Shaffer, Wayne
20 Slates, Mitchell Trockman, and Jamie Brown. Having considered that application, the
21 Court hereby appoints these individuals as Class Representatives.

22 **Preliminary Approval of the Settlement**

23 6. Upon preliminary evaluation, there are no indications that the settlement
24 is the product of fraud or overreaching by, or collusion between, the negotiating parties.
25 *See Allen v. Bedolla*, 787 F.3d 1218, 1224 (9th Cir. 2015); *see also In re Bluetooth*
26 *Headset Prod. Liab. Litig.*, 654 F.3d 935, 947 (9th Cir. 2011). The settlement appears
27 to be the result of extensive, good-faith, arm’s-length negotiations that took place
28 between the parties by counsel who are experienced in similar litigation, and which

1 followed substantial discovery that was sufficient to enable counsel and the Court to
2 make informed decisions. *See Manual for Complex Litigation (Third)* § 30.42 (West
3 1995) (“A presumption of fairness, adequacy, and reasonableness may attach to a class
4 settlement reached in arm’s-length negotiations between experienced, capable counsel
5 after meaningful discovery.”).

6 7. The proposed Settlement Agreement provides the following injunctive-
7 only relief to the Class:

8 An Outreach Program that shall be used to educate Class Members on the
9 existence of the Echo Issue as well as clarification and disclosure of a procedure for
10 adjusting the volume settings on cell phones and in the Subject Vehicles in order to
11 address the alleged Echo Issue.² The Outreach Program consists of the following:

- 12 • Volume Adjustment Protocol Website, which shall contain (i) detailed
13 customer instructions related to the Volume Adjustment Workaround, (ii)
14 an enhanced video instructing Class Members of the Volume Adjustment
15 Workaround, and (iii) a link to the Settlement website;
- 16 • Direct contact to Direct Mail Recipients via U.S. Mail, or where available,
17 by email, further described below in Section IV.B of the Settlement
18 Agreement, which includes (i) enhanced instructions for the Volume
19 Adjustment Workaround; (ii) a QR code that shall be designed to take
20 Class Members to the Volume Adjustment Protocol Website, and (iii) a
21 QR code which will refer the Class Member to the Settlement website;
- 22 • A social media program which includes social media ads that target Class
23 Members that will provide settlement-related information to Class
24 Members including directing the Class Members to the Volume
25 Adjustment Protocol Website; and
26

27 ² The Echo Issue presents itself when the driver of the Toyota vehicle uses the hands-
28 free phone system to make or receive a call, the person on the other end of the call
hears an echo of his or her own words.

- A renewed Tech Tip, which will be available to Dealers and will include the enhanced instructions and a link to the Volume Adjustment Protocol Website and enhanced video.

8. The release applicable to the Class Members is only a release of claims for injunctive relief. The named plaintiffs will release all claims.

9. The Court concludes that the proposed settlement between the parties is sufficiently fair, adequate, and reasonable to warrant preliminary approval. The Court finds that the settlement provides meaningful injunctive relief to the Class, including the disclosure of the existence of the Echo Issue, plus clarification and disclosure of the Volume Adjustment Protocol, without requiring Class Members to release claims for monetary damages. *See Campbell v. Facebook Inc.*, 951 F.3d 1106, 1123 (9th Cir. 2020) (affirming approval of injunctive relief class action settlement that provided targeted relief in the form of disclosures by defendant without waiving class members' claims for monetary damages). As set forth above, that relief provides remedies to the actual and imminent harms described in the Fifth Amended Complaint. Further, there is a sufficient "record supporting the conclusion that the proposed settlement will likely earn final approval after notice and an opportunity to object." Fed. R. Civ. P. 23(e)(1), 2018 advisory committee notes. The Court finds that it will likely be able to approve the proposed Class under Rule 23(e)(2), and because the Class and its representatives likely meet all relevant requirements of Rule 23(a) and Rule 23(b)(2).

Approval of the Notice Program and Direction to Effectuate the Voluntary Notice

10. The proposed settlement in this Action is an injunctive only Federal Rule of Civil Procedure 23(b)(2) settlement, which requires no release of any monetary remedies or statutory damages by any member of the Class or the Plaintiffs. Under Rule 23(c)(2)(A), "the court may direct appropriate notice to the class" of a 23(b)(2) settlement, and the more strict notice requirements of a 23(b)(3) damages settlement do not apply. In (b)(2) settlements, courts frequently determine notice to Class Members

1 and opt-out rights are not necessary. *Padilla v. Whitewave Foods Co.*, No. 2:18-CV-
2 09327-SB-JC, 2021 WL 4902398, at *4 (C.D. Cal. May 10, 2021) (“The Court therefore
3 exercises its discretion and does not direct notice because the settlement does not alter
4 the unnamed class members’ legal rights.”); *Chan v. Sutter Health Sacramento Sierra*
5 *Region*, No. LACV1502004JAKAGRX, 2016 WL 7638111, at *14 (C.D. Cal. June 9,
6 2016) (“Because notice is optional for a Rule 23(b)(2) class ... and the Class Members’
7 rights will not be prejudiced by the Settlement Agreement, notice is not required for
8 purposes of the proposed Settlement Agreement.”). However, out of an abundance of
9 caution, certain notice has been agreed to by the Parties in conjunction with the
10 Outreach Program.

11 11. The Court has considered the form and content of the Notice Program
12 (copies of which are attached to the Settlement Agreement), and finds that the Notice
13 Program and methodology as described in the Settlement Agreement and in the
14 Declaration of the Settlement Outreach Administrator: (a) meet the requirements of due
15 process and Federal Rules of Civil Procedure 23(c) and (e); (b) constitutes the best
16 notice practicable under the circumstances to all persons entitled to notice; and (c)
17 satisfies the Constitutional requirements regarding notice.

18 12. In addition, the Court finds that the Notice Program: (a) apprises Class
19 Members of the pendency of the Action, the terms of the proposed settlement, their
20 rights and deadlines under the settlement; (b) is written in simple terminology; (c) is
21 readily understandable by Class Members; (d) provides sufficient notice of Class
22 Counsel’s request for attorneys’ fees and costs and Plaintiff service awards; and (e)
23 complies with the Federal Judicial Center’s illustrative class action notices.

24 13. The Court hereby approves the Notice Program and the methodology
25 described in the Settlement Agreement and in the Declaration of the Settlement
26 Outreach Administrator in all respects, and it hereby orders that notice be commenced
27 no later than [insert date].

28 14. The Court understands, however, that the Parties must obtain Toyota

1 customer data from a third party before distribution of the Direct Outreach Notice, and
2 that the time within which that data can be obtained is not certain. The Parties have
3 proposed S&P Global Automotive, and the Court approves their selection.

4 15. Direct Outreach Notice to the persons identified by S&P shall be
5 substantially completed in accordance with the Outreach Program. Toyota is hereby
6 ordered to obtain, through the Settlement Outreach Administrator, such vehicle
7 registration information through S&P Global Automotive, which specializes in
8 obtaining such information, from the applicable Departments of Motor Vehicles or
9 equivalents.

10 16. The Court authorizes the Settlement Outreach Administrator, through data
11 aggregators or otherwise, to request, obtain and utilize vehicle registration information
12 from the applicable Departments of Motor Vehicles or equivalents for the purposes of
13 identifying the identity of and contact information for purchasers and lessees of Class
14 Vehicles. Vehicle registration information includes, but is not limited to, owner/lessee
15 name and address information, registration date, year, make, and model of the vehicle.

16 17. The Parties have also proposed the appointment of Cameron Azari of Epiq
17 Solutions as Settlement Outreach Administrator. Having considered his resume and
18 declaration, the Court hereby approves his appointment.

19 18. The Settlement Outreach Administrator shall send the Direct Outreach
20 Notice, substantially in the form attached to the Settlement Agreement as Exhibit [#],
21 by e-mail and/or first-class U.S. Mail, proper postage prepaid to Direct Mail Recipients,
22 as identified by data to be provided to the Settlement Outreach Administrator by S&P
23 Global Automotive. The mailings of the Direct Outreach Notice to the persons
24 identified by the Settlement Outreach Administrator shall be substantially completed by
25 [insert date].

26 19. The Court further approves, as to form and content, the Long Form Notice,
27 which is attached to the Settlement Agreement as Exhibit 3. The Court also approves
28 the establishment of an internet website for the Settlement. The website shall conform

1 to the terms of the Settlement Agreement, and shall include documents relating to the
2 settlement, orders of the Court relating to the settlement and such other information as
3 Toyota and Class Counsel mutually agree would be beneficial to potential Class
4 Members. The website will also include a link to a Volume Adjustment Protocol
5 Website, which shall contain (i) detailed customer instructions related to the Volume
6 Adjustment Protocol, the language of which has been negotiated and agreed to by the
7 Parties, (ii) an enhanced video instructing Class Members of the Volume Adjustment
8 Protocol, the script for which has been negotiated and agreed to by the Parties, and (iii)
9 a link to the Settlement website.

10 20. Toyota shall pay the costs of the Notice and Outreach Program in
11 accordance with the Settlement Agreement. The Parties are hereby authorized to
12 establish the means necessary to implement the notice and/or other terms of the
13 Settlement Agreement.

14 **Fairness Hearing and Objections**

15 21. The Fairness Hearing is set for [insert date], 2025 at [#]:[##] a./p.m.. The
16 Fairness Hearing will be held before the Honorable Terry J. Hatter Jr. at the United
17 States District Court, Central District of California, First Street Courthouse, 350 W.
18 First Street, Courtroom 9C, Los Angeles, CA 90012, to consider, *inter alia*, the
19 following: (a) whether the Class should be certified for settlement purposes; (b) whether
20 the settlement and Settlement Agreement should be finally approved as fair, reasonable
21 and adequate; and (c) whether to approve Class Counsel Attorneys' Fees and Expenses
22 ("Fee Request") and individual awards to the Plaintiffs.

23 22. Any Class Member who wishes to object to the Settlement or Fee Request
24 or service awards to the Plaintiffs must file with the Court, on or before [insert date],
25 2025 or to send to the Clerk of the Court, Class Counsel and Toyota's Counsel with a
26 postmark dated on or before [insert date], a written statement of his, her, and/or their
27 objections. The addresses for the Clerk of Court and counsel for the Parties is as
28 follows:

1 **Clerk of Court**

2 United States District Court for the Central District of California
3 First Street Courthouse
4 350 W. First Street, Courtroom 9C
5 Los Angeles, CA 90012
6

7 Addresses of Class Counsel and Toyota's Counsel are as follows:
8

9 **Class Counsel**

10 Mickel M. Arias
11 Arias Sanguinetti Wang & Team LLP
12 6701 Center Drive West 14th Floor
13 Los Angeles, CA 90045
14 Email: mike@aswtlawyers.com
15

16 Kevin P. Green
17 Goldenberg Heller & Antognoli, P.C.
18 2227 South State Route 157
19 Edwardsville, IL 62025
20 Email: kevin@ghalaw.com
21

22 **Toyota's Counsel**

23 John P. Hooper
24 King & Spalding LLP
25 1185 Avenue of the Americas
26 New York, NY 10036
27 Email: jhooper@kslaw.com
28

1 23. For an objection to be considered by the Court, the objection must comply
2 with the terms of the Settlement Agreement and the Long Form Notice.

3 24. No objection that fails to satisfy these requirements and any other
4 requirements found in the Long Form Notice shall be considered by the Court.

5 25. The filing of an objection shall allow Class Counsel or counsel for Toyota
6 to, at their discretion, notice the deposition of the objecting Class Member and/or to
7 seek the production of documents and tangible things relevant to the objections on an
8 expedited basis, so as to promote and ensure the efficient administration of justice, the
9 timely resolution of objections and of this settlement, and the orderly presentation of
10 any Class Member's objection to the settlement, in accordance with the due process
11 rights of all Class Members. Consistent with these objectives, service of a deposition
12 notice and/or a request to produce documents and tangible things in lieu of a formal
13 subpoena shall be sufficient. Likewise, any such deposition may take place remotely,
14 or at an agreed upon location at an agreed upon date and time, but, in no event more
15 than 15 days following service of a deposition notice, a request to produce documents
16 and other tangible things. Any objections to the scope of a deposition notice or a request
17 to produce documents or other tangible things issued or served in connection with this
18 provision shall be brought before this Court for resolution on an expedited basis.

19 26. The Court may take such action it deems just and appropriate in the event
20 an objecting Class Member fails to appear for deposition or comply with a request to
21 produce documents or other tangible things.

22 27. If the Court determines the objection is frivolous or made for an improper
23 purpose, the Court may take such action it deems just and appropriate. Prior to doing
24 so, however, the Court may allow an objector to voluntarily withdraw their objection.

25 28. Class Counsel's Fee Request shall be filed no later than [insert date].
26 Copies of Class Counsel's Fee Request shall be posted on the settlement website.

27 29. Plaintiffs shall file their motion for final approval, which shall include
28 Plaintiffs' response to validly submitted objections (if any), and Class Counsel's Fee

1 Request, no later than [insert date]. Copies of Plaintiffs' motion for final approval and
2 Class Counsel's Fee Request shall be posted on the settlement website.

3 Any Class Member who files and serves a written objection may appear at the
4 Fairness Hearing, either in person or through personal counsel hired at the Class
5 Member's expense, and may be heard, to the extent allowed by the Court, either in
6 support of or in opposition to the settlement and/or the Fee Request. However, no
7 Class Member shall be heard at the Fairness Hearing unless such person files a
8 "Notice of Intent to Appear in *Kesselman et al. v. Toyota Motor Sales, U.S.A., Inc.*"
9 with the Clerk of Court and delivers it to Class Counsel and to Toyota's Counsel on or
10 before the date listed in the deadlines chart below. In the notice, the Class Member
11 must include his/her/their name, address, telephone number, the make, model year,
12 and VIN number of his/her/its Subject Vehicle(s), and a signature.

13 30. Class Members who intend to object at the Fairness Hearing must also
14 have followed the procedures for objecting in writing as set forth in this Order. Class
15 Members or their attorneys who intend to make an appearance at the Fairness Hearing
16 must deliver a notice of intention to appear to Class Counsel and to Toyota's Counsel,
17 and file said notice with the Court, at least 10 days before the Fairness Hearing.

18 31. The deadlines set forth in this Order, including the date and time of the
19 Fairness Hearing, shall be subject to extension by the Court without further notice to
20 the Class Members other than that which may be posted at the Court, and/or the
21 settlement website at [www.\[website\].com](http://www.[website].com). Class Members should check the settlement
22 website regularly for updates and further details regarding the settlement and extensions
23 of the deadlines thereunder.

24 32. The Court retains jurisdiction to consider all further applications arising
25 out of or in connection with the settlement. The Court may approve the settlement, with
26 such modifications as may be agreed to by the Parties to the settlement, if appropriate,
27 without further notice to the Class, except that notice of such modifications shall be
28 posted on the settlement website.

33. Not later than [#] days before the date of the Fairness Hearing, the Settlement Outreach Administrator shall file with the Court the details outlining the scope, methods of distribution, and results of the Notice Program.

Stay/Bar of Other Proceedings

34. Pending the Fairness Hearing and the Court's decision whether to finally approve the settlement, all proceedings in the Action, other than proceedings necessary to carry out or enforce the Settlement Agreement or this Order, are stayed and suspended, until further order from this Court. The Court further enjoins potential Class Members from challenging in any action or proceeding any matter covered by this Settlement Agreement, except for proceedings in this Court to determine whether the Settlement Agreement will be given final approval. 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. Upon final approval of the settlement, all Class Members shall be forever enjoined and barred from asserting any of the matters, claims or causes of action released pursuant to the Settlement Agreement against any of the Released Parties, and any such Class Member shall be deemed to have forever released any and all such matters, claims, and causes of action as provided for in the Settlement Agreement.

Settlement Deadlines

35. The Court hereby establishes the following schedule, in accordance with the Parties' Settlement Agreement, which shall govern the settlement proceedings in this Action unless continued or otherwise modified by the Court:

EVENT	DEADLINES
Toyota's Counsel shall provide to the Settlement Outreach Administrator a list of all counsel for anyone who has then-pending economic-loss litigation against Toyota	No later than 15 days after Preliminary Approval Order

1 2 3 4 5 6	relating to the instant Bluetooth Echo allegations involving the Subject Vehicles in California courts and/or otherwise covered by the Release, other than those counsel in the Action	
7 8 9 10	Settlement Website, Volume Adjustment Protocol Website, Toll-Free Number go live, informational press release distributed on PR Newswire, (the “Initial Notice Date”)	No later than 30 days after Preliminary Approval Order
11 12 13 14	Digital Notice to begin running, sponsored search listings acquired, and Direct Mail Outreach to begin	As soon as practicable after Initial Notice Date, but no later than 90 days after Preliminary Approval Order
15 16 17 18 19 20	Plaintiffs’ Motion, Memorandum of Law and Other Materials in Support of their Requested Award of Attorneys’ Fees, Reimbursement of Expenses, and Request for Plaintiff Service Awards to be Filed with the Court	No later than 155 days after Preliminary Approval Order
21 22	Direct Outreach Notice to be Substantially Completed	No later than 155 days after Preliminary Approval Order
23 24 25	Settlement Outreach Administrator Shall File the Results of the Dissemination of the Notice with the Court	No later than 170 days after Preliminary Approval Order
26 27 28	Deadline for filing an objection electronically with the Court or postmark deadline to mail the objection to the Clerk of	No later than 180 days after Preliminary Approval Order

the Court, Class Counsel, and Toyota's Counsel	
Parties' Motion for Final Approval, Memoranda of Law, and Other Materials in Support of Final Approval to be Filed with the Court	14 days before Final Fairness Hearing
Fairness Hearing	[insert date] at [#]:[##] a./p.m. (No earlier than 208 days after Preliminary Approval Order)

Effect of Failure to Approve the Settlement or Termination

36. In the event the Settlement is not approved by the Court, or for any reason the Parties fail to obtain a Final Order and Final Judgment as contemplated in the Settlement, or the Settlement is terminated pursuant to its terms for any reason, then the following shall apply:

a. The Settlement Agreement shall be null and void and shall have no force or effect, and no Party to the Agreement shall be bound by any of its terms, except for the terms of Section IX.D of the Agreement;

b. The Parties will petition the Court to have any stay orders entered pursuant to this Agreement lifted;

c. All of its provisions, and all negotiations, statements, and proceedings relating to it shall be without prejudice to the rights of Toyota, Plaintiffs or any Class Member, all of whom shall be restored to their respective positions existing immediately before the execution of the Agreement, except that the Parties shall cooperate in requesting that the Court set a new scheduling order such that no Party's substantive or procedural rights are prejudiced by the settlement negotiations and proceedings;

d. Plaintiffs and all other Class Members, on behalf of themselves and their heirs, assigns, executors, administrators, predecessors, and successors, expressly and

1 affirmatively reserve and do not waive all motions as to, and arguments in support of,
2 all claims, causes of actions or remedies that have been or might later be asserted in
3 the Actions including, without limitation, any argument concerning class certification,
4 and treble or other damages;

5 e. Toyota and the other Released Parties expressly and affirmatively reserve
6 and do not waive all motions and positions as to, arguments in support of, and
7 substantive and procedural rights as to all defenses to the causes of action or remedies
8 that have been sought or might be later asserted in the actions, including without
9 limitation, any argument or position opposing class certification, liability or damages;

10 f. Neither the Agreement, the fact of its having been made, nor the
11 negotiations leading to it, nor any discovery or action taken by a Party or Class
12 Member pursuant to the Agreement shall be admissible or entered into evidence for
13 any purpose whatsoever;

14 g. Any settlement-related order(s) or judgment(s) entered in this Action
15 after the date of execution of this Agreement shall be deemed vacated and shall be
16 without any force or effect; and

17 h. All costs incurred in connection with the Settlement, including, but not
18 limited to, notice, publication, and customer communications, shall be paid by Toyota.
19 Neither Plaintiffs nor Class Counsel shall be responsible for any of these costs or
20 other settlement-related costs.

21 **General Provisions**

22 37. The Parties are authorized to take all necessary and appropriate steps to
23 establish the means necessary to implement the Settlement Agreement. Class Counsel
24 and Toyota's Counsel are hereby authorized to use all reasonable procedures in
25 connection with approval and administration of the settlement that are not materially
26 inconsistent with this Order or the Settlement Agreement, including making, without
27 further approval of the Court, minor changes to the Settlement Agreement, to the form
28 or content of the Notice or to any other exhibits that the Parties jointly agree are

1 reasonable or necessary.

2 38. As set forth in the Settlement Agreement, if the Settlement Agreement is
3 not finally approved by the Court or is terminated for any reason (in whole or in part)
4 the settlement will be rescinded and will be without further legal effect. The Parties will
5 then litigate the lawsuit as if this settlement had never occurred, without prejudice to
6 any claims or defenses they may have. Pursuant to Fed. R. Evid. 408, the settlement,
7 the Settlement Agreement, and all related briefing, arguments, transcripts, and
8 documents will be inadmissible in any proceeding to prove or disprove the validity of
9 any claim, defense, or allegation asserted in the Action. The provisional certification of
10 the Class pursuant to this Order shall be vacated automatically and the Action shall
11 proceed as though the Class had never been certified. The Parties shall have all of the
12 rights, defenses, and obligations they would have had absent the Settlement Agreement.

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

21 40. Any confidential information made available to Plaintiffs and Class
22 Counsel solely through the settlement process shall not be disclosed to third parties
23 (other than experts or consultants retained by Plaintiffs in connection with the Action);
24 shall not be the subject of public comment; shall not be used by Plaintiffs or Class
25 Counsel in any way in this litigation or otherwise should the Settlement Agreement not
26 be achieved; and shall be returned if a settlement is not concluded; provided, however,
27 that nothing contained herein shall prohibit Plaintiffs from seeking such information
28 through formal discovery if not previously requested through formal discovery or from

1 referring to the existence of such information in connection with the settlement of the
2 Action.

3
4 **IT IS SO ORDERED:**

5
6 Date: _____

7 _____
8 HONORABLE TERRY J. HATTER, JR.
9 UNITED STATES DISTRICT JUDGE
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Exhibit 2

Kesselman v. Toyota Motor Sales Settlement Notice Program

This Notice Program document describes the Settlement Notice Plan (“Notice Plan” or “Notice Program”) proposed here for *Kesselman, et al. v. Toyota Motor Sales U.S.A. Inc.*, Case No. 2:21-cv-06010-TJH-JC pending in the United States District Court for the Central District of California. Epiq designed this Notice Program based on our extensive prior experience and research into the notice issues particular to this Settlement. We designed a Notice Program that is the best notice practicable under the circumstances to provide notice to the Class.

As the Settlement Agreement releases only the rights of the Class to seek injunctive relief pursuant to Fed. R. Civ. P. 23(b)(2) and requires no release of any monetary remedies or statutory damages by any member of the Class or the Plaintiffs, the Parties agree that notice to Settlement Class Members and opt-out rights are not necessary. *Padilla v. Whitewave Foods Co.*, No. 2:18-CV-09327-SB-JC, 2021 WL 4902398, at *4 (C.D. Cal. May 10, 2021) (“The Court therefore exercises its discretion and does not direct notice because the settlement does not alter the unnamed class members’ legal rights.”); *Chan v. Sutter Health Sacramento Sierra Region*, No. LACV1502004JAKAGRX, 2016 WL 7638111, at *14 (C.D. Cal. June 9, 2016) (“Because notice is optional for a Rule 23(b)(2) class ... and the Class Members’ rights will not be prejudiced by the Settlement Agreement, notice is not required for purposes of the proposed Settlement Agreement.”). However, out of an abundance of caution, certain notice has been agreed to by the Parties in conjunction with the Outreach Program.

It is my understanding from reviewing the Parties’ Settlement Agreement that the following Class will be certified for settlement purposes only.

All individuals or legal entities who, at any time as of the occurrence of the Initial Notice Date, own(ed), purchase(d), or lease(d) a Subject Vehicle in the States of Arizona, California, Colorado, Georgia, Illinois, Minnesota, Missouri, New York, Ohio, Oregon, and Washington.

“Subject Vehicle” is defined as certain 2014-2019 4Runner, 2015-2018 Avalon, 2015-2018 Avalon HV, 2014-2019 Highlander, 2014-2019 Highlander HV, 2016-2018 Mirai, 2016-2019 Prius, 2017-2019 Prius Prime, 2015-2019 Prius V, 2014-2019 Sequoia, 2015-2017 Sienna, 2014-2019 Tacoma, 2014-2019 Tundra, 2015 Venza, and 2018-2019 Yaris vehicles.

Excluded from the Class are: (a) Toyota, its officers, directors, employees, affiliates and affiliates’ officers, directors and employees; distributors and distributors’ officers, directors and employees; and Toyota Dealers and Toyota Dealers’ officers and directors; (b) Plaintiffs’ Counsel; and (c) judicial officers and their immediate family members and associated court staff assigned to this case.

Given our experience with similar notice efforts, we expect that the Notice Program will reach approximately 90% of the identified Direct Notice Recipients with a frequency of three times. The reach to the Class will be further enhanced by, among others, a targeted online media effort,

an informational release, sponsored search listings, and a settlement website. Based on experience, the projected reach of the Notice Program is consistent with other court approved notice plans, is the best notice practicable under the circumstances of this case and has been designed to satisfy the requirements of due process, including its “desire to actually inform” requirement.¹

The Notice Program includes the following components:

- Direct Notice via email and/or postcard sent by first-class U.S. mail to reasonably identifiable Direct Notice Recipients;
- Social media and online display advertising in Arizona, California, Colorado, Georgia, Illinois, Minnesota, Missouri, New York, Ohio, Oregon, and Washington (“Class States”) through the *Google Display Network* in English and Spanish and *Facebook*, and *Instagram* in English;
- An informational website will be established and will contain important deadlines, notices (including the Long Form Notice), the Settlement Agreement and its exhibits, significant Court documents, a link to the Volume Adjustment Protocol Website, and other important case information;
- To facilitate locating the settlement website, sponsored search listings will be acquired on the three most frequently visited internet search engines: *Google*, *Yahoo!*, and *Bing*;
- A toll-free telephone number will be established for Class Members;
- An informational release will be distributed nationwide in English and Spanish on PR Newswire; and
- CAFA Notice will be sent to appropriate state, federal, and U.S. Territory government officials.

NOTICE PROGRAM METHODOLOGY

Federal Rule of Civil Procedure 23(c)(2)(B) states that for Rule 23(b)(3) classes, notice must be “the best notice that is practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort” and that “the notice may be by one or more of the following: United States mail, electronic means, or other appropriate means.”²

¹ *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 315 (1950) (“But when notice is a person’s due, process which is a mere gesture is not due process. The means employed must be such as one desirous of actually informing the absentee might reasonably adopt to accomplish it. The reasonableness and hence the constitutional validity of any chosen method may be defended on the ground that it is in itself reasonably certain to inform those affected . . .”).

² Fed. R. Civ. P. 23(c)(2)(B).

Notwithstanding the fact that this is a Rule 23(b)(2), injunctive-only settlement, and notice is not required, the Notice Program still satisfies these requirements.

NOTICE PROGRAM DETAIL

Data Acquisition. Epiq will be provided with the list of applicable Vehicle Identification Numbers (“VIN LIST”) from Toyota. Epiq will send the VIN LIST to S&P Global Automotive, formerly known as Polk (“Polk”), to purchase data containing identifying information and last known mailing addresses corresponding with the VINs provided by Toyota.³

Polk collects and analyzes automotive related data, and to the extent Polk does not already have the needed Class Members’ vehicle and contact information in its existing database, Polk will use the VINs to be provided by Toyota to request and obtain Subject Vehicle and owner contact information from the respective state Departments of Motor Vehicles (collectively “State DMVs”).⁴

After receipt of the name and address data from Polk, Epiq will utilize reliable a third-party look-up service to obtain corresponding email addresses for as many identified Class Members as possible.

The Class Member data will be used to provide individual notice to identified Class Members. An Email Notice will be sent to all identified Class Members for whom a valid email address can be obtained. A postcard notice will be sent via United States Postal Service (“USPS”) first class mail to all identified Class Members with an associated physical mailing address for whom an email address is not available or for whom the Email Notice is undeliverable after multiple attempts (“Postcard Notice”).

INDIVIDUAL NOTICE

Individual Notice – Email. Epiq will send an email notice to all identified Direct Notice Recipients for whom a valid email address is available (“Email Notice”). The following industry standard best practices will be followed for the Email Notice efforts. The Email Notice will be drafted in such a way that the subject line, the sender, and the body of the message overcome SPAM filters and ensure readership to the fullest extent reasonably practicable. For instance, the Email Notice will use an embedded html text format. This format will provide easy-to-read text without graphics, tables, images, attachments, and other elements that would increase the likelihood that

³ For Polk to obtain and/or release this type of information for purposes of sending notice to Class Members, a Court Order authorizing Polk to obtain Subject Vehicle owner information from the relevant state DMVs is needed because the Driver’s Privacy Protection Act (“DPPA”), 18 U.S.C. § 2721, *et seq.*, requires states to protect the privacy of personal information contained in a person’s motor vehicle record.

⁴ Based on Epiq’s experience with handling other automotive class action cases, Epiq anticipates that up to 90 days will be needed to obtain the Class Members’ respective vehicle and contact information through Polk. This is from the date Epiq receives the VINs from Toyota, and the required Court order authorizing Polk to obtain Class Member contact and vehicle information from the relevant State DMVs.

the message could be blocked by Internet Service Providers (ISPs) and/or SPAM filters. The Email Notices will be sent from an IP address known to major email providers as one not used to send bulk “SPAM” or “junk” email blasts. Each Email Notice will be transmitted with a digital signature to the header and content of the Email Notice, which will allow ISPs to programmatically authenticate that the Email Notices are from our authorized mail servers. Each Email Notice will also be transmitted with a unique message identifier. The Email Notice will include an embedded link to the settlement website. By clicking the link, recipients will be able to access the Long Form Notice and other information about the Settlement.

If the receiving email server cannot deliver the message, a “bounce code” will be returned along with the unique message identifier. For any Email Notice for which a bounce code is received indicating that the message was undeliverable for reasons such as an inactive or disabled account, the recipient’s mailbox was full, technical autoreplies, etc., at least two additional attempts will be made to deliver the Notice by email.

Individual Notice – Direct Outreach. Epiq will send a Postcard Notice to all identified Direct Notice Recipients with an associated physical mailing address for whom a valid email address is not available, or for whom the Email Notice is undeliverable after multiple attempts. The Postcard Notice will be sent via USPS first class mail. The Postcard Notice will clearly and concisely summarize the legal rights of the Class Members. The Postcard Notice will also direct the recipients to the settlement website where they can access the Long Form Notice and additional information about the Settlement.

Prior to sending the Postcard Notices, all mailing addresses will be checked against the National Change of Address (“NCOA”) database maintained by the USPS to ensure address information is up-to-date and accurately formatted for mailing.⁵ In addition, the addresses will be certified via the Coding Accuracy Support System (“CASS”) to ensure the quality of the ZIP code, and will be verified through Delivery Point Validation (“DPV”) to verify the accuracy of the addresses. This address updating process is standard for the industry and for the majority of promotional mailings that occur today.

The return address on the Postcard Notices will be a post office box that Epiq will maintain for this Settlement. The USPS will automatically forward Postcard Notices with an available forwarding address order that has not expired (“Postal Forwards”). Postcard Notices returned as undeliverable will be re-mailed to any new address available through USPS information, for example, to the address provided by the USPS on returned pieces for which the automatic forwarding order has expired, but which is still during the period in which the USPS returns the piece with the address indicated, or to better addresses that may be found using a third-party lookup service. Upon successfully locating better addresses, Postcard Notices will be promptly remailed.

⁵ The NCOA database is maintained by the USPS and consists of approximately 160 million permanent change-of-address (“COA”) records consisting of names and addresses of individuals, families, and businesses who have filed a change-of-address with the Postal Service™. The address information is maintained on the database for 48 months and reduces undeliverable mail by providing the most current address information, including standardized and delivery point coded addresses, for matches made to the NCOA file for individual, family, and business moves.

PAID MEDIA NOTICE

Internet advertising has become a standard component in legal notice programs. The internet has proven to be an efficient and cost-effective method to target and provide measurable reach of persons covered by a settlement. According to MRI-Simmons data,⁶ 97% of adults aged 18+ in the United States are online and 84% of all adults aged 18+ use social media.⁷

The Notice Program includes targeted digital advertising on the selected advertising network *Google Display Network*, which represents thousands of digital properties across all major content categories (“Digital Notice”). The Digital Notices will also be placed on the social media sites *Facebook* and *Instagram*. *Facebook* is the leading social networking site in the United States with 193 million users⁸ and *Instagram* has 169 million active users in the United States.⁹

The Digital Notices will be targeted to selected audiences in Arizona, California, Colorado, Georgia, Illinois, Minnesota, Missouri, New York, Ohio, Oregon, and Washington who have shown an interest or affinity for content related to the Subject Vehicles defined above. Additionally, a List Activation campaign will also be utilized to reach Class Members by matching online consumer profiles with the known emails of Class Members. The Digital Notice will then be served directly to those individuals.

The Digital Notices will be designed to encourage participation by Class Members—by linking directly to the settlement website, allowing visitors easy access to relevant information and documents. Consistent with best practices, the Digital Notices will use language from the Long Form Notice headline, which will allow users to identify themselves as potential Class Members. All Digital Notices will appear on desktop, mobile, and tablet devices. Digital Notices will also be targeted (remarketed) to people who click on a Digital Notice.

More details regarding the target audiences, distribution, and specific ad sizes of the Digital Notices, are included in the following table.

⁶ MRI-Simmons is a leading source of publication readership and product usage data for the communications industry. MRI-Simmons is a joint venture of GfK Mediamark Research & Intelligence, LLC (“MRI”) and Simmons Market Research. MRI-Simmons offers comprehensive demographic, lifestyle, product usage and exposure to all forms of advertising media collected from a single sample. As the leading U.S. supplier of multimedia audience research, the company provides information to magazines, televisions, radio, internet, and other media, leading national advertisers, and over 450 advertising agencies—including 90 of the top 100 in the United States. MRI-Simmons’s national syndicated data is widely used by companies as the basis for the majority of the media and marketing plans that are written for advertised brands in the United States.

⁷ MRI-Simmons 2024 Survey of the American Consumer®.

⁸ Statista Digital 2024: April Global Statshot Report. Statista, founded in 2007, is a leading provider of worldwide market and consumer data and is trusted by thousands of companies around the world for data. Statista.com consolidates statistical data on over 80,000 topics from more than 22,500 sources and makes it available in German, English, French and Spanish.

⁹ Statista Digital 2024: Global Overview Report.

<i>Network/Property</i>	<i>Target/Distribution</i>	<i>Ad Sizes</i>	<i>Planned Impressions</i>
<i>Google Display Network</i>	Adults 18+	300x250, 728x90, 300x600, 970x250	3,000,000
<i>Google Display Network</i>	Adults 18+ and Affinity Target ¹⁰ for certain Toyota makes and models	300x250, 728x90, 300x600, 970x250	2,500,000
<i>Google Display Network</i>	Adults 18+ and Intent Target ¹¹ for certain Toyota makes and models	300x250, 728x90, 300x600, 970x250	2,500,000
<i>Google Display Network</i>	List Activation Targeting	300x250, 728x90, 300x600, 970x250	5,550,000
<i>Instagram</i>	Adults 18+ and POLK targeting for certain Toyota makes and models ¹²	Newsfeed	2,000,000
<i>Instagram</i>	Adults 18+ and interest in Toyota	Newsfeed	2,000,000
<i>Facebook</i>	Adults 18+ and POLK targeting for certain Toyota makes and models	Newsfeed & RHC	2,500,000
<i>Facebook</i>	Adults 18+ and interest in Toyota	Newsfeed & RHC	2,000,000
TOTAL			22,050,000

Combined, more than 22 million targeted impressions will be generated by the Digital Notices.¹³ The Digital Notices will run for approximately thirty days. Clicking on the Digital Notices will link the reader to the settlement website, where they can easily obtain detailed information about the Settlement.

SPONSORED SEARCH LISTINGS

To facilitate locating the settlement website, sponsored search listings will be acquired on the three most highly visited internet search engines: *Google*, *Yahoo!*, and *Bing*. When search engine

¹⁰ “Custom Affinity Target” allows us to target specific websites, keywords, and/or relevant content that our target may be viewing.

¹¹ “Custom Intent Target” allows us to target individuals that are researching or purchasing certain items on the internet.

¹² POLK is a data company that has extensive Vehicle Registration data. Their social media data products can be utilized for Facebook/Instagram campaigns. Targeting includes owners and lessees of Subject Vehicles.

¹³ The third-party ad management platform, ClickCease will be used to audit the Digital Notice ad placements. This type of platform tracks all Digital Notice ad clicks to provide real-time ad monitoring, fraud traffic analysis, blocks clicks from fraudulent sources, and quarantines dangerous IP addresses. This helps reduce wasted, fraudulent, or otherwise invalid traffic (e.g., ads being seen by ‘bots’ or non-humans, ads not being viewable, etc.).

visitors search on selected common keyword combinations related to the Settlement, the sponsored search listing created for the Settlement will be displayed. Generally, the sponsored search listing will appear at the top of the visitor's website page prior to the search results or in the upper right-hand column of the web-browser screen. The sponsored search listings will be targeted to the Class States. All sponsored search listings will link directly to the settlement website.

INFORMATIONAL RELEASE

To build additional reach and extend exposures, a party-neutral Informational Release (in English and Spanish) will be issued nationwide via *PR Newswire's U.S.1 newswire* to approximately 13,000 general media (print and broadcast) outlets, including local and national newspapers, magazines, national wire services, television, and radio broadcast media across the United States as well as over 4,000 websites, online databases, internet networks, and social networking media. The Hispanic newswire reaches over 1,900 Hispanic US general media contacts as well as up to 4,840 additional industry-specific Hispanic media contacts. The Hispanic release also includes a guaranteed placement on 40+ Hispanic websites and/or news portals. The Informational Release will include the address of the settlement website and the toll-free telephone number. Although there is no guarantee that any news stories will result, the Informational Release will serve a valuable role by providing additional notice exposures beyond that which was provided by the paid media.

SETTLEMENT WEBSITE

Epiq will create and maintain a dedicated website for the Settlement with an easy to remember domain name. Relevant documents, including the Settlement Agreement, Long Form Notice, Complaint, Preliminary Approval Order, Motion for Approval of Attorneys' Fees and Costs (when available), and other Court documents, will be posted on the settlement website. In addition, the settlement website will include relevant dates, answers to frequently asked questions ("FAQs"), instructions for how Class Members may opt-out (request exclusion) from or object to the Settlement, contact information for the Settlement Notice Administrator, and how to obtain other case-related information. Class Members will also be able to file a Claim Form on the settlement website. The Settlement website address will be prominently displayed in all notice documents.

TOLL-FREE TELEPHONE NUMBER & CONTACT INFORMATION

A toll-free telephone number will be established for the Settlement. Class Members will be able to call for additional information, listen to answers to FAQs, and request that a Long Form Notice and Claim Form ("Claim Package") be mailed to them. Callers will also have the option to connect with a live operator. The toll-free telephone number will be prominently displayed in all notice documents. The automated telephone system will be available 24 hours per day, 7 days per week.

A postal mailing address will be established, providing Class Members with the opportunity to request additional information or ask questions.

PLAIN LANGUAGE NOTICE DESIGN

The Notices are designed to be "noticed," reviewed, and—by presenting the information in plain language—understood by Class Members. The design of the Notices follows the principles

embodied in the Federal Judicial Center's ("FJC") illustrative "model" notices posted at www.fjc.gov. Many courts, and the FJC itself, have approved notices that we have written and designed in a similar fashion. The Notices contain substantial, albeit easy-to-read summaries of all key information about Class Members' rights and options. Consistent with our normal practice, all notice documents will undergo a final edit prior to actual mailing and display for grammatical errors and accuracy.

The Long Form Notice will provide substantial information to Class Members. The Long Form Notice will include details regarding the Class Members' ability to opt-out or object to the Settlement Agreement, the deadline to do so, and the date, time, and location of the Final Approval Hearing, among other information.

CAFA NOTICE

Pursuant to the Settlement Agreement, Epiq will provide notice of the proposed Settlement under CAFA, 28 U.S.C. §1715(b), to appropriate state, federal, and U.S. Territory government officials.

DATA PRIVACY AND SECURITY

Epiq has procedures in place to protect the security of class data, including Personal Identifiable Information ("PII") and Vehicle Identification Numbers ("VINs"). As with all cases, Epiq will maintain extensive data security and privacy safeguards in its official capacity as the Settlement Notice Administrator for this Action. A Services Agreement, which formally retains Epiq as the Settlement Notice Administrator, will govern Epiq's administration responsibilities for the Action. Service changes or modification beyond the original contract scope will require formal contract addendum or modification. Epiq maintains adequate insurance in case of errors.

As a data processor, Epiq performs services on data provided, only as those outlined in a contract and/or associated statement(s) of work. Epiq does not utilize or perform other procedures on personal data provided or obtained as part of services to a client. For this Action, Class Member data will be provided directly to Epiq. Epiq will not use such information or information to be provided by Class Members for any other purpose than the administration of this Action, specifically the information will not be used, disseminated, or disclosed by or to any other person for any other purpose.

The security and privacy of clients' and class members' information and data are paramount to Epiq. That is why Epiq has invested in a layered and robust set of trusted security personnel, controls, and technology to protect the data we handle. To promote a secure environment for client and class member data, industry leading firewalls and intrusion prevention systems protect and monitor Epiq's network perimeter with regular vulnerability scans and penetration tests. Epiq deploys best-in-class endpoint detection, response, and anti-virus solutions on our endpoints and servers. Strong authentication mechanisms and multi-factor authentication are required for access to Epiq's systems and the data we protect. In addition, Epiq has employed the use of behavior and signature-based analytics as well as monitoring tools across our entire network, which are managed 24 hours per day, 7 days per week, by a team of experienced professionals.

Epiq's world class data centers are defended by multi-layered, physical access security, including formal ID and prior approval before access is granted, closed-circuit television ("CCTV"), alarms,

biometric devices, and security guards, 24 hours per day, 7 days per week. Epiq manages minimum Tier 3+ data centers in 18 locations worldwide. Our centers have robust environmental controls including uninterruptable power supply (“UPS”), fire detection and suppression controls, flood protection, and cooling systems.

Beyond Epiq’s technology, our people play a vital role in protecting class members’ and our clients’ information. Epiq has a dedicated information security team comprised of highly trained, experienced, and qualified security professionals. Our teams stay on top of important security issues and retain important industry standard certifications, like SysAdmin, Audit, Network, and Security (“SANS”), Certified Information Systems Security Professional (“CISSP”), and Certified Information Systems Auditor (“CISA”). Epiq is continually improving security infrastructure and processes based on an ever-changing digital landscape. Epiq also partners with best-in-class security service providers. Our robust policies and processes cover all aspects of information security to form part of an industry leading security and compliance program, which is regularly assessed by independent third parties.

Epiq holds several industry certifications including: Trusted Information Security Assessment Exchange (“TISAX”), Cyber Essentials, Privacy Shield, and ISO 27001. In addition to retaining these certifications, we are aligned to Health Insurance Portability and Accountability Act (“HIPAA”), National Institute of Standards and Technology (“NIST”), and Federal Information Security Management Act (“FISMA”) frameworks. Epiq follows local, national, and international privacy regulations. To support our business and staff, Epiq has a dedicated team to facilitate and monitor compliance with privacy policies. Epiq is also committed to a culture of security mindfulness. All employees routinely undergo cybersecurity trainings to ensure that safeguarding information and cybersecurity vigilance is a core practice in all aspects of the work our teams complete.

Upon completion of a project, Epiq continues to host all data until otherwise instructed in writing by a customer to delete, archive or return such data. When a customer requests that Epiq delete or destroy all data, Epiq agrees to delete or destroy all such data; provided, however, that Epiq may retain data as required by applicable law, rule or regulation, and to the extent such copies are electronically stored in accordance with Epiq’s record retention or back-up policies or procedures (including those regarding electronic communications) then in effect. Epiq keeps data in line with client retention requirements. If no retention period is specified, Epiq returns the data to the client or securely deletes it as appropriate.

Exhibit 3

Toyota Bluetooth Echo Class Action Settlement Notice

A federal court authorized this Notice. This is not a solicitation from a lawyer.

An Outreach Program is Available for Class Members Who Purchase(d), Own(ed), or Lease(d) 2014-2019 Select Toyota Vehicles Residing in Certain States

There is a proposed settlement (the “Settlement”) in a class action lawsuit against the Toyota Defendants¹ concerning 2014-2019 4Runner, 2015-2018 Avalon, 2015-2018 Avalon HV, 2014-2019 Highlander, 2014-2019 Highlander HV, 2016-2018 Mirai, 2016-2019 Prius, 2017-2019 Prius Prime, 2015-2019 Prius V, 2014-2019 Sequoia, 2015-2017 Sienna, 2014-2019 Tacoma, 2014-2019 Tundra, 2015 Venza, and 2018-2019 Yaris vehicles (known as the “Subject Vehicles”). The Settlement applies to “Class Members,” who are those individuals or legal entities who at any time as of [INSERT INITIAL NOTICE DATE], own(ed), purchase(d), or lease(d) Subject Vehicles in the States of Arizona, California, Colorado, Georgia, Illinois, Minnesota, Missouri, New York, Ohio, Oregon, and Washington (the “Class States”). If you are included in the Settlement, you have legal rights and options and deadlines by which you must exercise them.

The Settlement provides an Outreach Program, which shall educate Class Members on how to adjust the Bluetooth settings on their cell phones in order to fix the alleged Echo Issue.

The case is currently pending before Judge Terry J. Hatter, Jr. in the United States District Court for the Central District of California, Western Division, in an action titled *Kesselman v. Toyota Motor Sales, U.S.A., Inc., et al.* (Case No. 2:21-cv-06010-TJH-JC). Plaintiffs allege that the Subject Vehicles contain a defect in the vehicle’s hands-free phone system, causes the Echo Issue. Toyota denies the allegations brought against it in the lawsuit but has agreed to the Settlement to resolve the case. The Court has not decided who is right. **The purpose of this notice is to provide you with important information about the Settlement so you may decide what to do.**

If the Court grants final approval, the Settlement will provide injunctive relief through an Outreach Program, which will include:

- Volume Adjustment Protocol Website, which shall contain:
 - Information about the Echo Issue;
 - Detailed customer instructions related to the Volume Adjustment Protocol, the language of which has been negotiated and agreed to by the Parties;
 - An enhanced video with instructions regarding the Volume Adjustment Protocol, the script for which has been negotiated and agreed to by the Parties; and
 - A link to the Settlement website, [www.\[website\].com](http://www.[website].com);
- Communications sent directly to current owners or lessees of Subject Vehicles in the Class States, via U.S. Mail, or where available, by email, which includes:

¹ Capitalized terms have the meaning assigned to them in the Settlement Agreement, unless otherwise noted.

QUESTIONS? CALL TOLL FREE 1-[number] OR VISIT [www.\[website\]](http://www.[website])

PLEASE CONTINUE TO CHECK THE WEBSITE REGULARLY FOR IMPORTANT SETTLEMENT UPDATES

PLEASE DO NOT CALL THE JUDGE OR THE CLERK OF COURT

- Information about the Echo Issue;
- Enhanced instructions for the Volume Adjustment Protocol, the language of which has been negotiated and agreed to by the Parties;
- A QR code to the Volume Adjustment Protocol Website, and
- A QR code to the Settlement website;
- Volume Adjustment Protocol IVR phone number, where Class Members can listen to responses for commonly asked questions related to the Volume Adjustment Protocol;
- Social media program which includes social media ads that target Class Members that will provide settlement-related information to Class Members including directing the Class Members to the Volume Adjustment Protocol Website; and
- A Renewed Tech Tip, which will be available to Dealers and will include the enhanced instructions and a link to the Volume Adjustment Protocol Website and enhanced video.

If the Settlement becomes final, all Class Members will release Toyota and the Released Parties from liability for injunctive relief and will not be able to sue Toyota for injunctive relief regarding the issues in the lawsuit.

Under the Settlement, you are not releasing any claims for monetary or statutory damages, personal injury, or wrongful death.

This notice provides a summary of the Settlement, and it is important that you review it carefully to understand your legal rights. The full details of the Settlement, including the Settlement Agreement and other important case documents, are available at [www.\[website\].com](http://www.[website].com). Please visit the website regularly for further updates about the Settlement. If you have questions about the Volume Adjustment Protocol, visit [www.\[Website\].com](http://www.[Website].com).

What This Notice Contains

[\[Insert Table of Contents\]](#)

QUESTIONS? CALL TOLL FREE 1-[\[number\]](#) OR VISIT [www.\[website\]](http://www.[website])
PLEASE CONTINUE TO CHECK THE WEBSITE REGULARLY FOR IMPORTANT SETTLEMENT UPDATES
PLEASE DO NOT CALL THE JUDGE OR THE CLERK OF COURT

A. THE LAWSUIT AND SETTLEMENT BENEFITS

1. What is this Notice about?

A federal court authorized this notice to inform you of a proposed class action injunctive settlement. You are NOT being sued. This notice explains the litigation, the proposed Settlement, and your legal rights. Judge Terry J. Hatter, Jr. of the United States District Court for the Central District of California, Western Division is overseeing this case and has exclusive jurisdiction over the Settlement. This litigation is known as *Kesselman v. Toyota Motor Sales, U.S.A., Inc., et al.*, Case No. 2:21-cv-06010-TJH-JC.

If you have any questions, please visit [www.\[website\]](#) or contact the Settlement Outreach Administrator at [\[phone number\]](#).

2. What are my options?

The table below summarizes your options under the proposed Settlement. **Please review this information carefully because your legal rights may be affected even if you do not take any action.**

DO NOTHING	If you are a member of the Class and choose to do nothing, you will still receive benefits from the Outreach Program provided under the Settlement, and you will give up the right to sue Toyota for injunctive relief about the issues in the lawsuit. This is a mandatory Rule 23(b)(2) Class and Class Members cannot opt out (exclude themselves) from the settlement. You are not required to appear before the Court to participate in the Settlement.
OBJECT	You may write to the Court to explain why you do not like the Settlement. If you object to the Settlement, you are expressing your views about the Settlement, but you will remain a member of the Class (if you are otherwise eligible) and you will still release the claims covered by this Settlement. If you object to the Settlement as described above, you may ask to speak in Court about the fairness of the Settlement. Please refer to Question 12 below for further details on objecting to the Settlement. You must object by [Objection Deadline] .

3. What is this lawsuit about?

This lawsuit alleges that there is a defect in certain Toyota vehicles (“Subject Vehicles”) in which, when the Toyota driver uses the Bluetooth hands-free phone system to make or receive a call, the person on the other end of the phone call hears an echo of his or her own words (“Echo Issue”). Plaintiffs primarily allege that Toyota’s failure to disclose to Plaintiffs and the rest of the class members the existence of the Echo Issue violates the consumer protection statutes of California, Arizona, Colorado, Missouri, Washington, Illinois, Georgia, New

QUESTIONS? CALL TOLL FREE 1-[\[number\]](#) OR VISIT [www.\[website\]](#)

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York, Ohio, Oregon, and Minnesota.

The Subject Vehicles are the 2014-2019 4Runner, 2015-2018 Avalon, 2015-2018 Avalon HV, 2014-2019 Highlander, 2014-2019 Highlander HV, 2016-2018 Mirai, 2016-2019 Prius, 2017-2019 Prius Prime, 2015-2019 Prius V, 2014-2019 Sequoia, 2015-2017 Sienna, 2014-2019 Tacoma, 2014-2019 Tundra, 2015 Venza, and 2018-2019 Yaris vehicles.

The parties have actively litigated the case since 2019, including lawsuits in multiple jurisdictions that were consolidated into this case, Toyota filing multiple motions to dismiss, Toyota's motion to compel arbitration, exchanging discovery including interrogatories and responses to those interrogatories, production of over 90,000 pages of documents, and deposition of 11 plaintiffs.

The operative complaint, the Fifth Amended Class Action Complaint, was filed on January 6, 2025 and raises thirteen causes of action, including violation of California's Unfair Competition Law, violation of Arizona's Consumer Fraud Act, violation of Colorado's Consumer Protection Act, violation of Section 349 of the New York General Business Law, violation of Section 350 of the New York General Business Law, violation of the Washington Consumer Protection Act, violation of the Illinois Consumer Fraud and Deceptive Business Practice Act, violation of the Missouri Merchandising Practice Act, violation of the Georgia Fair Business Practices Act, violation of Ohio's Consumer Sales Practices Act, violation of Oregon's Unlawful Trade Practices Act, violation of Minnesota's Prevention of Consumer Fraud Act, and violation of Minnesota's Uniform Deceptive Trade Practices Act.

Toyota denies all claims and allegations of wrongdoing and denies that they violated any law or duty that would give rise to liability. The Court has not decided who is right.

4. What does the Settlement provide?

The Settlement provides for injunctive relief only, consisting of a multifaceted consumer Outreach Program designed to educate Class Members about the existence of the Echo Issue and how to adjust the volume settings on their cell phone and in their vehicle in order to eliminate the problem. **The settlement does not release the monetary claims of class members.**

The Outreach Program includes:

- Volume Adjustment Protocol Website, which shall contain:
 - Information about the Echo Issue;
 - Detailed customer instructions related to the Volume Adjustment Protocol, the language of which has been negotiated and agreed to by the Parties,
 - An enhanced video instructing Class Members of the Volume Adjustment Protocol, the script for which has been negotiated and agreed to by the Parties, and
 - A link to the Settlement website, [www.\[website\].com](http://www.[website].com);
- Communications sent directly to current owners or lessees of Subject Vehicles in the Class States, via U.S. Mail, or where available, by email, which includes:

QUESTIONS? CALL TOLL FREE 1-[number] OR VISIT [www.\[website\]](http://www.[website])

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- Information about the Echo Issue;
- Enhanced instructions for the Volume Adjustment Protocol, the language of which has been negotiated and agreed to by the Parties;
- A QR code to the Volume Adjustment Protocol Website, and
- A QR code to the Settlement website;
- Volume Adjustment Protocol IVR phone number, where Class Members can listen to responses for commonly asked questions related to the Volume Adjustment Protocol;
- Social media program which includes social media ads that target Class Members that will provide settlement-related information to Class Members including directing the Class Members to the Volume Adjustment Protocol Website; and
- A Renewed Tech Tip, which will be available to Dealers and will include the enhanced instructions and a link to the Volume Adjustment Protocol Website and enhanced video.

The Volume Adjustment Protocol Website can be found at [www.\[website\].com](http://www.[website].com).

5. What am I giving up in exchange for the Settlement benefits?

If the Settlement becomes final, all Class Members will release Toyota and the Released Parties from liability for injunctive relief and will not be able to sue Toyota about the issues in the lawsuit for injunctive relief.

Under the Settlement, you are not releasing any claims for personal injury or wrongful death.

The Settlement Agreement at Section VI and Appendix A of this Long Form Notice describes the released claims in necessary legal terminology, so read it carefully. The Settlement Agreement is available at [www.\[website\].com](http://www.[website].com). You can talk to one of the lawyers listed in Question 10 below for free or you can, of course, talk to your own lawyer at your own expense if you have questions about the released claims or what they mean.

6. What is a Class Action?

In a class action, people called “class representatives” sue on behalf of other people who have similar claims. All of these people together are known as the “Class” or “Class Members,” and the Court must approve this procedure. When a class action of this nature is settled, the Court resolves the issues in the lawsuit for all class members, without the option for exclusion or opting out.

7. Why is there a Settlement?

Both sides in the lawsuit agreed to the Settlement to avoid the cost and risk of further litigation, including a potential trial. The Settlement provides benefits to Class Members in exchange for releasing Toyota from liability. The Settlement does not mean that Toyota broke any laws or did anything wrong, and the Court did

QUESTIONS? CALL TOLL FREE 1-[number] OR VISIT [www.\[website\]](http://www.[website])

PLEASE CONTINUE TO CHECK THE WEBSITE REGULARLY FOR IMPORTANT SETTLEMENT UPDATES

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not decide which side was right. The Class Representatives and the lawyers representing the Class believe that the Settlement is in the best interests of all Class Members.

This notice summarizes the essential terms of the Settlement. The Settlement Agreement sets forth in greater detail the rights and obligations of the parties. To access the Settlement Agreement and other important case documents, please visit [www.\[website\].com](http://www.[website].com).

B. WHO IS IN THE SETTLEMENT?

8. Am I included in the Settlement?

You are included in the Class if as of **[INSERT Initial Notice Date]** you own, lease, or previously purchased, owned or leased a Subject Vehicle in the States of Arizona, California, Colorado, Georgia, Illinois, Minnesota, Missouri, New York, Ohio, Oregon, and Washington.

The Subject Vehicles are:

2014-2019 4Runner	2016-2018 Mirai	2015-2017 Sienna
2015-2018 Avalon	2016-2019 Prius	2014-2019 Tacoma
2015-2018 Avalon HV	2017-2019 Prius Prime	2014-2019 Tundra
2014-2019 Highlander	2015-2019 Prius V	2015 Venza
2014-2019 Highlander HV	2014-2019 Sequoia	2018-2019 Yaris

9. Is anyone excluded from the Settlement?

The following entities and individuals are **excluded** from the Class:

- Toyota, its officers, directors, and employees, affiliates and affiliates' officers, directors and employees; distributors and distributors' officers, directors and employees; and Toyota Dealers and Toyota Dealers' officers and directors;
- Plaintiffs' counsel; and
- Judicial officers and their immediate family members and associated court staff assigned to this case.

For more information, please review the Settlement Agreement available at [www.\[website\].com](http://www.[website].com).

QUESTIONS? CALL TOLL FREE 1-**[number]** OR VISIT [www.\[website\]](http://www.[website])

PLEASE CONTINUE TO CHECK THE WEBSITE REGULARLY FOR IMPORTANT SETTLEMENT UPDATES

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C. THE LAWYERS REPRESENTING YOU

10. Do I have a lawyer in the case?

Yes. The Court has appointed lawyers from the law firms rias Sanguinetti Wang and Team LLP and Goldenberg Heller & Antognoli, P.C. These lawyers are called “Class Counsel.” Their contact information is as follows:

Mickel M. Arias
M. Anthony Jenkins
Arias Sanguinetti Wang and Team LLP
6701 Center Drive West 14th Floor
Los Angeles, CA 90045
Tel: 310-844-9696
Email:

Kevin P. Green
Thomas P. Rosenfeld
Daniel S. Levy

Goldenberg Heller & Antognoli, P.C.
2227 South State Route 157
Edwardsville, Illinois 62025
Tel: 618-656-5150
E-mail: kevin@ghalaw.com

If you want to be represented by another lawyer, you may hire one to appear in Court for you at your own expense.

11. How will the lawyers be paid?

Class Counsel will ask the Court to award the attorneys representing the Class up to \$2,850,000.00 to compensate them for their attorneys’ fees and up to \$300,000.00 for their costs and expenses in litigating this case and securing this nationwide Settlement for the Class. The amounts awarded will be paid by the Toyota Defendants. Class Counsel will also ask the Court to award each of the Settlement Class Representatives a service award of up to \$95,000.00 each for their work in this litigation.

The Court must approve Class Counsel’s requests for fees, costs and expenses, and Settlement Class Representative service awards. Class Counsel will submit their request by [DATE], 2025, and that document will be available at www.[website].com shortly after it is filed with the Court.

D. OBJECTING TO THE SETTLEMENT

12. How do I tell the Court if I do not like the Settlement?

If you do not like the Settlement, you may object to it.² The Court will consider your views in deciding whether to approve or reject this Settlement. If the Court does not approve the Settlement, the lawsuit will continue. To comment on or to object to the Settlement or to Class Counsel’s request for attorneys’ fees, costs, and expenses,

² This is a mandatory Rule 23(b)(2) Class and Class Members cannot opt out (exclude themselves) from the settlement.

QUESTIONS? CALL TOLL FREE 1-[number] OR VISIT www.[website]

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and the request for Settlement Class Representative service awards, you or your attorney must submit your written objection to the Court with the following information:

- The case name “*Kesselman v. Toyota Motor Sales, U.S.A., Inc., et al.*” and number of the Action “No. 2:21-cv-06010-TJH-JC;”
- Your full name, current residential address, mailing address (if different), telephone number, and e-mail address;
- An explanation of the basis upon which you claim to be a Class Member, including the make, model year, and VIN(s) of the Subject Vehicle(s), the State in which you purchased or leased the Subject Vehicle, and the date of purchase/lease;
- Whether the objection applies only to you, 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 you believe supports the objection;
- The number of times you have objected to a class action settlement within the five years preceding the date that you file the objection to this Settlement, the caption and case number of each case in which you have made such objection and the caption and case number of any related appeal, and a copy of any orders related to or ruling upon your prior such objections that were issued by the trial and appellate courts in each listed case;
- If you have not made any such prior objection, you shall affirmatively so state in the written materials provided with the objection;
- A list of all persons who will be called to testify at the Fairness Hearing in support of the objection;
- A statement confirming whether you intend to personally appear and/or testify at the Fairness Hearing; and
- Your original signature and date of signature (an electronic signature or attorney’s signature is not sufficient).

If an objection is made through a lawyer, the objection must also include (in addition to the above items):

- The full name, telephone number, mailing address, and e-mail address of all counsel who represent you, 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;
- The identity of all counsel representing you who will appear at the Fairness Hearing; and
- The number of times your counsel has represented an individual or entity on whose behalf 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 your counsel has made such objection

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and the caption and case number of any related appeal.

The lawyer(s) asserting the objection must also:

- File a notice of appearance with the Court before the deadline to submit objections;
- File a sworn declaration attesting to his or her representation of each Class Member on whose behalf the objection is being filed, and specify the number of times during the prior five-year period that the lawyer or their law firm has objected to a class action settlement; and
- Comply with the written objection requirements described in Section V. of the Settlement Agreement.

You must file your objection electronically with the Court, or mail your objection to the Clerk of the Court, Class Counsel and Toyota's counsel with a postmark of, on or before [DATE], 2025:

Court	Class Counsel	Toyota's Counsel
Clerk of Court United States District Court Central District of California First Street Courthouse 350 W. 1st Street, Courtroom #9C, 9th Floor (or as assigned) Los Angeles, California 90012	Mickel M. Arias Arias Sanguinetti Wang and Torrijos LLP 6701 Center Drive West 14th Floor Los Angeles, CA 90045 mike@asstlawyers.com Kevin P. Green Goldenberg Heller & Antognoli, P.C. 2227 South State Route 157 Edwardsville, Illinois 62025 kevin@ghalaw.com	John P. Hooper King & Spalding LLP 1185 Avenue of the Americas 34th Floor New York, New York 10036 jhooper@kslaw.com

If you intend to appear at the Fairness Hearing, either in person or through personal counsel hired at your expense, you or your attorney(s) who intend to appear must also deliver a notice of intention to appear to Class Counsel and to Toyota's Counsel at the addresses listed above, and file that notice with the Court, by [DATE].

E. THE COURT'S FAIRNESS HEARING

13. When and where will the Court decide whether to grant final approval of the Settlement?

The Court will hold the final approval or "Fairness Hearing" at [TIME] on [DATE], 2025 at the United States District Courthouse, Western Division of the Central District of California, 350 W. 1st Street, Courtroom # 9C, 9th Floor (or as assigned) Los Angeles, California 90012. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate, and whether to approve the request for attorneys' fees, costs, and

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expenses, and the request for Class Representative service awards. If there are objections, the Court will consider them and may listen to people who have asked to speak at the hearing (*see* Question 12 above). The Court will decide whether to grant final approval of the settlement, and, if so, how much Class Counsel and Class Representatives will receive from Toyota. We do not know how long these decisions will take. The Court may reschedule the Fairness Hearing, so check the Settlement website (www.[website]) for further updates.

14. Do I have to come to the hearing?

No, you do not need to attend the Fairness Hearing. Class Counsel will answer any questions the Court may have. If you wish to attend the hearing, you are welcome to come at your own expense. If you submit an objection to the Settlement, you do not have to come to Court to talk about it, but you have the option to do so if you provide advanced notice of your intention to appear (*see* Question 12 above). As long as you submitted a written objection with all of the required information on time with the Court, the Court will consider it. You may have your own lawyer attend at your expense, but it is not required.

15. May I speak at the hearing?

You or your attorney may ask the Court for permission to speak at the Fairness Hearing. To do so, you must file with the Court a written notice of your intent to appear by [DATE], 2025, and send a copy of that notice to Class Counsel and to Toyota's Counsel at the addresses listed in Question 12 above.

Anyone who has requested permission to speak must be present at the start of the Fairness hearing at [TIME] on [DATE], 2025. The Court may reschedule the Fairness Hearing, so check the Settlement website (www.[website]) for further updates.

F. GETTING MORE INFORMATION

16. How do I get more information?

This notice summarizes the proposed Settlement. More details are in the Settlement Agreement. You can get a copy of the Settlement Agreement and other documents and information about the Settlement at www.[website].com. You can also call the toll-free number, [phone number].

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Appendix A – Section VI from the Settlement Agreement – Release and Waiver

- A. The Parties agree to the following releases and waiver, which shall take effect upon the Final Effective Date.
- B. Settlement Class Release
1. In consideration for the relief provided above, Class Members, on behalf of themselves and any other legal or natural persons and entities who or which may claim by, through, or under them, including their executors, administrators, heirs, assigns, predecessors and successors, agree to fully, finally, and forever release, relinquish, acquit, and discharge the Released Parties from any and all injunctive relief, including claims, demands, suits, petitions, liabilities, causes of action, rights, losses, and relief of any kind and/or type for injunctive relief regarding the subject matter of the Action or the Related Action, including, whether past, present, or future, mature, or not yet mature, known or unknown, suspected or unsuspected, contingent or non-contingent, derivative, vicarious or direct, asserted or un-asserted, including, but not limited to, alleged defects in the use, programming, and/or implementation of the hands-free phone system in the Subject Vehicles, and whether based on federal, state or local law, statute, ordinance, rule, regulation, code, contract, tort, fraud or misrepresentation, common law, violations of any state's or territory's deceptive, unlawful, or unfair business or trade practices, false, misleading or fraudulent advertising, consumer fraud or consumer protection statutes, or other laws, unjust enrichment, any breaches of express, implied or any other warranties, the Magnuson-Moss Warranty Act, or Song-Beverly Act, or any other source, or any claim of any kind seeking any injunctive relief, in law or in equity, arising from, related to, connected with, and/or in any way involving the Action and/or the Related Action.
- C. Plaintiffs' Release
1. In consideration for the relief provided above, Plaintiffs and any other legal or natural persons and entities who or which may claim by, through, or under them, including their executors, administrators, heirs, assigns, predecessors and successors, agree to fully, finally, and forever release, relinquish, acquit, and discharge the Released Parties from any and all relief, including claims, demands, suits, petitions, liabilities, causes of action, rights, losses, damages and relief of any kind and/or type for injunctive relief regarding the subject matter of the Action and/or the Related Action, including, not limited to, injunctive or declaratory relief, compensatory, exemplary, statutory, punitive, restitutionary damages, civil penalties, and expert or attorneys' fees and costs, whether past, present, or future, mature, or not yet mature, known or unknown, suspected or unsuspected, contingent or non-contingent, derivative, vicarious or direct, asserted or un-asserted, including, but not limited to, alleged defects in the use, programming, and/or implementation of the hands-free phone system in the Subject Vehicles, and whether based on federal, state or local law, statute, ordinance, rule, regulation, code, contract, tort, fraud or misrepresentation, common law, violations of any state's or territory's deceptive, unlawful, or unfair business or trade practices, false, misleading or fraudulent advertising, consumer fraud or consumer protection statutes, or other laws, unjust enrichment, any breaches of express, implied or any other warranties, the Magnuson-Moss Warranty Act, or Song-Beverly Act, or any other source, or any claim of any kind, in law or in equity, arising from, related to, connected with, and/or in any way involving the Action and/or the Related Action.
- D. Related Release Terms
1. If a Class Member commences, files, initiates, or institutes any new legal action or other proceeding against a Released Party for any claim released in this Settlement in any federal or state court, arbitral tribunal, or administrative or other forum, such legal action or proceeding shall be

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- dismissed with prejudice at that Class Member's cost.
2. Notwithstanding the Releases set forth in Section VI of this Agreement, Plaintiffs and Class Members shall hold Released Parties harmless for all Released Claims that may be asserted by another legal or natural person (including but not limited to legal guardians and estate administrators) who claim by, through, or under that Class Representative or Class Member.
 3. The Final Approval Order will reflect the terms of these Releases.
 4. Class Representatives, on behalf of the other Class Members and through Class Counsel, expressly agree that this Release, the Final Approval Order, and/or the Final Judgment is, will be, and may be raised as a complete defense to, and will preclude any action or proceeding encompassed by, this Release.
 5. Class Representatives and Class Members shall not now or hereafter institute, maintain, prosecute, and/or assert any suit, action, claim, and/or proceeding, whether legal, administrative, or otherwise against the Released Parties, either directly or indirectly, on their own behalf, on behalf of a class or on behalf of any other person or entity with respect to claims subject to the Release.
- E. In connection with this Agreement, Class Representatives, on behalf of the other Class Members, acknowledge that they may hereafter discover claims encompassed by the Release presently unknown or unsuspected, or facts in addition to or different from those that they now know or believe to be true concerning the subject matter of the Action, the Related Action, and/or the Release herein. Nevertheless, it is the intention of the Class Representatives in executing this Agreement fully, finally, and forever to settle, release, discharge, and acquit, all such matters, and all existing and potential claims against the Released Parties relating thereto which exist, hereafter may exist, or might have existed (whether or not previously or currently asserted in any action or proceeding) with respect to the Action or the Related Action, to the extent they are encompassed by the Release. Class Representatives and the other Class Members are not releasing claims for personal injury or wrongful death.
- F. Class Representatives expressly understand and acknowledge that all Class Representatives will be deemed by the Final Approval Order and Final Judgment to acknowledge and waive Section 1542 of the Civil Code of the State of California, which provides that:
- A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release, and that if known by him or her would have materially affected his or her settlement with the debtor or released party.
- Class Representatives expressly waive and relinquish any and all rights and benefits that they may have under, or that may be conferred upon them by, the provisions of Section 1542 of the California Civil Code, or any other law of any state or territory that is similar, comparable or equivalent to Section 1542, to the fullest extent they may lawfully waive such rights.
- G. Class Representatives represent and warrant that they are the sole and exclusive owners of all claims that they personally are releasing under this Settlement Agreement. Class Representatives further acknowledge that they have not assigned, pledged, or in any manner whatsoever sold, transferred, assigned, or encumbered any right, title, interest, or claim arising out of or in any way whatsoever pertaining to the Action and/or the Related Action, including, without limitation, any claim for benefits, proceeds, or value under the Action and/or the Related Action, and that Class Representatives are not aware of anyone other than themselves claiming any interest, in whole or in part, in the individual claims that they are releasing under the Settlement Agreement or in any benefits, proceeds, or values in the individual claims that they are releasing under the Settlement Agreement.
- H. Without in any way limiting its scope, and, except to the extent otherwise specified in the Agreement, this Release covers by example and without limitation, any and all claims for attorneys' fees, costs, expert

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fees, or consultant fees, interest, or litigation fees, costs, or any other fees, costs, and/or disbursements incurred by any attorneys, Class Counsel, Plaintiffs' Counsel, Class Representatives, or other Class Members who claim to have assisted in conferring the benefits under this Settlement upon the Class.

- I. Class Representatives, Plaintiffs' Counsel, Class Counsel, and any other attorneys who receive Attorneys' Fees, Costs, and Expenses from this Settlement Agreement acknowledge that they have conducted sufficient independent investigation and discovery to enter into this Settlement Agreement and, by executing this Settlement Agreement, state that they have not relied upon any statements or representations made by the Released Parties or any person or entity representing the Released Parties, other than as set forth in this Settlement Agreement.
- J. Pending final approval of this Settlement via issuance by the Court of the Final Approval Order and Final Judgment, the Parties agree that any and all outstanding pleadings, discovery, deadlines, and other pretrial requirements are hereby stayed and suspended in regard to the Action and/or the Related Action. Upon the occurrence of final approval of this Settlement via issuance by the Court of the Final Approval Order and Final Judgment, the Parties expressly waive any and all such pretrial requirements.
- K. Nothing in this Release shall preclude any action to enforce the terms of the Settlement Agreement, including participation in any of the processes detailed herein.
- L. Class Representatives and Class Counsel hereby agree and acknowledge that the provisions of this Release together constitute an essential and material term of the Settlement Agreement and shall be included in any Final Approval Order and Final Judgment entered by the Court.

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Exhibit 4

Direct Outreach Notice to Class Members

Front:

THIS IS A COURT-APPROVED LEGAL CLASS SETTLEMENT NOTICE

Kesselman v. Toyota Motor Sales, U.S.A., Inc., et al.

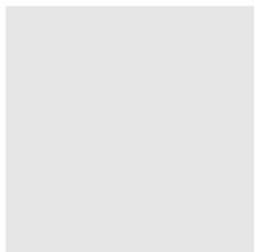
Case No. 2:21-cv-06010-TJH-JC (C.D. Cal.)

c/o Settlement Outreach Administrator

[Address]

[City, State ZIP Code]

To access the official Settlement Website,
scan this QR Code.



[Class Member Name]

[Address]

[City, State, Zip]

Back:

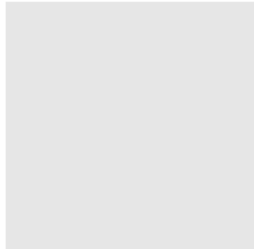
Who Is In the Class and What Are the Allegations? You are receiving this notice because you may be a mandatory Class Member in a proposed class action settlement alleging that certain vehicles contain a defective hands-free phone system. Specifically, when the driver of the Toyota vehicle uses the hands-free phone system to make or receive a call, the person on the other end of the call hears an echo of his or her own words.

Class Members include persons or entities who currently own or lease Subject Vehicles in the States of Arizona, California, Colorado, Georgia, Illinois, Minnesota, Missouri, New York, Ohio, Oregon, and Washington. Subject Vehicles include the following:

2014-2019 4Runner	2015-2019 Prius V
2015-2018 Avalon	2014-2019 Sequoia
2015-2018 Avalon HV	2015-2017 Sienna
2014-2019 Highlander	2014-2019 Tacoma
2014-2019 Highlander HV	2014-2019 Tundra
2016-2018 Mirai	2015 Venza
2016-2019 Prius	2018-2019 Yaris
2017-2019 Prius Prime	

Toyota denies the allegations brought against it in the lawsuit, and the Court has not decided who is right. **This notice is to inform you about the Settlement and help you understand your options.**

To access the Volume Adjustment Protocol Website, scan this QR Code:



What Are the Settlement Benefits? The proposed Settlement provides injunctive relief through an Outreach Program, which will educate the Class Members on the existence of the Echo Issue as well as clarification and disclosure of a procedure for adjusting the volume settings on cell phones and in the Subject Vehicles in order to address the alleged echo issue. You can find more information on the Settlement by accessing the website, [www.\[website\].com](http://www.[website].com) where you can:

- (i) view settlement documents,
- (ii) determine whether you are included in the Settlement, and/or
- (iii) access the Volume Adjustment Protocol Settlement Website for educational materials.

The Volume Adjustment Protocol Website, [www.\[website\].com](http://www.[website].com), has instructional videos and other materials that provide instructions and guidance regarding the Volume Adjustment Protocol.

The instructions for the Volume Adjustment Protocol are also at the bottom of this postcard.

How Will the Attorneys Be Paid? The attorneys representing the class will request up to \$2,850,000.00 for attorneys' fees to compensate them for their work litigating this case and securing the Settlement, up to \$300,000.00 in costs and expenses, and up to \$95,000.00 total as service awards for all of the Class Representatives will also be requested. Toyota has agreed to pay amounts awarded by the Court. For more information, visit the Settlement website or call the toll-free number below.

What Are My Rights? You may object to the Settlement by [\[Deadline\]](#). If you wish to object to the Settlement, the Court will consider your views. For more information and the requirements, visit the Settlement website. **You cannot opt out (exclude yourself)** from this Rule 23(b)(2) settlement.

When is the Fairness Hearing? The Court will hold a hearing on [\[Date\]](#), 2025, at [#:#:## a./p.m.](#), to consider whether to grant final approval to the Settlement. The hearing date may change, so please check the Settlement website regularly for updates. You do not need to attend but may attend at your own expense.

Volume Adjustment Protocol: If the person on the other end of your hands-free phone call hears an echo, follow these steps:
For safety purposes, these steps should not be performed while your vehicle is being driven.

1. Initiate a Bluetooth hands-free phone call. After successful connection, proceed to step 2. Keep the call connected until all the steps are completed.
2. Increase the volume on your phone to the highest volume level using the volume button on the phone.
3. Adjust the volume of your vehicle's speakers to level 45 or lower using the volume adjustment knob or the steering wheel controls in your vehicle.
4. If echo remains, continue reducing the volume of your vehicle's speakers.

These volume settings will remain in place for future hands-free phone calls but may be undone if your phone is paired to a new head unit, a phone update occurs, or your phone is un-paired and re-paired to your vehicle. If that occurs, repeat the steps above. **Please keep these instructions in the glove box your vehicle for future reference.**

Questions about the Settlement? Please Call [Number] or Visit [www.\[Website\].com](http://www.[Website].com)
Questions about the Volume Adjustment Protocol? Visit [www.\[Website\].com](http://www.[Website].com)