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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

DOMINIQUE PARRISH, LUDWIG
COMBRINCK, and TRINE E. UTNE
individually, and on behalf of a class of
similarly situated individuals,

Plaintiffs,

v.

VOLKSWAGEN GROUP OF
AMERICA, INC., a Delaware limited
liability company,

Defendant.

Case No.: 8:19-cv-01148-DSF-KESx

**ORDER GRANTING PRELIMINARY
APPROVAL OF SETTLEMENT,
PRELIMINARILY CERTIFYING
SETTLEMENT CLASS, AND
APPROVING CLASS NOTICE**

1 The Court having reviewed and considered Plaintiffs' Motion for Preliminary
2 Approval of the proposed Settlement in the above Action, and good cause appearing,

3 IT IS ORDERED that the Settlement is preliminarily approved. The Court
4 further finds and orders as follows:

5 1. The Court has subject matter jurisdiction under 28 U.S.C. § 1332(d), and
6 venue is proper in this district.

7 2. The Court has personal jurisdiction over Plaintiffs, Settlement Class
8 Members, and the Defendant.

9 3. To the extent not otherwise defined herein, all defined terms in this Order
10 shall have the meaning assigned in the Settlement Agreement.

11 4. The Settlement Agreement was entered into by experienced counsel and
12 after arm's length negotiations that included the participation of an experienced and
13 neutral third-party mediator. The Settlement Agreement does not appear to be the
14 result of collusion.

15 5. The proceedings that occurred before the Parties reached a resolution of
16 this matter gave counsel the opportunity to adequately assess this case's strengths,
17 weaknesses and the risks to each Party, and thus, to structure the Settlement Agreement
18 in a way that adequately accounts for those considerations.

19 6. After careful review of the Settlement Agreement, the Court finds that the
20 Settlement Agreement is fair, reasonable, and adequate and has no obvious
21 deficiencies that would preclude preliminary approval. The Court therefore
22 preliminarily approves all terms of the Settlement Agreement and its Exhibits with
23 changes indicated at the hearing.

24 7. The Court preliminarily finds, for settlement purposes only, that all
25 requirements of Fed. R. Civ. P. 23(a) and (b)(3) have been satisfied. The Court
26 therefore preliminarily certifies the following Settlement Class:

27 All persons and entities who purchased or leased in the
28 United States or Puerto Rico a Settlement Class Vehicle,

1 defined as a model year 2019 Volkswagen Jetta vehicle, or
2 a model year 2018, 2019 and/or 2020 Volkswagen Tiguan
3 vehicle, that was imported and distributed by Volkswagen
4 Group of America, Inc. (“VWGoA”) for sale or lease in
the United States or Puerto Rico.

5 Excluded from this definition are (a) all Judges who have
6 presided over the Action and their spouses; (b) all current
7 employees, officers, directors, agents and representatives
8 of Defendant, and their family members; (c) any affiliate,
9 parent or subsidiary of Defendant and any entity in which
10 Defendant has a controlling interest; (d) anyone acting as a
11 used car dealer; (e) anyone who purchased a Settlement
12 Class Vehicle for the purpose of commercial resale; (f)
13 anyone who purchased a Settlement Class Vehicle with
14 salvaged title and/or any insurance company who acquired
15 a Settlement Class Vehicle as a result of a total loss; (g)
16 any insurer of a Settlement Class Vehicle; (h) issuers of
17 extended vehicle warranties and service contracts; (i) any
18 Settlement Class Member who, prior to the date of the
19 Settlement Agreement, settled with and released
20 Defendant or any Released Parties from any Released
21 Claims, and (j) any Settlement Class Member who files a
22 timely and proper Request for Exclusion from the
23 Settlement Class.

24 8. The Court conditionally certifies the proposed Settlement Class and
25 preliminarily finds that the requirements of Rule 23(a) are satisfied, for settlement
26 purposes only, as follows: (a) pursuant to Fed. R. Civ. P. 23(a)(1), the members of the
27 Settlement Class are so numerous that joinder of all members is impracticable, (b)
28 pursuant to Fed. R. Civ. P. 23(a)(2) and 23(c)(1)(B), there are common issues of law
and fact for the Settlement Class, (c) pursuant to Fed. R. Civ. P. 23(a)(3), the claims of
Plaintiffs Dominique Parrish, Ludwig Combrinck, and Trine E. Utne are typical of the
claims of the Settlement Class that they represent, and (d) pursuant to Fed. R. Civ. P.
23(a)(4), Plaintiffs will fairly and adequately protect and represent the interests of all
members of the Settlement Class as the Class Representatives, and each Class

1 Representative’s interests are not antagonistic to those of the Settlement Class.

2 9. The Court further preliminarily finds that the requirements of Rule
3 23(b)(3) are satisfied, for settlement purposes only, in that (a) common questions of
4 law and fact pertaining to the Settlement Class Members predominate over questions
5 that may affect only individual members; and (b) a class action is superior to other
6 available methods for the fair and efficient adjudication of this controversy.

7 10. The Court further preliminarily finds that the Settlement is non-collusive,
8 a product of arms’-length negotiations between counsel for Plaintiffs and Defendant
9 presided by over by experienced a third-party neutral. In reaching this finding of non-
10 collusiveness, the Court considered “subtle signs” of collusion identified by *In re*
11 *Bluetooth Headset Prod. Liab. Litig.*, 654 F.3d 935, 947 (9th Cir. 2011). The Court
12 preliminarily finds that, apart from a “clear-sailing” provision, which is common in
13 class action settlements, the Settlement benefits are not dwarfed by the attorney’s fees,
14 supporting a finding of non-collusiveness.

15 11. The Court preliminarily appoints Plaintiffs Dominique Parrish, Ludwig
16 Combrinck, and Trine E. Utne to serve as the Class Representatives for the Settlement
17 Class.

18 12. The Settlement Class Representatives and Class are ably represented by
19 counsel who are experienced and competent in the prosecution of complex class action
20 litigation and have acted in their best interests. The Court therefore preliminarily
21 appoints Capstone Law APC and Berger Montague PC to serve as Settlement Class
22 Counsel for the Settlement Class.

23 13. The Court also preliminarily appoints Rust Consulting, Inc., as the
24 Settlement Administrator or Claims Administrator to supervise and administer the
25 Class Notice Plan as well as the processing and review of Claims that are timely and
26 properly submitted and comply with the terms of the settlement.

27 14. This Preliminary Approval Order shall neither preclude nor in any way
28 affect Defendant’s rights to assert that this action may not be certified as a class action,

1 other than for settlement purposes only. The Court also concludes that, because the
2 action is being settled rather than litigated, the Court need not consider manageability
3 issues that might be presented by the trial of a nationwide class action involving the
4 issues in this case. *See Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 620 (1997).

5 15. The Court has reviewed and finds that the content of the proposed form
6 of Class Notice attached as Exhibit E to the Settlement Agreement, satisfies the
7 requirements of Fed. R. Civ. P. 23(c)(2), Fed. R. Civ. P. 23(e)(1), and Due Process, and
8 accordingly, the Court approves the proposed Class Notice and proposed Claim Form,
9 which will accompany the mailing of the Class Notice, subject to the changes noted at
10 the hearing.

11 16. The Court further approves the proposed method for providing notice of
12 the Settlement to the Settlement Class Members, as reflected in the Class Notice Plan
13 in the Settlement Agreement. The Court has reviewed the Class Notice Plan and finds
14 that the Settlement Class will receive the best notice practicable under the
15 circumstances. The Court specifically approves the Parties' proposal that on an agreed-
16 upon date with the Claims Administrator, but in no event later than **May 27, 2022**, the
17 Claims Administrator shall cause individual Class Notice, as approved by the Court,
18 together with the Claim Form, as approved by the Court, to be mailed, by first class
19 mail, to the current or last known addresses of all reasonably identifiable Settlement
20 Class Members (the "Notice Date"). The Court specifically approves the procedures
21 set forth in the Settlement Agreement for identifying Settlement Class Members and
22 for re-mailing notice packets and performing advanced address searches for Settlement
23 Class Members' addresses if returned as undeliverable. The Court further approves the
24 payment of notice costs as provided in the Settlement Agreement.

25 17. The Court finds that these procedures will constitute the best notice
26 practicable under the circumstances and that the notice plan satisfies the requirements
27 of Fed. R. Civ. P. 23(c)(2), Fed. R. Civ. P. 23(1), and Due Process.

28 18. The Departments of Motor Vehicles within the United States and Puerto

1 Rico are ordered to provide approval to IHS Markit/Polk, Experian, or any other
2 company so retained by the parties and/or the Claims Administrator, to release the
3 names and addresses of Settlement Class Members in this action associated with the
4 titles of the Vehicle Identification Numbers at issue in this action for the purposes of
5 disseminating the Class Notice to the Settlement Class Members. IHS Markit/Polk,
6 Experian, and/or any similar retained company are ordered to license, pursuant to
7 agreement between the Claims Administrator and IHS Markit/Polk, Experian, and/or
8 any similarly retained company, the Settlement Class Members' contact information to
9 Defendant solely for the use of providing Class Notice in this action and for no other
10 purpose.

11 19. The Court directs that, pursuant to Fed. R. Civ. P. 23(e)(2), a Final
12 Fairness Hearing will be held on **August 15, 2022, at 1:30 p.m.**, in Courtroom 7D of
13 the United States District Court for the Central District of California, First Street
14 Courthouse, 350 W. 1st Street, Courtroom 7D, 7th Floor, Los Angeles, California
15 90012, to consider (a) the grant of final approval of the Settlement pursuant to the
16 terms of the Settlement Agreement, (b) certification of the Settlement Class, (c)
17 appointment of Plaintiffs as the Settlement Class Representatives, (d) appointment of
18 Class Counsel, (e) appointment of Rust Consulting, Inc., as the Settlement Claims
19 Administrator, (f) Class Counsel's Fee and Class Representatives' Service Awards
20 Application, (g) any objections and/or requests for exclusion, and (h) entry of a Final
21 Approval Order and Judgment. The Fairness Hearing may be adjourned by the Court
22 or held remotely, and the Court may address the above or other matters, without further
23 notice to the Settlement Class other than notice that may be issued by the Court and/or
24 on the Court's and settlement websites.

25 20. The Court directs that no later than **July 18, 2022**, Settlement Class
26 Counsel shall file their Motion for Final Approval of the Settlement. Class Counsel
27 shall file their Motion for reasonable attorney's fees, expenses, and class representative
28 service awards no later than the date that the Claims Administrator shall cause individual

1 Class Notice to be mailed pursuant to ¶16. No later than **August 1, 2022**, Plaintiffs may
2 file reply papers, if any.

3 21. The Court further directs that no later than **August 5, 2022**, Settlement
4 Class Counsel and Defendant may file any supplemental memoranda or submissions
5 addressing any objections and/or opt-outs and any other matters in further support of
6 final approval of the Settlement.

7 22. Any Settlement Class Members wishing to object to the proposed
8 Settlement or the requests for Class Counsel fees and expenses and/or the Class
9 Representative service awards must adhere to the following deadline and procedures in
10 order for the objection to be considered:

- 11 a) To object, a Settlement Class Member, individually or through
12 counsel, must mail a written objection, with all supporting
13 documents and/or memoranda, by regular first-class mail,
14 postmarked no later than **June 27, 2022** (“Objection Deadline”),
15 to the following:

16 **Settlement Class Counsel**

17 Tarek H. Zohdy, Esq.
18 Capstone Law APC
19 1875 Century Park East, Suite 1000
Los Angeles, CA 90067

20 **Defendant’s Counsel**

21 Michael B. Gallub, Esq.
22 Herzfeld & Rubin, P.C.
23 125 Broad Street
New York, NY 10004

24 **Claims Administrator**

25 Rust Consulting, Inc.
26 P.O. Box 44
Minneapolis, MN 55440-0044

- 27 b) Any objecting Settlement Class Member must include the
28 following with his/her/their/its objection:

- 1 i. the objector’s full name, address, and telephone number;
- 2 ii. the model, model year and VIN of the Settlement Class
- 3 Vehicle, along with proof that the objector has owned or
- 4 leased the Settlement Class Vehicle (i.e., a true copy of a
- 5 vehicle title, registration, or license receipt);
- 6 iii. a written statement of all grounds for the objection
- 7 accompanied by any legal support for such objection;
- 8 iv. copies of any papers, briefs, or other documents upon which
- 9 the objection is based and are pertinent to the objection; and
- 10 v. the name, address and telephone number of any counsel
- 11 representing said objector.

12 c) Any objecting Settlement Class Member may appear, in person or
13 by counsel, at the Fairness Hearing to explain why the proposed
14 Settlement should not be approved as fair, reasonable, and
15 adequate, or to object to any motion for attorneys’ fees, expenses,
16 or service award. The Court’s website will indicate whether the
17 Fairness Hearing will be held in person or remotely.

18 d) Any Settlement Class Member who has not properly filed an
19 objection in accordance with the Objection Deadline and other
20 specifications set forth in the Settlement Agreement and Class
21 Notice, shall be deemed to have any objections to any aspect of the
22 Settlement, to Settlement Class Counsel’s motion for reasonable
23 attorneys’ fees and expenses, and/or for Service Awards to the
24 Settlement Class Representatives.

25 23. Any Settlement Class Member who wishes to be excluded from the
26 Settlement Class must mail a request for exclusion (“Request for Exclusion”) by
27 regular first-class mail postmarked no later than **June 27, 2022**, to the following:

28 **Settlement Class Counsel**

1 Tarek H. Zohdy, Esq.
2 Capstone Law APC
3 1875 Century Park East, Suite 1000
4 Los Angeles, CA 90067

5 **Defendant's Counsel**

6 Michael B. Gallub, Esq.
7 Herzfeld & Rubin, P.C.
8 125 Broad Street
9 New York, NY 10004

10 **Claims Administrator**

11 Rust Consulting, Inc.
12 P.O. Box 44
13 Minneapolis, MN 55440-0044

14 24. To be effective, the Request for Exclusion must:

- 15 a) include the Settlement Class Member's full name, address and
16 telephone number;
- 17 b) identify the model, model year and VIN of the Settlement Class
18 Vehicle;
- 19 c) state that he/she/they/it is a present or former owner or lessee of a
20 Settlement Class Vehicle; and
- 21 d) specifically and unambiguously state his/her/their/its desire to be
22 excluded from the Settlement Class.

23 25. The Claims Administrator shall report the names and addresses of all
24 persons and entities that submitted timely and proper Requests for Exclusion to the
25 Court, Settlement Class Counsel and Defendant's Counsel no later than **July 28, 2022**.
26 All valid Requests for Exclusion as determined by the Court at the Final Fairness
27 Hearing shall be set forth in a list annexed to the Final Approval Order.

28 26. The Claim Administrator shall consult with Class Counsel and
Defendant's Counsel in determining whether they meet the requirements of a Request
for Exclusion. Any communications from Settlement Class Members (whether styled

1 as an exclusion request, an objection, or a comment) as to which it is not readily
2 apparent whether the Settlement Class Member intended to be excluded from the
3 Settlement Class shall be evaluated jointly by Class Counsel and Defendant's Counsel,
4 who shall make a good faith evaluation. Any uncertainties about whether a Settlement
5 Class Member is requesting exclusion from the Settlement Class shall be submitted to
6 the Court for resolution.

7 27. Any Settlement Class Member who does not properly and timely submit
8 a Request for Exclusion shall automatically be included in the Settlement Class and
9 shall be bound by all the terms and provisions of the Settlement Agreement and the
10 Settlement, including but not limited to the release and any Order or Judgment relating
11 to the Settlement.

12 28. Upon final approval of the Settlement, all Settlement Class Members
13 who have not timely and properly excluded themselves from the Settlement shall be
14 deemed to have, and by operation of the Final Order and Judgment shall have, fully
15 and completely released, acquitted and discharged all Released Parties from/for all
16 Released Claims as set forth in the Settlement Agreement.

17 29. Pending the Final Fairness Hearing and the Court's decision whether to
18 finally approve the Settlement, no Settlement Class Member, either directly,
19 representatively, or in any other capacity, shall commence, continue, prosecute,
20 continue to prosecute, or participate in, against any of the Released Parties (as defined
21 in the Settlement Agreement), any action or proceeding in any court or tribunal
22 asserting any of the matters, claims or causes of action that are to be released in the
23 Settlement Agreement. Pursuant to 28 U.S.C. §§ 1651(a) and 2283, the Court finds
24 that issuance of this preliminary injunction is necessary and appropriate in aid of the
25 Court's continuing jurisdiction and authority over the Action.

26 30. In the event the Settlement is not approved by the Court, or for any
27 reason the parties fail to obtain a Final Order and Judgment as contemplated in the
28 Settlement, or the Settlement is terminated pursuant to its terms for any reason, then

1 the following shall apply:

- 2 (a) All orders and findings entered in connection with the
3 Settlement shall become null and void and have no further force
4 and effect, shall not be used or referred to for any purposes
5 whatsoever, and shall not be admissible or discoverable in this
6 or any other proceeding, judicial or otherwise;
- 7 (b) All of the Parties' respective pre-Settlement claims, defenses
8 and procedural rights will be preserved, and the parties will be
9 restored to their positions *status quo ante*;
- 10 (c) Nothing contained in this order is, or may be construed as, any
11 admission or concession by or against Defendant, Released
12 Party or Plaintiff on any claim, defense, or point of fact or law;
- 13 (d) Neither the Settlement terms nor any publicly disseminated
14 information regarding the Settlement, including, without
15 limitation, the Class Notice, court filings, orders and public
16 statements, may be used as evidence in this or any other
17 proceeding, judicial or otherwise;
- 18 (e) Neither the fact of, nor any documents relating to, either party's
19 withdrawal from the Settlement, any failure of the Court to
20 approve the Settlement, and/or any objections or interventions
21 may be used as evidence;
- 22 (f) The preliminary certification of the Settlement Class pursuant to
23 this order shall be vacated automatically, and the Action shall
24 proceed as though the Settlement Class had never been
25 preliminarily certified; and
- 26 (g) The terms in Section VI of the Settlement Agreement shall
27 apply and survive.

28 31. The Parties and their counsel are authorized to use all reasonable
procedures in connection with approval and administration of the Settlement that are
not materially inconsistent with the Preliminary Approval Order or the Settlement
Agreement, including making, without further approval of the Court, minor changes to
the Settlement, to the form and content of the Class Notice and/or Claim Form, or to

1 any other exhibits, that the Parties jointly agree are reasonable and necessary.

2 IT IS SO ORDERED.

3 DATED: January 27, 2022

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5 Honorable Dale S. Fischer
6 UNITED STATES DISTRICT JUDGE
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