

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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

ALFRED SALAS and GLORIA  
ORTEGA, individually and on behalf of  
a class of similarly situated individuals,

Plaintiffs,

vs.

TOYOTA MOTOR SALES, U.S.A.,  
INC.

Defendant.

Case No: 2:15-cv-08629-HDV-E

**DEFENDANT’S MEMORANDUM  
OF LAW IN SUPPORT OF  
MOTION FOR PRELIMINARY  
APPROVAL**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**TABLE OF CONTENTS**

I. INTRODUCTION..... 1

II. BACKGROUND..... 1

    A. Plaintiffs’ Allegations and Claims and Parties’ Motion Practice .....2

    B. Settlement Negotiations .....4

    C. Settlement Terms .....5

        a. Out-of-Pocket Reimbursement Program .....6

III. FAIRNESS, REASONABLENESS, AND ADEQUACY OF  
PROPOSED SETTLEMENT.....7

IV. THE SETTLEMENT SHOULD BE APPROVED AS IT IS A FAIR  
AND REASONABLE OUTCOME FOR CLASS MEMBERS..... 11

    A. Recovery for Class Members..... 11

    B. Release of Claims..... 11

V. PROPOSED NOTICE PROGRAM AND NOTIFICATION  
PROCEDURES ..... 12

VI. THE COURT SHOULD ISSUE A PRELIMINARY INJUNCTION  
PENDING FINAL APPROVAL OF THE PROPOSED  
SETTLEMENT. .... 17

VII. CONCLUSION .....21

**TABLE OF AUTHORITIES**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

<b>Cases</b>	<b>Page(s)</b>
<i>Acosta v. Trans Union, LLC</i> , 243 F.R.D. 377 (C.D. Cal. 2007).....	8
<i>In re Asbestos School Litig.</i> , No. 83-0268, 1991 WL 61156 (E.D. Pa. Apr. 16, 1991) .....	19
<i>In re Baldwin United Corp.</i> , 770 F.2d 328 (2d Cir. 1985) .....	19, 20
<i>Briseño v. Henderson</i> , 998 F.3d 1014 (9th Cir. 2021) .....	9
<i>Calhoun v. Invention Submission Corp.</i> , No. 2:20-cv-681, 2022 WL 20561728 (W.D. Pa. Aug. 24, 2022).....	20
<i>Campbell v. Facebook, Inc.</i> , 951 F.3d 1106 (9th Cir. 2020).....	10
<i>Carlough v. Amchem Products, Inc.</i> , 10 F.3d 189 (3d Cir. 1993) .....	19
<i>Class Plaintiffs v. City of Seattle</i> , 955 F.2d 1268 (9th Cir. 1992).....	7
<i>Dack, et al. v. Volkswagen Group of America, Inc.</i> , No. 4:20-cv-00615-RK, 2024 WL 698797 (W.D. Mo. Jan. 18, 2024) .....	20
<i>In re Diet Drugs</i> , 282 F.3d 220 (3d Cir. 2002) .....	18, 19, 20
<i>Duncan v. JPMorgan Chase Bank, N.A.</i> , No. SA-14-CA-00912-FB, 2015 WL 11623393 (W.D. Tex. Oct. 21, 2015) .....	20
<i>Fraser v. Asus Comput. Int’l</i> , No. C12-0652(WHA), 2012 WL 6680142 (N.D. Cal. Dec. 21, 2012) .....	12
<i>Hanlon v. Chrysler Corp.</i> , 150 F.3d 1011 (9th Cir. 1998).....	20

1 *Harris v. Vector Mktg. Corp.*,  
 2 2011 WL 1627973 (N.D. Cal. 2011)..... 8

3 *Hartranft v. TVI, Inc.*,  
 4 No. 8:15-CV-01081-CJC-DFM, 2019 WL 1746137 (C.D. Cal. Apr.  
 5 18, 2019)..... 17, 18

6 *In re Heritage Bond Litig.*,  
 7 2005 WL 1594403 (C.D. Cal. June 10, 2005)..... 8

8 *Herrera v. Wells Fargo Bank, N.A.*,  
 9 No. SACV 18-332JVS, 2021 WL 3932257 (C.D. Cal. June 8,  
 10 2021)..... 13

11 *Hesse v. Sprint Corp.*,  
 12 598 F.3d 581 (9th Cir. 2010)..... 11

13 *In re Ikon Office Solutions, Inc. Sec. Litig.*,  
 14 194 F.R.D. 166 (E.D. Pa. 2000) ..... 5

15 *In re Initial Pub. Offering Sec. Litig.*,  
 16 226 F.R.D. 186 (S.D.N.Y. 2005)..... 5

17 *Jacobs v. CSAA Inter-Ins.*,  
 18 No. 3:07-CV-00362-MHP, 2009 WL 1201996 (N.D. Cal. May 1,  
 19 2009)  
 20 ..... 18, 19, 20

21 *Keegan v. Am. Honda Motor Co., Inc.*,  
 22 No. CV 10-09508(MMM), 2014 WL 12551213 (C.D. Cal. Jan. 21,  
 23 2014)..... 14

24 *Kim v. Sheraton Operating Co.*,  
 25 No. CV 17-9247, 2021 WL 3598578 (C.D. Cal. June 23, 2021)..... 8

26 *Klein v. O’Neal, Inc.*,  
 27 705 F. Supp. 2d 632 (N.D. Tex. 2010)..... 18

28 *Liles v. Del Campo*,  
 350 F.3d 742 (8th Cir. 2003)..... 18

*In re Linerboard Antitrust Litig.*,  
 361 Fed. Appx. 392 (3d Cir. 2010) ..... 20

1 *Lucas v. Kmart Corp.*,  
 2 234 F.R.D. 688 (D. Colo. 2006) ..... 18

3 *Marshall v. Northrop Grumman Corp.*,  
 4 469 F. Supp. 3d 942 (C.D. Cal. June 30, 2020) ..... 9, 10

5 *In re Mego Fin. Corp. Sec. Litig.*,  
 6 213 F.3d 454 (9th Cir. 2000) ..... 10

7 *In re Mexico Money Transfer Litig.*,  
 8 Nos. 98-C-2407 and 98-C-2408, 1999 WL 1011788 (N.D. Ill. Oct.  
 19, 1999) ..... 0

9 *In re MicroStrategy, Inc. Sec. Litig.*,  
 10 148 F. Supp. 2d 654 (E.D. Va. 2001) ..... 5

11 *Morris v. PHH Mortg. Corp.*,  
 12 No. 20-60633-CIV, 2022 WL 18859412 (S.D. Fla. Dec. 22, 2022) ..... 20

13 *In re Prudential Ins. Co. of Am. Sales Practices Litig.*,  
 14 962 F. Supp. 450 (D.N.J. 1997), *aff'd*, 148 F.3d 283 (3d Cir. 1998) ..... 20

15 *Ramirez v. DeCoster*,  
 16 142 F. Supp. 2d 104 (D. Me. 2001) ..... 5

17 *Rodriguez v. W. Publ’g Corp.*,  
 18 563 F.3d 948 (9th Cir. 2009) ..... 7, 8, 10

19 *Schaffer v. Litton Loan Servicing, LP*,  
 20 No. CV 05-07673 MMM JCx, 2012 WL 10274679 (C.D. Cal. Nov.  
 13, 2012) ..... 14

21 *Simerlein v. Toyota Motor Corp.*,  
 22 No. 3:17-cv-1091 (VAB), 2019 WL 1435055 (D. Conn. Jan. 14,  
 2019) ..... 19

23 *Spann v. J.C. Penney Corp.*,  
 24 314 F.R.D. 312 (C.D. Cal. 2016) ..... 7, 8, 10, 12

25 *Standard Microsystems Corp. v. Tex. Instruments Inc.*,  
 26 916 F.2d 58 (2d Cir. 1990) ..... 19

27 *Stratton v. Glacier Ins. Admin’rs, Inc.*,  
 28 No. 1:02CV06213 OWWDLB, 2007 WL 274423 (E.D. Cal. Jan.  
 29, 2007) ..... 19

1 *In re Tableware Antitrust Litig.*,  
 2 484 F. Supp. 2d 1078 (N.D. Cal. 2007)..... 8  
 3 *In re TFT-LCD (Flat Panel) Antitrust Litig.*,  
 4 No. M 07-1827 SI, 2011 WL 13152270 (N.D. Cal. Aug. 24, 2011) ..... 5  
 5 *Uschold v. NSMG Shared Serv., LLC*,  
 6 333 F.R.D. 157 (N.D. Cal. 2019) ..... 8  
 7 *Victorino v. FCA US LLC*,  
 8 No. 16-cv-1617-GPC(JLB), 2023 WL 3296155 (S.D. Cal. May 5,  
 9 2023) ..... 20  
 10 *In re Vitamins Antitrust Litig.*,  
 11 MDL 1285, 2001 WL 856292 (D.D.C. July 25, 2001)..... 10  
 12 *In re ZF-TRW Airbag Control Units Products Liability Litig.*,  
 13 No. LA ML19-02904 JAK, 2023 WL 6194109 (C.D. Cal. July 21,  
 14 2023)..... 20  
 15 **Statutes**  
 16 All Writs Act, 28 U.S.C. § 1651(a) ..... 17, 19, 20, 21  
 17 Anti-Injunction Act, 28 U.S.C. § 2283..... 17, 19, 21  
 18 California Consumer Legal Remedies Act, California Civil Code  
 19 §§ 1750, *et seq.* ..... 1, 2  
 20 California Consumer Legal Remedies Act, California Civil Code  
 21 § 1761(d)..... 2, 3  
 22 Class Action Fairness Act, 28 U.S.C § 1715..... 17  
 23 Magnuson-Moss Warranty Act ..... 1  
 24 Song-Beverly Consumer Warranty Act, California Civil Code §§ 1792  
 25 and 1791.1, *et seq.* ..... 1, 2  
 26 Unfair Competition Law..... 1, 3  
 27 **Other Authorities**  
 28 FED. R. CIV. P. 23..... *passim*  
 FED. R. CIV. P. 23(b)(3) ..... 13

1 FED. R. CIV. P. 23(c)(2)..... 12  
2 FED. R. CIV. P. 23(c)(2)(B) ..... 12, 13  
3 FED. R. CIV. P. 23(e) ..... 9  
4 FED. R. CIV. P. 23(e)(1)..... 13  
5 FED. R. CIV. P. 23(e)(1)(B) ..... 12  
6 FED. R. CIV. P. 23(e)(2)..... 9  
7 FED. R. CIV. P. 23(e)(3)..... 9  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 **I. INTRODUCTION**

2 Toyota Motor Sales, U.S.A., Inc. (“Toyota” and/or “Defendant”) supports  
3 Plaintiffs’ request that this Court: (i) preliminarily approve the terms of the  
4 proposed Settlement of this class action (the “Action”); (2) certify the proposed class  
5 for settlement purposes only; (3) appoint Alfred Salas and Gloria Ortega  
6 (“Plaintiffs”) as Settlement class representatives; (4) appoint Tarek Zohdy of  
7 Capstone Law, APC and Paul Kiesel of Kiesel Law LLP as Class Counsel; (5)  
8 appoint Patrick A. Juneau and Patrick Hron of Juneau David, APLC, as Settlement  
9 Claims Administrator; (6) appoint Epiq Solutions as Settlement Notice  
10 Administrator; (7) authorize S&P Global Automotive, formerly known as Polk  
11 (“S&P”) to compile and provide Class Members’ identities and contact information  
12 to the Settlement Notice Administrator; (8) approve the form and manner of the  
13 Notice Program; and (9) schedule (a) the briefing pertaining to final approval of the  
14 settlement, (b) the deadline for Class Counsel’s application for an award of  
15 attorneys’ fees and litigation expenses and Plaintiff service awards, and (c) the date  
16 for a Fairness Hearing.

17 For the reasons discussed below, such relief is appropriate because the  
18 proposed Settlement is the product of serious, informed, non-collusive negotiations,  
19 has no obvious deficiencies, does not improperly grant preferential treatment to  
20 Plaintiffs or segments of the Class and falls within the reasonable range of approval.

21 **II. BACKGROUND**

22 As a result of extensive arm’s length negotiations and meaningful discovery,  
23 Toyota, Class Counsel, and Plaintiffs, acting on behalf of the Class Members, have  
24 executed a Settlement Agreement to resolve the Action. The Action alleges  
25 violations of the California Consumer Legal Remedies Act (“CLRA”), Unfair  
26 Competition Law (“UCL”), breach of implied warranty pursuant to the Song-Beverly  
27 Warranty Act; breach of implied warranty pursuant to the Magnuson-Moss Warranty  
28 Act, and unjust enrichment arising out of allegedly defective heating, ventilation, and



1 air conditioning systems (“HVAC Systems”) in 2012-2015 Toyota Camry XV50  
2 vehicles that were purchase(d), and/or lease(d) by individuals in California (“Subject  
3 Vehicles”).

4 Under the proposed Settlement, Toyota has agreed to provide relief, pursuant  
5 to certain terms and conditions, in the form of an Out-of-Pocket Reimbursement  
6 Program that will be used to pay for Class Members who submit a timely and valid  
7 claim for certain eligible reasonable, unreimbursed out-of-pocket expenses that are  
8 related to the HVAC Systems in their Subject Vehicles. *See* Settlement Agreement,  
9 at Section III.

10 To avoid the burden, expense, risk and uncertainty of continuing to litigate the  
11 claims, and to put to rest all issues alleged by the proposed Settlement Class, Toyota  
12 without any admission of liability or wrongdoing, has executed the Settlement  
13 Agreement and supports court approval of the proposed Settlement.

14 **1. Plaintiffs’ Allegations and Claims and Parties’ Motion**  
15 **Practice**

16 The Parties have engaged in active litigation for over eight years. On  
17 November 4, 2015, Plaintiffs filed a putative class action complaint asserting claims  
18 related to the HVAC Systems in certain 2012-2015 Toyota Camry vehicles. Plaintiffs  
19 asserted claims on behalf of: (1) a nationwide Class consisting of all individuals  
20 residing in the United States who purchased or leased certain Toyota Camry XV50  
21 model vehicle; (2) a Sub-Class consisting of all members of the Class who are  
22 “consumers” within the meaning of California Civil Code § 1761(d) for violations of  
23 the CLRA, California Civil Code § 1750, *et seq.*; and (3) an Implied Warranty Sub-  
24 Class consisting of all members of the Class who purchased or leased their vehicles  
25 in the State of California for breach of implied warranty pursuant to Song-Beverly  
26 Consumer Warranty Act, California Civil Code §§ 1792 and 1791.1, *et seq.* *See* ECF  
27 No. 1.

28

1           Thereafter, Plaintiffs filed two amended complaints, including the operative  
2 Second Amended Class Action Complaint on October 21, 2016. *See* ECF No. 52.  
3 Toyota filed a motion to dismiss the Second Amended Class Action Complaint,  
4 which was denied by the Court on August 7, 2017. *See* ECF No. 79.

5           On December 29, 2016, Toyota filed a motion for summary judgment. *See*  
6 ECF No. 62. The Court granted in part Toyota’s motion for summary judgment and  
7 dismissed the implied warranty claims made by Plaintiff Ortega. *See* ECF No. 81.

8           On December 7, 2017, Plaintiffs filed their motion for class certification. *See*  
9 ECF No. 88. On March 27, 2019, the Court granted Plaintiffs’ motion in part and  
10 certified a California-only class consisting of all persons in California who purchased  
11 or leased a 2012-2015 Toyota Camry XV50 model vehicle from an authorized Toyota  
12 dealer, as well as a CLRA sub-class consisting of all members of the California class  
13 who are “consumers” within the meaning of California Civil Code § 1761(d). *See*  
14 ECF No. 101.

15           On July 14, 2022, after being granted leave to do so, Toyota filed a motion for  
16 partial summary judgment on Plaintiffs’ claims for unjust enrichment and claims  
17 made under the CLRA and UCL. Additionally, Toyota filed a motion to decertify the  
18 class. *See* ECF No. 147. The Court granted Toyota’s partial summary judgment  
19 motion and dismissed without prejudice Plaintiffs’ claims for unjust enrichment and  
20 claims under the CLRA and UCL. *See* ECF No. 166. The Court also granted  
21 Toyota’s motion to decertify, to the extent Toyota sought modification of the Class to  
22 omit the equitable relief claims. *Id.*

23           On September 28, 2023, Toyota filed a motion to narrow the class to exclude  
24 class members subject to arbitration agreements and the statute of limitations  
25 defense. *See* ECF No. 186. On January 10, 2024, the Court granted in part Toyota’s  
26 motion and narrowed the class definition to exclude class members whose claims  
27 would otherwise be time-barred. *See* ECF No. 220.

28

1 As part of formal discovery, Toyota produced, and Plaintiffs processed and  
2 reviewed, hundreds of thousands of pages of documents related to, among other  
3 things, the design and operation of the HVAC Systems at issue, vehicle service  
4 history for the Plaintiffs' vehicles, warranty maintenance guides, field technical  
5 reports, dealership product reports, technical service bulletins, survey results, and  
6 warranty data and good will data. Additionally, Plaintiffs retained a damages expert  
7 that submitted reports reflecting her opinions. Additionally, Plaintiffs took  
8 approximately seven fact and expert depositions during the discovery process and  
9 defended against six depositions noticed by Toyota.

10 A February 27, 2024 trial date was set. Shortly before the trial date, Class  
11 Counsel and counsel for Toyota began negotiating a potential resolution of the  
12 Action. Accordingly, on February 16, 2024, the Parties: (i) filed a joint stipulation to  
13 vacate all litigation deadlines, including the February 27, 2024 trial date, pending  
14 preliminary approval of the settlement (*see* ECF No. 259); and (ii) filed a joint  
15 proposal for an order appointing Patrick A. Juneau as Settlement Special Master (*see*  
16 ECF No. 260).

17 On February 21, 2024, the Court So Ordered that all case deadlines, including  
18 the trial date be vacated pending preliminary approval of the settlement. *See* ECF  
19 No. 261. On February 22, 2024, the Court So Ordered the appointment of Patrick A.  
20 Juneau as Settlement Special Master. *See* ECF No. 262. After the material terms of  
21 the Settlement were agreed to – the Parties had a mediation on attorneys' fees,  
22 litigation costs and expenses, and Plaintiffs' service awards with the Settlement  
23 Special Master.

24 **2. Settlement Negotiations**

25 The Parties engaged in some settlement discussions in 2023 but did not reach  
26 a resolution. Subsequently, after the Final Pretrial Conference on February 6, 2024,  
27 the Parties began conducting extensive settlement negotiations. In that time,  
28 numerous conference calls and emails were made between Class Counsel and

1 Toyota’s counsel on an often-daily basis. After agreeing to the substantive terms of  
2 the Settlement, the Parties’ counsel also attended an in-person mediation with  
3 Settlement Special Master Patrick Juneau to negotiate attorneys’ fees, litigation costs  
4 and expenses, and Plaintiffs’ service awards. *See* Affidavit of Patrick A. Juneau,  
5 attached as Exhibit 5 to Declaration of Tarek H. Zohdy. *See* ECF No. 264.

### 6 **3. Settlement Terms**

7 The proposed Settlement covers 2012 to 2015 model year Camry XV50  
8 vehicles that were purchase(d) and/or lease(d) by individuals in California  
9 (collectively, the “Subject Vehicles). *See* Settlement Agreement, at Section II.A.34.

10 The “Class” means, for settlement purposes only:

11 [A]ll individuals in California who, at any time prior to the occurrence  
12 of the Initial Notice Date own(ed), purchase(d), and/or lease(d) a  
13 Subject Vehicle.<sup>1</sup>

14 *See id.* at Section II.A.8. Excluded from the class are (a) Toyota, its officers, directors  
15 and employees; its affiliates and affiliates’ officers, directors and employees; its  
16 distributors and distributors’ officers, directors and employees; and Toyota Dealers  
17 and Toyota Dealers’ officers and directors; (b) Class Counsel; and (c) judicial  
18 officers and their immediate family members and associated court staff assigned to  
19 this case. In addition, persons are not Class Members once they timely and properly  
20 exclude themselves from the Class as provided for in the Settlement Agreement, once

21 \_\_\_\_\_  
22 <sup>1</sup> Although this proposed Settlement class definition is broader than the litigation  
23 class certified by the Court’s January 10, 2024 Order (ECF No. 220), “[f]or the  
24 history of class certifications, courts have generally certified settlement classes  
25 broader than the previously-certified litigation classes.” *In re TFT-LCD (Flat Panel)*  
26 *Antitrust Litig.*, No. M 07-1827 SI, 2011 WL 13152270, at \*9 (N.D. Cal. Aug. 24,  
27 2011). “[B]ecause manageability of the class action at trial is not considered when  
28 approving a settlement class, a court may approve a settlement class broader than a  
litigation class that has already been certified.” *In re Initial Pub. Offering Sec. Litig.*,  
226 F.R.D. 186, 190 (S.D.N.Y. 2005); *see also In re MicroStrategy, Inc. Sec. Litig.*,  
148 F. Supp. 2d 654, 661 (E.D. Va. 2001) (certifying settlement class broader than  
previously certified litigation class); *In re Ikon Office Solutions, Inc. Sec. Litig.*, 194  
F.R.D. 166, 172 (E.D. Pa. 2000) (same); *cf. Ramirez v. DeCoster*, 142 F. Supp. 2d  
104, 111 (D. Me. 2001) (certifying settlement class even after declining to certify  
litigation class).

1 the exclusion request has been finally approved by the Court. *See* Settlement  
2 Agreement, at Section II.A.8

3 As discussed in more detail below, the proposed Settlement provides an Out-  
4 of-Pocket Reimbursement Program to Class Members.

5 **a. Out-of-Pocket Reimbursement Program**

6 The Out-of-Pocket Reimbursement Program will be used to pay for eligible  
7 claims relating to certain reasonable, unreimbursed out-of-pocket expenses that are  
8 incurred by Class Members related to the HVAC Systems in their Subject Vehicles.  
9 *See id.* at Section III.A.1. This Program reimburses Class Members who have made  
10 timely and valid claims for such out-of-pocket expenses, as follows:

11 **i. Reimbursement of Out-of-Pocket Expenses Incurred**  
12 ***After the Initial Notice Date.***

13 Class Members are entitled to file Claims with the Settlement Notice  
14 Administrator for reimbursement up to \$100 of the reasonable, unreimbursed out-of-  
15 pocket expenses incurred ***after the Initial Notice Date***, to replace and install charcoal  
16 filters in Subject Vehicles. *See id.* at Section III.A.3(a)-(b).

17 For model year 2014-2015 Subject Vehicles, Claims for costs incurred after  
18 the Initial Notice Date must be postmarked (in the case of mailed Claims) or filed  
19 with the Settlement Notice Administrator (in the case of electronic Claims) within  
20 two years of the Initial Notice Date. *See id.* at Section III.A.3(c).

21 For model year 2012-2013 Subject Vehicles, Claims for costs incurred after  
22 the Initial Notice Date must be postmarked (in the case of mailed Claims) or filed  
23 with the Settlement Notice Administrator (in the case of electronic Claims) within  
24 one year of the Initial Notice Date.<sup>2</sup> *See id.* at Section III.A.3(d).

25 \_\_\_\_\_  
26 <sup>2</sup> The time limit of one year for the model year 2012-2013 Subject Vehicles is based  
27 on Plaintiffs' damages position that the average useful life of the Subject Vehicles is  
28 10 years from the date it was originally sold or leased. This period of coverage for  
future claims was heavily negotiated. However, given that at least 2012-2013  
Subject Vehicles are now past their 10-year average useful life, the Parties agreed to  
provide Class Members of such Subject Vehicles potential reimbursement for

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**ii. Reimbursement of Out-of-Pocket Expenses Incurred  
On or Before the Initial Notice Date.**

Class Members are entitled to file Claims with the Settlement Notice Administrator for reimbursement of the reasonable, unreimbursed out-of-pocket expenses incurred *on or before the Initial Notice Date*, to: (i) replace and install charcoal filters in the Subject Vehicles; and/or (ii) have the evaporator flushed on Subject Vehicles. *See id.* at Section III.A.4(a).

A Class Member is entitled to make one Claim per Subject Vehicle for reimbursement of out-of-pocket expenses incurred on or before the Initial Notice Date. *See id.* at Section III.A.4(b).

Class Members are eligible to receive reimbursement under the Out-of-Pocket Reimbursement Program, if Class Members: (a) complete and timely submit Claim Forms, with Supporting Documentation, to the Settlement Notice Administrator; (b) have Claims that are eligible for reimbursement; and (c) do not opt out of the Settlement. *See id.* at Section III.A.7.

**III. FAIRNESS, REASONABLENESS, AND ADEQUACY OF  
PROPOSED SETTLEMENT**

The Ninth Circuit has long recognized a strong judicial policy favoring settlement, particularly of complex class actions and has “long deferred to the private consensual decision of the parties.” *See Spann v. J.C. Penney Corp.*, 314 F.R.D. 312, 323-24 (C.D. Cal. 2016) (quoting *Rodriguez v. W. Publ’g Corp.*, 563 F.3d 948, 965 (9th Cir. 2009)) (internal quotation marks omitted); *Class Plaintiffs v. City of Seattle*, 955 F.2d 1268, 1276 (9th Cir. 1992). The Ninth Circuit has “emphasized” that:

[T]he court’s intrusion upon what is otherwise a private consensual agreement negotiated between the parties to a lawsuit

out-of-pocket expenses incurred after the Initial Notice Date albeit for a shortened timeframe as compared to model year 2014-2015 Subject Vehicles.

1 must be limited to the extent necessary to reach a reasoned  
2 judgment that the agreement is not the product of fraud or  
3 overreaching by, or collusion between, the negotiating parties,  
4 and that the settlement, taken as a whole, is fair, reasonable and  
5 adequate to all concerned.

6 *Spann*, 314 F.R.D. at 323. “Preliminary approval is thus appropriate if ‘the proposed  
7 settlement appears to be the product of serious, informed, noncollusive negotiations,  
8 has no obvious deficiencies, does not improperly grant preferential treatment to class  
9 representatives or segments of the class, and falls within the range of possible  
10 approval.’” *Uschold v. NSMG Shared Serv., LLC*, 333 F.R.D. 157, 169 (N.D. Cal.  
11 2019) (quoting *In re Tableware Antitrust Litig.*, 484 F. Supp. 2d 1078, 1079 (N.D.  
12 Cal. 2007)). “At the preliminary approval stage, ‘the settlement need only be  
13 potentially fair.’” *Id.* (quoting *Acosta v. Trans Union, LLC*, 243 F.R.D. 377, 386  
14 (C.D. Cal. 2007)). “Closer scrutiny is reserved for the final approval hearing[.]”  
15 *Kim v. Sheraton Operating Co.*, No. CV 17-9247, 2021 WL 3598578, at \*4 (C.D.  
16 Cal. June 23, 2021) (quoting *Harris v. Vector Mktg. Corp.*, 2011 WL 1627973, \*7  
17 (N.D. Cal. 2011)).

18 “The Ninth Circuit does not follow the approach of other circuits that requires  
19 district courts to ‘specifically weigh the merits of the class’s case against the  
20 settlement amount and quantify the expected value of fully litigating the matter.’”  
21 *Spann*, 314 F.R.D. at 323-24 (citing *Rodriguez*, 563 F.3d at 965). Instead, courts in  
22 the Ninth Circuit examine “whether the settlement is ‘the product of an arms-length,  
23 non-collusive, negotiated resolution.’” *Id.* at 324. “When it is, courts afford the  
24 parties the presumption that the settlement is fair and reasonable.” *Id.* (citing *In re*  
25 *Heritage Bond Litig.*, 2005 WL 1594403, at \*9 (C.D. Cal. June 10, 2005) (“A  
26 presumption of correctness is said to attach to a class settlement reached at arm’s  
27 length negotiations between experienced capable counsel after meaningful  
28 discovery.”)).

1 “The central concern in reviewing a proposed class-action settlement is that it  
2 be fair, reasonable, and adequate.” FED. R. CIV. P. 23(e)(2) Advisory Committee’s  
3 notes to 2018 amendment. In December 2018, Congress and the Supreme Court  
4 amended Rule 23(e) to set forth specific factors a court should consider when  
5 determining whether a settlement is “fair, reasonable, and adequate,” including  
6 whether:

- 7 A. the class representatives and class counsel have adequately
- 8 represented the class;
- 9 B. the proposal was negotiated at arm’s length;
- 10 C. the relief provided for the class is adequate, taking into account:
  - 11 i. the costs, risks, and delay of trial and appeal;
  - 12 ii. the effectiveness of any proposed method of distributing
  - 13 relief to the class, including the method of processing
  - 14 class-member claims;
  - 15 iii. the terms of any proposed award of attorney’s fees,
  - 16 including timing of payment; and
  - 17 iv. any agreement required to be identified under Rule
  - 18 23(e)(3); and
- 19 D. the proposal treats class members equitably relative to each other.

20 FED. R. CIV. P. 23(e)(2); *see also Briseño v. Henderson*, 998 F.3d 1014, 1023 (9th  
21 Cir. 2021) (applying 2018 version of Rule 23(e)(2)). “In evaluating the fairness of a  
22 proposed class action settlement, the Court may consider some or all of the following  
23 factors: (1) the strength of the plaintiffs’ case, (2) the risk, expense, complexity, and  
24 likely duration of further litigation, (3) the risk of maintaining class action status  
25 throughout the trial, (4) the amount offered in settlement, (5) the extent of discovery  
26 completed and the stage of the proceedings, (6) the experience and views of counsel,  
27 (7) the presence of a governmental participant, and (8) the reaction of the class  
28 members to the proposed settlement.” *Marshall v. Northrop Grumman Corp.*, 469



1 F. Supp. 3d 942 (C.D. Cal. June 30, 2020) (citing *Campbell v. Facebook, Inc.*, 951  
2 F.3d 1106, 1121 (9th Cir. 2020)).

3 The Settlement Agreement “does not disclose grounds to doubt its  
4 fairness[,] . . . such as unduly preferential treatment of class representatives or of  
5 segments of the class, or excessive compensation for attorneys, and appears to fall  
6 within the range of possible approval[.]” *Spann*, 314 F.R.D. at 323 (citing *In re*  
7 *Vitamins Antitrust Litig.*, MDL 1285, 2001 WL 856292, at \*3 (D.D.C. July 25,  
8 2001)) (internal quotation marks omitted); *see e.g.*, *In re Mego Fin. Corp. Sec. Litig.*,  
9 213 F.3d 454, 457 (9th Cir. 2000), as amended (June 19, 2000).

10 Here, there has been no collusion or fraud leading to, or taking part in, the  
11 settlement negotiations between the Parties. To the contrary, as laid out above, the  
12 Parties have been engaged in substantial arm’s length negotiations since early  
13 February 2024, which in some instances have involved the participation of Patrick  
14 A. Juneau as Settlement Special Master, and have included numerous video  
15 conference meetings, e-mails and telephone conferences. Toyota produced, and  
16 Plaintiffs processed and reviewed, hundreds of thousands of pages of documentary  
17 evidence over the course of this litigation. Additionally, attorneys’ fees, litigation  
18 expenses and costs and service awards for the Plaintiffs were not discussed or  
19 negotiated until all other material settlement terms had been agreed upon, eliminating  
20 the possibility of a trade-off between compensation for the Settlement Class and  
21 compensation for Class Counsel or Plaintiffs.

22 Additionally, the Parties are represented by highly experienced counsel who  
23 investigated and considered their own and the opposing party’s positions, measured  
24 the terms of the Settlement against the risks of continued litigation, and thus the  
25 negotiations were not “the product of fraud or overreaching by, or collusion between  
26 the negotiating parties.” *Spann*, 314 F.R.D. at 323 (citing *Rodriguez*, 563 F.3d at  
27 965).

28

1           **IV. THE SETTLEMENT SHOULD BE APPROVED AS IT IS A FAIR**  
2           **AND REASONABLE OUTCOME FOR CLASS MEMBERS**

3                           **1. Recovery for Class Members**

4           The proposed Settlement is fair, reasonable, and adequate, particularly when  
5 measured against the allegations in this case. Plaintiffs have alleged that Toyota  
6 designed, manufactured, marketed, distributed, sold, warranted, and serviced model  
7 year 2012-2015 Camry XV50 vehicles that contained defective HVAC Systems  
8 which caused, among other problems, emissions of noxious and foul odors from  
9 debris and contamination in the HVAC System, as well as the possible growth of  
10 mold. The proposed Settlement provides that Toyota will reimburse Class Members  
11 who file timely and valid claims for certain costs incurred related to the HVAC  
12 Systems in their Subject Vehicles. *See* Settlement Agreement, at Section III.A.  
13 Toyota has agreed to provide funds sufficient to pay eligible Out-of-Pocket Claims,  
14 as directed by the Settlement Claims Administrator. *See id.* The proposed Settlement  
15 thus provides plenary relief that allows Class Members who have incurred costs to  
16 address issues with their Subject Vehicle’s HVAC Systems to be reimbursed for  
17 those costs – both retrospectively and prospectively (the latter up to \$100). *See id.*

18                           **2. Release of Claims**

19           Courts also consider whether a class action settlement contains an overly broad  
20 release of liability. *See Hesse v. Sprint Corp.*, 598 F.3d 581, 590 (9th Cir. 2010) (“A  
21 settlement agreement may preclude a party from bringing a related claim in the future  
22 even though the claim was not presented and might not have been presentable in the  
23 class action, but only where the released claim is based on the identical factual  
24 predicate as that underlying the claims in the settled class action.”) (internal quotation  
25 marks and citation omitted)). Here, Class Members who do not exclude themselves  
26 from the proposed Settlement release Toyota from:

27                           [A]ny and all federal, California and/or political subdivision of  
28                           California claims, demands, suits, petitions, liabilities, causes of

1 action, rights, losses and damages and relief of any kind and/or  
2 type ... arising from, related to the Action, the Class Action  
3 Complaint, or any amendments of the Class Action Complaint  
4 pertaining to the Subject Vehicles' HVAC System.

5 *See* Settlement Agreement, at Section VII.B.

6 Importantly, the release carves out certain claims: "Plaintiffs and/or Class  
7 Members are not releasing and are expressly reserving all rights relating to claims  
8 for personal injury, wrongful death or actual physical property damage arising from  
9 an incident involving a Subject Vehicle." *See id.* at Section VII.D. Thus, the release  
10 is properly targeted to the subject matter of the Action, and explicitly carves out  
11 claims of a distinctly different type from the claims asserted in the Action and not  
12 covered by the Settlement. *See id.*

13 However, the fact that the preceding sections contain language that explicitly  
14 carves out claims for personal injury and property damage arising from an accident  
15 indicates that such claims are not intended to be within the scope of the release. For  
16 these reasons, the release adequately balances fairness to absent Class Members and  
17 recovery for Plaintiffs. *See, e.g., Spann*, 314 F.R.D. 327-28 (quoting *Fraser v. Asus*  
18 *Comput. Int'l*, No. C12-0652(WHA), 2012 WL 6680142, at \*3 (N.D. Cal. Dec. 21,  
19 2012) (recognizing defendant's "legitimate business interest in 'buying peace' and  
20 moving on to its next challenge" as well as the need to prioritize "[f]airness to absent  
21 class member[s]").

22 **V. PROPOSED NOTICE PROGRAM AND NOTIFICATION**  
23 **PROCEDURES**

24 Upon a settlement of a certified class, "[t]he court must direct notice in a  
25 reasonable manner to all class members who would be bound by the proposal[.]"  
26 FED. R. CIV. P. 23(e)(1)(B). Federal Rule of Civil Procedure 23(c)(2) prescribes the  
27 "best notice that is practicable under the circumstances, including individual notice  
28 to all members who can be identified through reasonable effort." FED. R. CIV. P.

1 23(c)(2)(B) (enumerating notice requirements for classes certified under Rule  
2 23(b)(3)). “The notice must clearly and concisely state in plain, easily understood  
3 language: (i) the nature of the action; (ii) the definition of the class certified; (iii) the  
4 class claims, issues, or defenses; (iv) that a class member may enter an appearance  
5 through an attorney if the member so desires; (v) that the court will exclude from the  
6 class any member who requests exclusion; (vi) the time and manner for requesting  
7 exclusion; and (vii) the binding effect of a class judgment on members.” *Herrera v.*  
8 *Wells Fargo Bank, N.A.*, No. SACV 18-332JVS, 2021 WL 3932257, at \*12 (C.D.  
9 Cal. June 8, 2021). Notice should be disseminated here, given the arguments above,  
10 as it is “likely that the court will be able to approve the proposal after notice to the  
11 class and a final approval hearing.” *See* FED. R. CIV. P. 23(e)(1) Advisory  
12 Committee’s note to 2018 amendments.

13 Here, the proposed Settlement provides for a Notice Program that will be  
14 implemented through a multi-layered approach of a combination of direct mailed  
15 notices, publication notice, social media and internet banner notifications, a  
16 Settlement website, Long Form Notice, and other applicable notice. *See* Settlement  
17 Agreement, at Section IV.A. The proposed Settlement Notice Administrator, Epiq  
18 Solutions, has served as an expert and has been directly responsible for the design  
19 and implementation of numerous notice programs, including some of the largest and  
20 most complex programs ever implemented in the United States for more than 25  
21 years. *See* Declaration of Cameron R. Azari, Esq., attached as Exhibit 6 to  
22 Declaration of Tarek H. Zohdy. *See* ECF No. 264. The company has grown its  
23 reputation over the years by developing extensive media-based, and comprehensive  
24 notice programs and hiring top legal noticing experts with diversified settlement  
25 experience to effectuate notice programs, each with over 15 years of experience.  
26 Cameron Azari, Esq. has over 22 years of experience in the design and  
27 implementation of legal notice and claims administration programs. During his  
28 career, he has been responsible for hundreds of legal notice and advertising programs.

1 He has also been involved in an array of high-profile class action matters and is a  
2 nationally recognized expert in the creation of class action notice campaigns. Courts  
3 around the country have regarded Epiq Solutions as robust, practicable, and in  
4 accordance with Federal Rule of Civil Procedure 23. *See id.* ¶ 4.

5 The proposed Settlement Notice Administrator estimates that the Notice  
6 Program will reach 90% percent of the Class over three (3) times. *See id.* ¶ 12. The  
7 Federal Judicial Center issued a Judges’ Class Action Notice and Claims Process  
8 Checklist and Plain Language Guide that assessed that it is reasonable to reach  
9 between 70-95% of a class. The proposed Settlement Notice Administrator’s  
10 estimation is on the high end of that standard. The Notice Program thus goes well  
11 beyond other notice programs that have been approved in other cases that have been  
12 finally approved in this District. *See Keegan v. Am. Honda Motor Co., Inc.*, No. CV  
13 10-09508(MMM), 2014 WL 12551213, at \*7 (C.D. Cal. Jan. 21, 2014) (finding mail  
14 notice, toll-free telephone number, and website effective to provide notice of the  
15 settlement to potential class members); *Schaffer v. Litton Loan Servicing, LP*, No.  
16 CV 05-07673 MMM JCx, 2012 WL 10274679, at \*7-9 (C.D. Cal. Nov. 13, 2012)  
17 (finding direct mail notice, claims administrator’s website, and toll-free number were  
18 sufficient notice). Toyota will pay the costs of disseminating the notice and otherwise  
19 implementing the notice as specified in Section IV of the Settlement Agreement. *See*  
20 Settlement Agreement, at Section IV.

21 The Notice Program in greater particularity includes the following:

22 **Direct Mailed Notice.** The Settlement Notice Administrator will send the  
23 Direct Mailed Notice, substantially in the form attached to the Settlement Agreement  
24 as Exhibit 4, by e-mail where a valid Class Member e-mail address is available, or  
25 by U.S. Mail, proper postage prepaid, to current and prior registered owners and/or  
26 lessees of the approximately two hundred and fifteen thousand Subject Vehicles, as  
27 identified by data to be provided to the Settlement Notice Administrator by S&P  
28 Global Automotive, formerly known as Polk. *See id.* at Section IV.D.1. The Direct

1 Mailed Notice will inform potential Class Members on how to obtain the Long Form  
2 Notice via the Settlement website, via regular mail or via a toll-free telephone  
3 number. In addition, the Settlement Notice Administrator will: (a) send, via U.S.  
4 Mail, a Direct Mailed Notice to any Class Member who was initially sent a Direct  
5 Mailed Notice by e-mail and was subsequently determined to be undeliverable; (b)  
6 re-mail any Directed Mail Notices returned by the United States Postal Service with  
7 a forwarding address no later than the deadline set forth in the Preliminary Approval  
8 Order; (c) by itself or using one or more address research firms, as soon as practicable  
9 following receipt of any returned notices that do not include a forwarding address,  
10 research such returned mail for better addresses and promptly mail copies of the  
11 applicable notice to any better addresses so found. *See id.* at Section IV.D.1.

12 **Publication Notice.** The Settlement Notice Administrator will also cause the  
13 publication of the Publication Notice as described in the Declaration of the  
14 Settlement Notice Administrator, and in such additional newspapers, magazines  
15 and/or other media outlets as is appropriate. *See id.* at Section IV.B. The form of  
16 the Publication Notice agreed upon by the Parties is in the form substantially similar  
17 to the one attached to the Settlement Agreement as Exhibit 5.

18 **Internet Website.** The Settlement Notice Administrator will establish a  
19 Settlement website that will inform Class Members of the terms of the Settlement  
20 Agreement, their rights, dates and deadlines and related information. The website  
21 will include, in .pdf format, materials agreed upon by the Parties and/or required by  
22 the Court. *See id.* at Section IV.C.

23 **Long Form Notice.** The Long Form Notice will be available on the  
24 Settlement website and will be in a form substantially similar to the document  
25 attached to the Settlement Agreement as Exhibit 3, and will: (a) contain a plain and  
26 concise description of the nature of the Action, the history of the litigation of the  
27 claims, the preliminary certification of the Class for settlement purposes, and the  
28 proposed Settlement, including information on the identity of Class Members, how

1 the proposed Settlement would provide relief to the Class and Class Members, what  
2 claims are released under the proposed Settlement and other relevant terms and  
3 conditions; (b) inform Class Members that they have the right to opt out of the  
4 settlement, including the deadlines and procedures for exercising this right; (c)  
5 inform Class Members of their right to object to the Settlement Agreement and  
6 appear at the Fairness Hearing, again with the deadlines and procedures for  
7 exercising these rights; and (d) inform Class Members about the amounts being  
8 sought by Class Counsel as Attorneys' Fees and Expenses and individual awards to  
9 the Plaintiffs, and will explain that Toyota will pay the fees and expenses awarded to  
10 Class Counsel and individual awards to the Plaintiffs. *See* Settlement Agreement, at  
11 Section IV.E. The Long Form Notice and settlement website will include the Claim  
12 Form, which will be in a form substantially similar to the document attached to the  
13 Settlement Agreement as Exhibit 6 and which will inform the Class Member that he  
14 or she must fully complete and timely return the Claim Form by the required deadline  
15 to be eligible to obtain the out-of-pocket reimbursement relief provided pursuant to  
16 the Settlement Agreement. *See id.* The Long Form Notice will also inform Class  
17 Members that they may appear in the lawsuit either on their own or through a lawyer,  
18 at the Class Member's expense; will inform the Class Member that the Court will  
19 exclude from the Class any Class Member who requests exclusion along with the  
20 time and manner for requesting exclusion; and will inform Class Members of the  
21 binding effect of a class judgment on Class Members. *See* Settlement Agreement,  
22 Exhibit 3.

23 **Internet Banner Notifications.** The Settlement Notice Administrator will,  
24 pursuant to the Parties' agreement, establish banner notifications on the internet that  
25 will provide settlement-related information to Class Members and will utilize  
26 additional internet-based notice efforts as to be agreed to by the Parties. *See*  
27 Settlement Agreement, at Section IV.G.

28

1           **Class Action Fairness Act Notice.** The Settlement Notice Administrator will  
2 send to each appropriate State and Federal official, the materials specified in 28  
3 U.S.C. § 1715, and will otherwise comply with its terms. *See* Settlement Agreement,  
4 at Section IV.H. The identities of such officials and the content of the materials will  
5 be mutually agreeable to the Parties and in all respects comport with statutory  
6 obligations. *See id.*

7           Thus, the Notice Program provides interlocking methods that both aim to reach  
8 each Class Member individually and directly using reasonably available address  
9 information but also provides multiple alternative forms of notice through which  
10 Class Members may learn of the Settlement or obtain further information about their  
11 rights. The program follows well-recognized and established procedures for class  
12 action notice. Thus, the procedure for providing notice and the content of the Notice  
13 Program constitute the best practicable notice to Class Members. *See id.* at Section  
14 IV.

15           **VI. THE COURT SHOULD ISSUE A PRELIMINARY INJUNCTION**  
16           **PENDING FINAL APPROVAL OF THE PROPOSED SETTLEMENT.**

17           Pursuant to the “necessary in aid of” exception to the Anti-Injunction Act, 28  
18 U.S.C. § 2283, and the All Writs Act, 28 U.S.C. § 1651(a), this Court may: (i) issue  
19 a preliminary injunction and stay all other actions, pending final approval by the  
20 Court; and (ii) issue a preliminary injunction enjoining potential Class Members,  
21 pending the Court’s determination of whether the Settlement Agreement should be  
22 given final approval, from challenging in any action or proceeding any matter  
23 covered by this Settlement Agreement, except for proceedings in this Court to  
24 determine whether the Settlement Agreement will be given final approval. 28 U.S.C.  
25 § 2283, and the All Writs Act, 28 U.S.C. § 1651(a); *see Hartranft v. TVI, Inc.*, No.  
26 8:15-CV-01081-CJC-DFM, 2019 WL 1746137, at \*6 (C.D. Cal. Apr. 18, 2019)  
27 (pending the final determination of whether the settlement should be approved, the  
28 court enjoined Plaintiff and each Settlement Class Member from commencing,



1 pursuing, or maintaining any released claims in any court or tribunal); *Jacobs v.*  
2 *CSAA Inter-Ins.*, No. 3:07-CV-00362-MHP, 2009 WL 1201996, at \*2 (N.D. Cal.  
3 May 1, 2009) (“A district court may enjoin state proceedings which affect the rights  
4 of class members, where the court is supervising a settlement of a class action that is  
5 so far advanced that it is equivalent to a res over which the court requires control and  
6 where it would be intolerable to have conflicting orders from different courts.”).

7 The Court may issue an injunction once the litigation reaches the settlement  
8 stage in order to “effectuate the settlement.” *Hartranft*, 2019 WL 1746137, at \*6.  
9 Federal courts have often recognized that injunctions against filed parallel actions  
10 may be particularly appropriate in the context of complex litigation, which “makes  
11 special demands on the court that may justify an injunction otherwise prohibited.”  
12 *In re Diet Drugs*, 282 F.3d 220, 235 (3d Cir. 2002) (affirming issuance of an  
13 injunction, after conditional certification and before the fairness hearing, preventing  
14 the mass opt out of class members pursuing a parallel Texas state court action); *see*  
15 *also Klein v. O’Neal, Inc.*, 705 F. Supp. 2d 632, 685 (N.D. Tex. 2010) (“The court  
16 holds that the injunctive relief is consistent with the settlement agreement and  
17 necessary to protect the integrity and enforcement of this complex class settlement.”);  
18 *Liles v. Del Campo*, 350 F.3d 742, 746 (8th Cir. 2003) (“Injunctions of related  
19 proceedings in other federal courts are appropriate when necessary for adjudication  
20 or settlement of a case.”); *Lucas v. Kmart Corp.*, 234 F.R.D. 688, 697 (D. Colo. 2006)  
21 (“The Court . . . finds it appropriate to preliminarily enjoin members of the  
22 [settlement classes] from asserting or pursuing any of the claims to be released  
23 pursuant to this settlement in either state or federal court, as numerous other courts  
24 have done in connection with preliminary approval of proposed class action  
25 settlement.”). Moreover, within the context of complex litigation, “[t]he threat to the  
26 federal court’s jurisdiction posed by parallel state actions is particularly significant  
27 where there are conditional class certifications and impending settlements in federal  
28

1 actions.” *In re Diet Drugs*, 282 F.3d at 236 (citing *Carlough v. Amchem Products,*  
2 *Inc.*, 10 F.3d 189, 203 (3d Cir. 1993)).

3 Where, as here, substantial negotiations have progressed to the point of  
4 settlement, competing actions, if they are filed and/or allowed to proceed, and  
5 communications would jeopardize the realization of this settlement, interfere with  
6 this Court’s ability to manage the settlement, and potentially confuse Class Members  
7 to the point where it would cause confusion. *Jacobs*, 2009 WL 1201996, at \*3.

8 Courts may issue an injunction pursuant to the “necessary in aid of” exception  
9 to the Anti-Injunction Act. 28 U.S.C. § 2283. This exception allows a federal court  
10 to effectively prevent its jurisdiction over a settlement from being undermined by  
11 pending parallel litigation in state courts. *Stratton v. Glacier Ins. Admin’rs, Inc.*, No.  
12 1:02CV06213 OWWDLB, 2007 WL 274423, at \*1 (E.D. Cal. Jan. 29, 2007) (the  
13 court enjoined the parties from proceeding in related state court litigation after  
14 preliminary approval of a settlement until a final judgment was entered in the federal  
15 case); *Simerlein v. Toyota Motor Corp.*, No. 3:17-cv-1091 (VAB), 2019 WL  
16 1435055, at \*17 (D. Conn. Jan. 14, 2019) (citing *In re Baldwin United Corp.*, 770  
17 F.2d 328, 335-339 (2d Cir. 1985)) (“[I]njunctive relief under the All Writs Act may be  
18 necessary or appropriate to prevent third parties from thwarting the court’s ability to  
19 reach and resolve the merits of the federal suit before it. . . [and] these injunctions  
20 may be issued after a settlement has been reached but prior to final court approval,  
21 to prevent third parties’ filing (or threat of filing) parallel state court actions from  
22 jeopardizing the settlement”); *In re Asbestos School Litig.*, No. 83-0268, 1991 WL  
23 61156, \*2 (E.D. Pa. Apr. 16, 1991); *aff’d mem.*, 950 F.2d 723 (3d Cir. 1991);  
24 *Standard Microsystems Corp. v. Tex. Instruments Inc.*, 916 F.2d 58, 60 (2d Cir. 1990)  
25 (finding that an exception to the Anti-Injunction Act includes where a federal court  
26 is on the verge of settling a complex matter and state court proceedings could  
27 undermine its ability to achieve that objective).

28

1 Federal courts have issued similar injunctions in other class action settlements.  
2 *See, e.g., In re ZF-TRW Airbag Control Units Products Liability Litig.*, No. LA  
3 ML19-02904 JAK, 2023 WL 6194109, at \*26 (C.D. Cal. July 21, 2023); *Victorino*  
4 *v. FCA US LLC*, No. 16-cv-1617-GPC(JLB), 2023 WL 3296155, at \*15 (S.D. Cal.  
5 May 5, 2023); *Dack, et al. v. Volkswagen Group of America, Inc.*, No. 4:20-cv-  
6 00615-RK, 2024 WL 698797, at \*5 (W.D. Mo. Jan. 18, 2024); *Calhoun v. Invention*  
7 *Submission Corp.*, No. 2:20-cv-681, 2022 WL 20561728 at \*6, (W.D. Pa. Aug. 24,  
8 2022); *Morris v. PHH Mortg. Corp.*, No. 20-60633-CIV, 2022 WL 18859412, at \*10  
9 (S.D. Fla. Dec. 22, 2022); *Duncan v. JPMorgan Chase Bank, N.A.*, No. SA-14-CA-  
10 00912-FB, 2015 WL 11623393, at \*6 (W.D. Tex. Oct. 21, 2015); *In re Diet Drugs*,  
11 282 F.3d at 235; *In re Prudential Ins. Co. of Am. Sales Practices Litig.*, 962 F. Supp.  
12 450, 487–88 (D.N.J. 1997), *aff'd*, 148 F.3d 283 (3d Cir. 1998); *In re Baldwin-United*  
13 *Corp.*, 770 F.2d 328, 338 (2d Cir. 1985); *In re Linerboard Antitrust Litig.*, 361 Fed.  
14 Appx. 392, 395 (3d Cir. 2010).

15 This Court also has the authority to issue the requested injunction under the  
16 All Writs Act, 28 U.S.C. § 1651(a). The All Writs Act permits this Court to issue  
17 “all writs necessary or appropriate in aid of [its] jurisdiction[ ] and agreeable to the  
18 usages and principles of law.” 28 U.S.C. § 1651(a); *see also Jacobs*, 2009 WL  
19 1201996, at \*2. The Act permits a federal district court to protect its jurisdiction by  
20 enjoining parallel actions by class members that would interfere with the court’s  
21 ability to oversee a class action settlement. *See Jacobs*, 2009 WL 1201996, at \*3  
22 (invoking the “in aid of jurisdiction” exception to “enjoin named and absent members  
23 who have been given the opportunity to opt out of a class from participating in  
24 separate class actions”); *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1025 (9th Cir.  
25 1998). The Court may issue an injunction as soon as “the litigation reaches the  
26 settlement stage” in order to “effectuate a final settlement.” *In re Mexico Money*  
27 *Transfer Litig.*, Nos. 98-C-2407 and 98-C-2408, 1999 WL 1011788, at \*3 (N.D. Ill.  
28 Oct. 19, 1999).



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

/s/ John P. Hooper  
John P. Hooper (*pro hac vice*)  
jhooper@kslaw.com  
**KING & SPALDING LLP**  
1185 Avenue of the Americas  
New York, NY 10036  
Tel: (212) 556-2100  
Facsimile: (212) 556-2222

David L. Schrader (SBN 149638)  
david.schrader@morganlewis.com  
Lisa R. Weddle (SBN 259050)  
lisa.weddle@morganlewis.com  
**MORGAN, LEWIS & BOCKIUS LLP**  
300 South Grand Avenue, 22<sup>nd</sup> Floor  
Los Angeles, CA 90071  
Tel: (213) 612-2500  
Facsimile: (213) 612-2501

Mark A. Feller (SBN 319789)  
mark.feller@morganlewis.com  
**MORGAN, LEWIS & BOCKIUS LLP**  
One Market, Spear Street Tower  
San Francisco, CA 94105  
Tele: (415) 442-1000  
Facsimile: (415) 442-1001

Brian M. Ercole (*pro hac vice*)  
brian.ercole@morganlewis.com  
Melissa M. Coates (*pro hac vice*)  
melissa.coates@morganlewis.com  
**MORGAN, LEWIS & BOCKIUS LLP**  
600 Brickell Ave., Suite 1600  
Miami, FL 33131  
Tele: (305) 415-3000  
Facsimile: (305) 415-3001

Attorneys for Defendant  
TOYOTA MOTOR SALES USA, INC.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**CERTIFICATE OF SERVICE**

I hereby certify that on March 21, 2024, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the Electronic Mail Notice List, and I hereby certify that I have mailed the foregoing document or paper via the United States Postal Service to the non-CM/ECF participants indicated on the Electronic Mail Notice List.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on March 21, 2024.

/s/ John P. Hooper  
John P. Hooper