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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE
MYFORD TOUCH CONSUMER
LITIGATION

Case No. [13-cv-03072-EMC](#)

FINAL ORDER AND JUDGMENT

United States District Court
Northern District of California

On March 28, 2019, the Court entered a Preliminary Approval Order that preliminarily approved the proposed Settlement Agreement in this Litigation and specified the manner in which Ford Motor Company was to provide Class Notice to the Settlement Classes. All capitalized terms used in this Order have the meaning as defined in the attached Settlement Agreement, which is incorporated by reference.

Following the dissemination of Class Notice, Settlement Class Members were given an opportunity to either (a) request exclusion from the Settlement Classes, or (b) object to the Settlement Agreement (including Class Counsel’s request for fees and expenses and the Named Plaintiffs’ applications for a Service Award).

A Fairness Hearing was held on November 27, 2019, at which time all interested persons were given a full opportunity to state any objections to the Settlement Agreement. The Fairness Hearing was held more than 90 days after Ford provided notice of the proposed Settlement to federal and state-level attorneys general as required by 28 U.S.C. § 1715(b), thus complying with 28 U.S.C. § 1715(d).

Having read and fully considered the terms of the Settlement Agreement and all submissions made in connection with it, the Court finds that the Settlement Agreement should be

1 finally approved and the Litigation dismissed with prejudice as to all Settlement Class Members
2 who have not excluded themselves from the Settlement Classes, and without prejudice as to all
3 persons who timely and validly excluded themselves from the Settlement Classes. This decision is
4 informed by the reasons stated on the record at the fairness hearing (and memorialized in the
5 Minute Order from that hearing, *see* Docket No. 548), as well as those reasons reflected in the
6 Court’s order granting preliminary approval, *see* Docket No. 526. The Court notes that the
7 reaction of the class was positive: only one person objected to the settlement although, by request
8 of the objector and in the absence of any opposition from the parties, that objection was converted
9 to an opt-out at the hearing. In total, there were only 167 opt-outs.

10 Accordingly, IT IS HEREBY ORDERED that:

11 1. The Settlement Classes include:

- 12 a) “California Settlement Class” means all persons or entities who purchased or
13 leased a Ford or a Lincoln vehicle in California from Ford Motor Company or
14 through a Ford Motor Company Dealership before August 9, 2013, which vehicle
was equipped with a MyFord Touch or MyLincoln Touch in-vehicle information
and entertainment system.
- 15 b) “Massachusetts Settlement Class” means all persons or entities who purchased or
16 leased a Ford or a Lincoln vehicle in Massachusetts from Ford Motor Company or
17 through a Ford Motor Company Dealership before August 9, 2013, which vehicle
was equipped with a MyFord Touch or MyLincoln Touch in-vehicle information
and entertainment system.
- 18 c) “New Jersey Settlement Class” means all persons or entities who purchased or
19 leased a Ford or a Lincoln vehicle in New Jersey from Ford Motor Company or
20 through a Ford Motor Company Dealership before August 9, 2013, which vehicle
was equipped with a MyFord Touch or MyLincoln Touch in-vehicle information
and entertainment system.
- 21 d) “North Carolina Settlement Class” means all persons or entities who purchased or
22 leased a Ford or a Lincoln vehicle in North Carolina from Ford Motor Company or
23 through a Ford Motor Company Dealership before August 9, 2013, which vehicle
was equipped with a MyFord Touch or MyLincoln Touch in-vehicle information
and entertainment system.
- 24 e) “Ohio Settlement Class” means all persons or entities who purchased or leased a
25 Ford or a Lincoln vehicle in Ohio from Ford Motor Company or through a Ford
26 Motor Company Dealership before August 9, 2013, which vehicle was equipped
with a MyFord Touch or MyLincoln Touch in-vehicle information and
entertainment system.
- 27 f) “Virginia Settlement Class” means all persons or entities who purchased or leased
28 a Ford or a Lincoln vehicle in Virginia from Ford Motor Company or through a
Ford Motor Company Dealership before August 9, 2013, which vehicle was

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equipped with a MyFord Touch or MyLincoln Touch in-vehicle information and entertainment system.

g) “Washington Settlement Class” means all persons or entities who purchased or leased a Ford or a Lincoln vehicle in Washington from Ford Motor Company or through a Ford Motor Company Dealership before August 9, 2013, which vehicle was equipped with a MyFord Touch or MyLincoln Touch in-vehicle information and entertainment system.

2. Excluded from all of the Settlement Classes are: (1) all federal court judges who have presided over this case and any members of their immediate families; (2) all entities and natural persons that elect to exclude themselves from the Settlement Classes; (3) all entities and natural persons that have litigated claims involving MFT against Ford to final judgment; (4) all entities and natural persons who, via a settlement or otherwise, delivered to Ford releases of their claims involving MFT; (5) Ford’s employees, officers, directors, agents, and representatives, and their family members; and (6) all entities and natural persons who submitted a valid request for exclusion following the Notice of Pendency of Class Action and did not revoke his exclusion and re-enter the Settlement Classes.

3. The Court finds that the Class Notice was the best practicable notice under the circumstances, and has been given to all Settlement Class Members known and reasonably identifiable in full satisfaction of the requirements of Rule 23 of the Federal Rules of Civil Procedure and due process.

4. The Court approves the terms of the Settlement Agreement as fair, reasonable, and adequate as it applies to the Settlement Classes, and directs consummation of all its terms and provisions. As indicated at the Fairness Hearing, the Court authorizes the Settlement Administrator to request, obtain and utilize additional vehicle registration information from the Department of Motor Vehicles for all 50 states, the District of Columbia, Puerto Rico, and all other United States territories and/or possessions that could provide adequate Proof of Ownership or Lease for those claimants whose claims are currently deficient because of the lack of evidence of who owned or leased the Class Vehicle at the time MFT Software Repair(s) were sought. Any such information obtained will be used by the Settlement Administrator to attempt to cure any claims that are deficient because of the lack of such evidence.

- 1 5. The Settlement Administrator, JND Legal Administration, through data aggregators or
2 otherwise, is authorized to request and receive contact and vehicle ownership information
3 from the Department of Motor Vehicles for all 50 states, the District of Columbia, Puerto
4 Rico, and all other United States territories and/or possessions between 2010 and 2019 for
5 the Class VINs requiring additional information to validate their Claim. Vehicle
6 information includes, but is not limited to, registration date, year, make, and model of the
7 vehicle.
- 8 6. The Court awards a Service Award of \$7,500 each for Named Plaintiffs Jennifer Whalen,
9 Jason Connell, William Creed, Joe D'Aguzzo, Michael Ervin, Daniel Fink, Leif Kirchoff,
10 Joshua Matlin, Jeffrey Miller, Henry Miller-Jones, Jerome Miskell, Debra J. Mitchell, as
11 Trustee of the Thomas E. Mitchell Living Trust, Nuala Purcell, Russ Rizzo, Jose Randy
12 Rodriguez, James Sheerin, Darcy Thomas-Maskrey, and Richard Decker Watson, and a
13 Service Award of \$9,000 for Named Plaintiff Center for Defensive Driving, and directs
14 Ford to pay such amounts to the Named Plaintiffs through Class Counsel. Class Counsel's
15 Fee and Expense Application and the allocation of the Service Award is addressed in a
16 separate Order.
- 17 7. The Settlement Agreement shall be binding on Ford and all Plaintiffs, including all
18 members of the Settlement Classes who have not been excluded pursuant to the Settlement
19 Agreement.
- 20 8. The Court dismisses on the merits and with prejudice *In re MyFord Touch Consumer*
21 *Litigation*, Case No. 3:13-cv-03072-EMC (N.D. Cal.), *Mitchell v. Ford Motor Company*,
22 Case No. 3:13-cv-3378-EMC (N.D. Cal.), and *Rosser v. Ford Motor Company*, Case No.
23 3:13-cv-3471-EMC (N.D. Cal.).¹ In addition, the Court dismisses all claims which any
24 Settlement Class Members alleged or could have alleged in any complaint, action, or
25 litigation based on alleged malfunctions of the MFT in Class vehicles.
- 26 9. Upon the Effective Date of the Settlement, the Named Plaintiffs and each Settlement Class
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28 ¹ These actions were consolidated on October 11, 2013.

1 Member shall be deemed to have, and by operation of this Final Order and Judgment shall
 2 have, released, waived and discharged Ford Motor Company, its past or present
 3 administrators, agents, assigns, associates, attorneys, Authorized Ford Dealers, co-insurers,
 4 controlling shareholders, directors, employees, insurers, joint ventures, licensees,
 5 managing agents, officers, parents, partners (which include, but are not limited to, BSquare
 6 Corporation and Microsoft Corporation), principals, re-insurers, related or affiliated
 7 entities, reorganized successors, successors, subsidiaries, underwriters, and vendors from
 8 any and all other claims, demands, actions, causes of action of any nature whatsoever,
 9 including, but not limited to, any claim for violations of federal, state, or other law
 10 (whether in contract, torts, or otherwise, including statutory and injunctive relief, common
 11 law, property, warranty, Lemon Law, and equitable claims), and also including Unknown
 12 Claims, that relate to malfunctions of the MFT in Ford and Lincoln vehicles sold or leased
 13 by an Authorized Ford or Lincoln dealership before August 9, 2013 and which are asserted
 14 or brought against any of the Released Parties in the Litigation. Excluded from the
 15 Released Claims are individual claims seeking damages for an alleged personal injury
 16 caused by a malfunction of the MFT. At the Fairness Hearing, the Parties confirmed that
 17 this release and the phrase “that relate to malfunctions of the MFT in Ford and Lincoln
 18 vehicles sold or leased by an Authorized Ford or Lincoln dealership before August 9, 2013
 19 and which are asserted or brought against any of the Released Parties in the Litigation”
 20 applies to the entirety of the release definition above and in Section II.W of the February
 21 2019 Stipulation and Agreement of Settlement.

- 22 10. The Court approves the request of the lone objector, Queen Searles (*see* Docket No. 536),
 23 to withdraw her objection and further approves her request, made in-person at the final
 24 approval hearing, to be excluded from the Settlement Classes.
- 25 11. All members of the Settlement Classes who did not request exclusion from the Settlement
 26 Classes in the time and manner provided in the Class Notice are hereby barred,
 27 permanently enjoined, and restrained from commencing or prosecuting any action, suit,
 28 proceeding, claim, or cause of action in any jurisdiction or court against Ford or any of the

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other entities or persons who are to be discharged as noticed above in Paragraph 7, based upon, relating to, or arising out of, any of the matters which are discharged and released pursuant to Paragraph 8 hereof. A list of the Settlement Class Members who effectively excluded themselves from the Class is attached as Exhibit A to this Order.


12. If either (a) the Effective Date of Settlement does not occur for any reason whatsoever, or (b) the Settlement Agreement becomes null and void pursuant to the terms of the Settlement Agreement, this Final Order and Judgment shall be deemed vacated and shall have no force or effect whatsoever.

13. Without affecting the finality of the Final Order and Judgment in any way, the Court reserves continuing and exclusive jurisdiction over the parties, including all members of the Settlement Classes as defined above, and the execution, consummation, administration, and enforcement of the terms of the Settlement Agreement.

This order disposes of Docket No. 539. The Clerk is directed to enter this Final Order and Judgment forthwith.

IT IS SO ORDERED.

Dated: December 17, 2019


EDWARD M. CHEN
United States District Judge