

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

JULIE KIMBALL, individually and on
behalf of all others similarly situated,

Plaintiffs,

v.

VOLKSWAGEN GROUP OF
AMERICA, INC.,

Defendant.

Civil Action No. 2:22-cv-04163-JMH-
MAH

**NOTICE OF MOTION FOR AWARD OF
ATTORNEYS' FEES AND EXPENSES AND
CLASS REPRESENTATIVE SERVICE AWARD**

PLEASE TAKE NOTICE that pursuant to this Court's May 30, 2025 Preliminary Approval Order, [ECF #106] on **December 4, 2025 at 11:00 a.m.**, or as soon thereafter as the Court shall direct, class representative/Plaintiff Julie Kimball (hereinafter "Kimball" or "Plaintiff") and the conditionally certified class will move pursuant to Federal Rule of Civil Procedure 23(h) and the terms of the Settlement Agreement before the Honorable Michael A. Hammer, U.S.M.J., Courtroom MLK 2C, Martin Luther King Building & U.S. Courthouse, 50 Walnut Street, Newark, New Jersey 07102, for an order awarding attorneys' fees and reimbursement of expenses to Plaintiffs' counsel of one million nine hundred fifty

thousand (\$1,950,000) dollars and a class representative service payment in the amount of \$3,500 for Kimball.

In support, Plaintiff will rely upon Plaintiff's Brief in Support of Motion for Attorneys' Fees and Expenses and Class Representative Service Payments, and the Joint Declaration of Gary S. Graifman and Thomas P. Sobran in Support of Approval of Class Action Settlement and Award of Attorneys' Fees and Reimbursement of Expenses with attachments. A proposed final approval order will be submitted concurrently with the final approval motion currently scheduled to be filed on or before November 4, 2025.

Respectfully submitted this 30th day of September, 2025.

**KANTROWITZ, GOLDHAMER &
GRAIFMAN, P.C.**

/s/ Gary S. Graifman

Gary S. Graifman, Esq.
135 Chestnut Ridge Road
Montvale, New Jersey 07645
Telephone: (201) 391-7000

THOMAS P. SOBRAN, P.C.

Thomas P. Sobran (*pro hac vice*)
7 Evergreen Lane
Hingham, MA 02043
Telephone: (781) 741-6075

***Class Counsel for Conditionally Certified
Class***

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

JULIE KIMBALL, on behalf of herself and all
others similarly situated,

Plaintiff,

v.

VOLKSWAGEN GROUP OF AMERICA, INC.,
VOLKSWAGEN AKTIENGESELLSCHAFT,
AUDI AKTIENGESELLSCHAFT and AUDI
OF AMERICA, INC.,

Defendants.

Civil Action No.: 2:22-cv-04163-JMV-MAH

**PLAINTIFF'S MEMORANDUM OF LAW IN SUPPORT OF
ATTORNEYS' FEES, EXPENSES, AND INCENTIVE AWARDS**

**KANTROWITZ GOLDHAMER &
GRAIFMAN, P.C.**

135 Chestnut Ridge Road
Montvale, New Jersey 07645
Telephone: (201) 391-7000
ggraifman@kgglaw.com
dedelman@kgglaw.com

THOMAS P. SOBRAN, P.C.

7 Evergreen Lane
Hingham, MA 02043
Telephone: (781) 741-6075
tsobran@sobranlaw.com

*Attorneys for Plaintiff and Conditionally
Certified Class*

TABLE OF CONTENTS

I. PRELIMINARY STATEMENT.....1

 A. Class Vehicles.....2

 B. Summary of the Settlement Benefits.....4

 1. The Benefit of Reimbursement for Past Repairs.....4

 2. The Benefit of the Extended Warranty.....6

 3. Other Payments by VWGoA in Settlement Agreement.....6

II. PROCEDURAL HISTORY OF THE CASE.....7

III. THE SETTLEMENT TERMS ARE FAIR, REASONABLE AND ADEQUATE.....8

 A. The Benefits to the Class Under the Settlement.....9

 B. Notice to the Settlement Class.....12

IV. THE REQUESTED ATTORNEYS’ FEES AND EXPENSES SHOULD BE AWARDED.....14

 A. The Requested/Agreed Upon Attorneys’ Fees, Expenses, and Incentive Awards are Reasonable and should be Awarded.....14

 B. The Requested Award Is Presumptively Fair and Reasonable since it will not Diminish the Settlement Fund.....16

 C. The Factors Governing Approval of Attorneys’ Fees and Expenses Support the Requested Amount.....19

 1. Class Counsel Obtained a Substantial Benefit for Settlement Class Members.....19

 2. Skill and Efficiency of Counsel: Class Counsel Brought this Matter to an Efficient Conclusion.....22

 3. The Complexity and Duration of the Litigation.....24

 4. Class Counsel Undertook the Risk of Non-Payment.....25

 5. Class Counsel Devoted Significant Time to this Case.....26

 6. Awards in Similar Cases.....29

 D. The Value of the Settlement and Benefit Conferred Demonstrate the Fee should be Approved.....30

 E. Class Counsel’s Lodestar Demonstrates the Requested Fees and Expenses are Fair

and Reasonable.....30

V. THE CLASS REPRESENTATIVE SERVICE AWARD SHOULD BE APPROVED.....33

VI. CLASS COUNSEL’S EXPENSES ARE REASONABLE AND SHOULD BE APPROVED
.....34

VII. CONCLUSION.....36

TABLE OF AUTHORITIES

Abrams v. Lightolier, Inc.,
50 F.3d 1204 (3d Cir. 1995).....35

Beneli v. BCA Fin. Servs., Inc.,
324 F.R.D. 89 (D.N.J. 2018).....20

Bernhard v. TD Bank, N.A.,
2009 WL 3233541 (D.N.J. Oct. 5, 2009).....33

Bezio v. Gen. Elec. Co.,
655 F. Supp.2d 162 (N.D.N.Y. 2009).....17, 34

Bryan v. Pittsburgh Plate Glass Co.,
494 F.2d 799 (3d Cir. 1974).....24

Carroll v. Stettler,
2011 U.S. Dist. LEXIS 121185 (E.D.Pa. Oct. 19, 2011).....34

Cohn v. Nelson,
375 F. Supp. 2d. 844 (E.D. Mo. 2005).....19

DeHoyos v. Allstate Corp.,
240 F.R.D. 269 (W.D. Tex. 2007).....17

Dewey v. Volkswagen of America,
728 F.Supp.2d 546 (D.N.J. 2010).....30

Dupler v. Costco Wholesale Corp.,
705 F. Supp.2d 231 (E.D.N.Y. 2010).....17

Gunter v. Ridgewood Energy Corp.,
223 F.3d 190 (3d Cir. 2000).....*passim*

Hanlon v. Chrysler Corp.,
150 F.3d 1011 (9th Cir.1998).....27, 29

Hensley v. Eckhart,
461 U.S. 424 (1983).....15

Ingram v. Coca-Cola Co.,
200 F.R.D. 685 (N.D. Ga. 2001).....19

In re Am. Investors Life Ins. Co. Annuity Mktg. & Sales Practices Litig.,
263 F.R.D. 226 (E.D. Pa. 2009).....34

In re Apple Computer, Inc. Deriv. Litig.,
2008 WL 4820784 (N.D. Cal. Nov. 5, 2008).....19

In re AremisSoft Corp. Sec. Litig.,
210 F.R.D. 109 (D.N.J. July 31, 2002).....22

In re AT & T Corp.,
455 F.3d 160 (3d Cir. 2006).....20

In re GMC Pick-Up Fuel Tank Prods. Liab. Litig.,
55 F.3d (3d Cir. 1995).....34, 35

In re Ikon Office Solutions, Inc. Securities Litigation,
194 F.R.D. 166 (E.D. Pa. 2000).....23

In re Ins. Brokerage Antitrust Litig.,
2007 WL 1652303 (D.N.J. June 5, 2007), *aff'd*, 579 F.3d 241 (3d Cir. 2009).....17

In re LG/Zenith Rear Projection Television Class Action Litigation,
2009 WL 455513 (D.N.J. Feb. 18, 2009).....15

In re Lorazepam & Clorazepate Antitrust Litig.,
205 F.R.D. 369 (D.D.C.2002).....33, 34

In re Ocean Power Techs., Inc.,
2016 WL 6778218 (D.N.J. Nov. 15, 2016).....24, 25

In re Prudential-Bache Energy Income Partnerships Securities Litigation,
1994 WL 202394 (E.D. La. May 18, 1994).....25

In re Prudential Ins. Co. of Am. Sales Practice Litig.,
106 F. Supp.2d 721 (D.N.J. 2000).....17

In re Safety Components Int'l, Inc.,
166 F. Supp. 2d 72 (3d Cir. 2001).....35

In re Schering-Plough Corp. Enhance ERISA Litig.,
2012 WL 1964451 (D.N.J. May 31, 2012).....25, 26

In re Schering-Plough/Merck Merger Litig.,
2010 WL 1257722 (D.N.J. Mar. 26, 2010).....18, 20

In re Sony SXR D Rear Projection Television Class Action Litig.,
2008 WL 1956267 (S.D.N.Y. May 1, 2008).....17

In re Viropharma Inc. Sec. Litig.,
2016 WL 312108 (E.D. Pa. Jan. 25, 2016).....25

In re Warner Communications Securities Litigation,
618 F. Supp. 735 (S.D.N.Y. 1985).....23, 25

Johnson v. Georgia Hwy. Exp., Inc.,

488 F.2d 714 (5th Cir. 1974).....16

Matter of Cont'l Ill. Sec. Litig.,
962 F.2d 566 (7th Cir. 1992).....18

M. Berenson Co., Inc. v. Faneuil Hall Marketplace, Inc.,
671 F. Supp. 819 (D. Mass. 1987).....16

McBean v. City of New York,
233 F.R.D. 377 (S.D.N.Y. 2006).....15, 17, 19

Merola v. Atlantic Richfield Co.,
515 F.2d 165 (3d Cir. 1975).....20

Mirakay v. Dakota Growers Pasta Co., Inc.,
2014 WL 5358987 (D.N.J. Oct. 20, 2014).....15

Pennsylvania v. Del. Valley Citizens' Council for Clean Air,
478 U.S. 546 (1986).....31

Pro v. Hertz Equipment Rental Corp.,
2013 WL 3167736 (D.N.J. June 20, 2013).....15

Rossi v. Procter & Gamble Co.,
2013 WL 5523098 (D.N.J. Oct. 3, 2013).....14, 15

Rowe v. E.I. DuPont de Nemours & Co.,
2011 WL 3837106 (D.N.J. Aug. 26, 2011).....20

Shaw v. Toshiba Am. Info. Sys., Inc.,
91 F.Supp.2d 942 (E.D. Tex. 2000).....23

Vaughn v. Am. Honda Motor Co.,
627 F. Supp.2d 738 (E.D. Tex. Sept. 28, 2007).....29

Weber v. Gov. Emples. Ins. Co.,
2009 U.S. Dist. LEXIS 91322 (D.N.J. Sep. 30, 2009).....19

Rule

Fed. R. Civ. P. 23(h).....16

I. PRELIMINARY STATEMENT

This memorandum is submitted in support of the within motion by Plaintiffs for an award of attorneys' fees and reimbursement of expenses in addition to a service award to plaintiff Julie Kimball (hereinafter "Plaintiff" or "Class Representative") who also serves as the Settlement Class Representative.¹ The Parties entered into the formal Settlement Agreement (hereinafter "Agreement" or "Settlement Agreement") executed on or about January 6, 2025 that includes both a reimbursement program for past repairs and warranty extension for future repairs as benefits of the settlement.

On May 30, 2025, this Court entered the Order Granting Preliminary Approval of Class Action Settlement (hereinafter "Preliminary Approval Order"), preliminarily approving the Agreement, conditionally certifying the class, appointing Plaintiff's counsel as interim class counsel (hereinafter "Class Counsel"), and approving the Settlement Class Notice to be sent out to Settlement Class Members (ECF No. 106).

A copy of the Settlement Agreement is annexed to the Joint Declaration of Gary S. Graifman and Thomas P. Sobran in Support of Class Action Settlement and Award of Attorneys' Fees and Reimbursement of Expenses (hereinafter "Jt. Decl.") as Exhibit 1. The Settlement will provide relief to as many as 3.9 million settlement class members.

¹ Unless otherwise defined herein, all capitalized terms have the meaning ascribed to them in the Agreement.

During negotiation of the terms for the Settlement, the Parties did not discuss or agree on attorneys' fees or expenses. After the material terms of the settlement were agreed upon, a mediation to address the outstanding issue of an award of attorneys' fees and expenses was convened before experienced mediator Bradley Winters of JAMS on or about March 21, 2025. After extensive arms'-length negotiations an agreement was reached with the assistance of the mediator in which Defendants agreed not to oppose Class Counsels' application for an award of attorneys' fees and reimbursement of expenses in the combined amount of \$1.95 million and a service award to Plaintiff in the sum of \$3,500. The requested amount in light of the Settlement, is fair, adequate and reasonable.

A. Class Vehicles

The underlying litigation alleges the presence of defective engine turbochargers in certain Volkswagen and Audi model vehicles, distributed by VWGoA in the United States and Puerto Rico. These vehicles are equipped with Generation 1, Generation 2, or Generation 3 EA888 engines and specifically identified by Vehicle Identification Number (hereinafter "VIN") on VIN lists under seal that are attached to the Settlement Agreement (hereinafter collectively "Class Vehicles" or "Class Vehicle"). More specifically, these Class Vehicles are defined as follows:

- (i) Generation 1 Settlement Class Vehicles means certain of the following

Settlement Class Vehicles equipped with Generation 1 EA888 engines: certain model year 2008-2014 VW GTI and Golf R vehicles, 2012-2013 VW Beetle vehicles, 2009 VW Jetta Sportwagen vehicles, 2008-2013 VW Jetta Sedan and GLI vehicles, 2009-2016 VW Eos vehicles, 2008-2010 VW Passat vehicles, 2009-2017 VW CC vehicles, 2009-2018 VW Tiguan vehicles, 2008-2009 Audi A3 11 vehicles, and 2015-2018 Audi Q3 vehicles, which are specifically identified by Vehicle Identification Number (“VIN”) on a VIN list that is attached as Exhibit 4A to the Agreement.

(ii) Generation 2 Settlement Class Vehicles means certain of the following Settlement Class Vehicles equipped with Generation 2 EA888 engines: 2009-2014 Audi A4 vehicles, 2010-2014 Audi A5 vehicles, 2013-2015 Audi A6 vehicles, 2011-2014 Audi Q5 vehicles, and 2011-2012 Audi TT vehicles, which are specifically identified by Vehicle Identification Number (“VIN”) on a VIN list that is attached as Exhibit 4B to the Agreement.

(iii) Generation 3 Settlement Class Vehicles means certain of the following Settlement Class Vehicles equipped with Generation 3 EA888 engines: 2015-2018 VW Golf vehicles, 2015-2021 VW GTI vehicles, 2015-2019 VW Golf R vehicles, 2015-2019 VW Golf Sportwagen and Alltrack vehicles, 2019-2024 VW Jetta GLI vehicles, 2019-2021 VW Arteon vehicles, 2018-2023 VW Atlas vehicles, 2020-2023 VW Atlas Cross Sport vehicles, 2015-2020 Audi A3, 2019-2024 Audi Q3

vehicles, and 2016-2023 Audi TT vehicles, which are specifically identified by Vehicle Identification Number (“VIN”) on a VIN list that is attached as Exhibit 4C to the Agreement.

Plaintiff alleges that Settlement Class Members have incurred expenses as a result of the alleged defective engine turbochargers in the Settlement Class Vehicles.

The Settlement Agreement addresses the issues complained of in the litigation and provides valuable benefits to owners and lessees (hereinafter “Settlement Class Members”) of Class Vehicles in the United States and Puerto Rico.

B. Summary of the Settlement Benefits

1. The Benefit of Reimbursement for Past Repairs

The Settlement Agreement contains two benefit components. *First*, there is a reimbursement program available to all Settlement Class Members who incurred eligible out-of-pocket expense(s) for the cost (parts and labor) of repair or replacement of failed or malfunctioning turbochargers. A Settlement Class Member may be provided reimbursement of fifty percent (50%) of the past paid out-of-pocket expense for one (1) repair or replacement (parts and labor) of a failed or malfunctioned turbocharger of a Settlement Class Vehicle that was performed and paid for prior to the Notice Date and within 8.5 years or 85,000 miles (whichever occurred first) from said vehicle’s In-Service date, if:

(i) for a Generation 1 Settlement Class Vehicle or Generation 2 Settlement Class Vehicle, the past paid turbocharger repair or replacement was due to the wastegate having no longer functioned properly because of wear at the link plate and pin, and,

(ii) for a Generation 3 Settlement Class Vehicles, the past paid turbocharger repair or replacement was due to the wastegate having failed because of fork head and/or link pin corrosion.

However, if the Proof of Repair Expense documentation does not specifically state the reason for the past paid turbocharger repair or replacement was due to (i) above (for a Generation 1 Settlement Class Vehicle or Generation 2 Settlement Class Vehicle), or (ii) above (for a Generation 3 Settlement Class Vehicle), then the reimbursement for the one (1) covered repair will be forty percent (40%) of the past paid invoice amount (parts and labor) provided that, in addition to the Proof of Repair Expense, the Settlement Class Member also submits, with his/her/its Claim for Reimbursement, the Proof of Adherence to Maintenance Requirements documentation.

If the past paid covered repair for which reimbursement is sought was not performed by an authorized Audi dealer (if an Audi vehicle) or Volkswagen dealer (if a VW vehicle), then the maximum paid invoice amount to which the applicable reimbursement percentage shall be applied shall not exceed a cap of \$3,850.

2. The Benefit of the Extended Warranty

Second, the Settlement Agreement also provides prospective relief in the form of an extended warranty for certain Settlement Class Members. The Settlement provides Settlement Class Members that are the current owners/lessees of Generation 3 Settlement Class Vehicles a warranty extension to 8.5 years or 85,000 miles (whichever occurs first) from the vehicle's original In-Service Date to cover 50% of the cost to repair or replace (parts and labor), by an authorized Audi dealer (if an Audi vehicle) or Volkswagen dealer (if a VW vehicle), a turbocharger that fails or malfunctions if the cause of the failure or malfunction was wastegate failure due to fork head and/or link pin corrosion.

If, as of the Notice Date, a Generation 3 Settlement Class Vehicle is more than 8.5 years of age from its In-Service Date, then the Warranty Extension's time duration for that vehicle will be extended until sixty (60) days after the Notice Date or 85,000 miles from vehicle's the In-Service Date, whichever occurs first, subject to the same conditions and limitations set forth above.

3. Other Payments by VWGoA in Settlement Agreement

Additionally, VWGoA has agreed to pay the cost of notice to Class Members and for claims administration (Settlement Agreement, § III(A)).

Pursuant to the Agreement, Settlement Class Counsel may apply for an award of attorneys' fees, inclusive of Class Counsel's costs and expenses, not to exceed

\$1,950,000 in the aggregate and for the payment of a service award to the Settlement Class Representative in the amount of \$3,500.00, pursuant to Section VIII(C) of the Agreement and as agreed upon by the Parties in post-Settlement mediation. *See also* Jt. Decl. at ¶ 10.

II. PROCEDURAL HISTORY OF THE CASE

On June 21, 2022, after months of pre-suit investigation, speaking with potential class members, and ascertaining the nature of the alleged class vehicle engine turbocharger defects, Class Counsel filed the Action on behalf of Julie Kimball, individually and on behalf of all other similarly situated, against Volkswagen Group of America, Inc., Volkswagen Aktiengesellschaft (hereinafter “VWAG”), Audi Aktiengesellschaft (hereinafter “Audi AG”), and Audi of America, Inc. (hereinafter “Audi America”) (Volkswagen Group of America and Audi America are collectively referred to hereinafter as “VWGoA” or “Defendant”)², in the U.S. District Court for the District of New Jersey. *See* ECF No. 1. On September 15, 2022, VWGoA filed a motion to dismiss the complaint (ECF No. 20) which, after full briefing, was granted by the Court on March 2, 2023 with leave for Plaintiff to replead the claims in an amended complaint. On March 31, 2023, Plaintiff filed an amended class action complaint alleging substantially similar facts and individual

² On January 19, 2024, Plaintiff voluntarily dismissed its claims against VWAG and Audi AG without prejudice (ECF No. 66), and on November 14, 2024, Plaintiff filed the third amended complaint and asserted the claims herein against only Defendant VWGoA (ECF No. 85).

and class claims sounding in fraud, breach of express warranties, negligent misrepresentation, and various violations state consumer protection statutes. *See* ECF No. 30. On May 15, 2023, VWGoA filed a motion to dismiss the amended class action complaint (ECF No. 33), which, on August 28, 2023, the Court granted in part and denied in part, with leave to replead (ECF No. 45). On October 6, 2023, Plaintiff filed a second amended complaint asserting essentially the same causes of action (ECF No. 51). On December 11, 2023, VWGoA filed a motion to dismiss the second amended class action complaint (ECF No. 60), which the Court granted in part and denied in part on September 3, 2024, again with leave to replead (ECF No. 78). On November 14, 2024, Plaintiff filed her third amended class action complaint (ECF No. 85).

Over the course of the ensuing months, vigorous and extensive arm's-length negotiations of the disputed claims ensued, with counsel on both sides having adequate knowledge of the facts, issues, and the strengths or weaknesses of their respective positions. Following further vigorous arm's-length negotiations, the Parties ultimately came to agreement upon the specific terms and conditions of the formal Settlement Agreement, which was executed on January 6, 2025.

III. THE SETTLEMENT TERMS ARE FAIR, REASONABLE AND ADEQUATE

The Settlement Class and description of Class Vehicles involved in this action are defined in the Agreement as:

The definition of the Class: All persons and entities who purchased or leased, in the United States or Puerto Rico, Settlement Class Vehicles which are certain of the following model year Volkswagen and Audi brand vehicles which were distributed by Volkswagen Group of America, Inc. for sale or lease in the United States and Puerto Rico, which are equipped with Generation 1, Generation 2 or Generation 3 EA888 engines (as delineated in (1)-(3) below) and specifically identified by Vehicle Identification Number (“VIN”) on VIN lists that are attached as Exhibits 4A-C to the Settlement Agreement.³

A. The Benefits to the Class Under the Settlement

Under the nationwide Settlement Agreement terms, Settlement Class Members may be entitled to reimbursement for certain past paid and unreimbursed out-of-pocket expenses for enumerated covered repairs as follows:

1. 50% reimbursement of the paid out-of-pocket expenses for one (1) repair or replacement (parts and labor) of a failed or malfunctioned turbocharger that was performed prior to the Notice Date and within 8.5 years or 85,000 miles (whichever occurred first) from the

³ Excluded from the Settlement Class are: (a) all Judges who have presided over the Action and their spouses; (b) all current employees, officers, directors, agents and representatives of Defendant, and their family members; (c) any affiliate, parent or subsidiary of Defendant and any entity in which Defendant has a controlling interest; (d) anyone acting as a used car dealer; (e) anyone who purchased a Settlement Class Vehicle for the purpose of commercial resale; (f) anyone who purchased a Settlement Class Vehicle with salvaged title and/or any insurance company that acquired a Settlement Class Vehicle as a result of a total loss; (g) any insurer of a Settlement Class Vehicle; (h) issuers of extended vehicle warranties and service contracts; (i) any Settlement Class Member who, prior to the date of this Agreement, settled with and released Defendant or any Released Parties from any Released Claims, and (j) any Settlement Class Member who files a timely and proper Request for Exclusion from the Settlement Class. Settlement Agreement, § I.V., I.X.

Settlement Class Vehicle's In-Service Date, if (i) for a Generation 1 or Generation 2 Settlement Class Vehicle, the past paid turbocharger repair/replacement was due to the wastegate having no longer functioned properly because of wear at the link plate and pin, and (ii) for a Generation 3 Settlement Class Vehicle, the past paid turbocharger repair/replacement was due to the wastegate having failed because of fork head and/or link pin corrosion.⁴ However, if the past paid covered repair was not performed by an authorized Volkswagen dealer (for Volkswagen vehicles) or Audi dealer (for Audi vehicles), then the invoice amount from which the 50% reimbursement is applied shall not exceed \$3,850; or

2. 40% reimbursement for the one (1) covered turbocharger repair or replacement detailed above, performed prior to the Notice Date and within 8.5 years or 85,000 miles (whichever occurred first) from the Settlement Class Vehicle's In-Service Date, if the Proof of Repair Expense documentation does not specifically state that the reason for the past paid turbocharger repair/replacement was one of the enumerated repairs in (i) Generation 1 or Generation 2 vehicles or (ii) Generation 3 vehicles above, provided that, in addition to the Proof of Repair Expense, the Settlement Class Member submits Proof of Adherence to the vehicle's oil maintenance requirements within a 10% variance (leeway) of each scheduled time and mileage interval. In addition, as stated above, if the past paid covered repair was not performed by an authorized Volkswagen or Audi dealer, then the invoice amount from which the 40% reimbursement is applied shall not exceed \$3,850.

In order to obtain the monetary benefits, a Settlement Class Member need only submit a simple Claim Form (Exhibit 1 to the Agreement) together with basic supporting documents such as the invoice for the covered repair, proof of payment, proof of ownership and, if applicable, Proof of Adherence to the vehicle's oil

⁴ This reflects the differences among the involved generations of the Settlement Class Vehicles.

requirements within the 10% variance. This can be performed through a portal on the Settlement Website or by mail.

There is also a warranty extension benefit provided to eligible Settlement Class Members by extending the New Vehicle Limited Warranty (NVLW) applicable to the Generation 3 Settlement Class Vehicles to cover 50% of the cost of a failed or malfunctioning turbocharger repair or replacement, by an authorized Audi dealer (for Audi vehicles) or Volkswagen dealer (for Volkswagen vehicles), for a period of 8.5 years or eighty-five thousand (85,000) miles (whichever occurs first) from the vehicle's In-Service Date, if the cause of the turbocharger failure or malfunction is that the wastegate failed due to fork head and/or link pin corrosion. In addition, for Generation 3 Settlement Class Vehicles that are more than 8.5 years old as of the Notice Date, the Warranty Extension will be up to 60 days after the Notice Date or 85,000 miles from the vehicle's In-Service Date (whichever occurs first).

The Warranty Extension is subject to the same terms, conditions, and limitations set forth in the Settlement Class Vehicle's original NVLW and Warranty Information Booklet, and shall be fully transferable to subsequent owners to the extent that its time and mileage limitation periods have not expired.

These Settlement benefits serve as consideration for the dismissal with prejudice of this Action against VWGoA, and the release of all claims by Plaintiff

and Settlement Class Members which takes effect on the Effective Date as set forth in Section I.L. of the Agreement. VWGoA is solely responsible for the cost of the Claims Administrator and will pay all administration expenses which includes effectuating the notice and notice plan and administration of the Settlement. Settlement Agreement §VII.B.

The Parties agreed that Settlement Class Counsel may apply for an award of attorneys' fees, inclusive of costs, expenses, and Settlement Class Representative Service Payments, not to exceed \$1,950,000.00 in the aggregate. In addition, the Settlement Class Representative would receive a service payment in the amount of \$3,500.00, to be paid from the amount awarded by the Court pursuant to Section VIII(C) of the Agreement and as agreed by the Parties in mediation. *See also* Jt. Decl. at ¶ 10.

B. Notice to the Settlement Class

The Parties negotiated and agreed upon a notice program which, as this Court found in granting Preliminary Approval, provides the best practicable notice under the circumstances. A copy of the Notice of Class Action Settlement substantially in the forms attached to the Agreement as Exhibits 1, 2 and 3 (hereinafter "Class Notice"), was mailed by first class mail to every Settlement Class Member who was reasonably ascertainable by the Department of Motor Vehicle records. A longer and detailed "long-form" Class Notice (Exhibit 3), was made available on the Settlement

Website. The postcard Class Notice was sent by first-class mail to the current or last known address of all reasonably identifiable Settlement Class Members. Settlement Class Members were located based on the Settlement Class Vehicles' VIN (vehicle identification numbers) and using the services of S & P Global. These established services obtain vehicle ownership histories through state title and registration records, thereby identifying the names and addresses of record of the Settlement Class Members.

The Settlement Administrator, JND Legal Administration, has also established and continues to maintain the Settlement Website, which is www.TurboClassSettlement.com, and a toll-free customer service number and email address Class Members may use to access recorded messages and to speak with a live customer service person.

Additionally, VWGoA has advised its authorized Volkswagen and Audi dealers of the Warranty Extension so that they can service the Warranty Extension for Class Members pursuant to its terms. The Warranty Extension does not require a Claim Form. Those Settlement Class Members who sustain a turbocharger failure or malfunction covered under the Warranty Extension need only take the Settlement Class Vehicle to an authorized Volkswagen or Audi dealer in order to receive the warranty repair.

The Class Notice provides a procedure for Class Members to exclude

themselves from the Settlement Class by mailing a completed request for exclusion. To the extent that a valid request for exclusion has not been timely received with respect to a particular Class Member, such Class Member shall be a Settlement Class Member and shall be bound by the terms of the Agreement and every order or judgment entered relating to the Agreement.

The Class Notice also provides a procedure for Class Members to object to the Settlement terms set forth in the Agreement and/or to the attorneys' fees, expenses, and incentive awards to which the Parties have agreed and for which Class Counsel is petitioning the Court.

IV. THE REQUESTED ATTORNEYS' FEES AND EXPENSES SHOULD BE AWARDED

A. The Requested/Agreed Upon Attorneys' Fees, Expenses, and Incentive Awards are Reasonable and should be Awarded

Class Counsel agreed to not request a fee and expense award greater than \$1.95 million. Settlement Agreement, § VIII(C); Jt. Decl. at ¶ 10. The fee award is entirely separate from and does not diminish in any way class relief. *Id.* For the reasons set forth below, this award of attorneys' fees, expenses, and service award is reasonable and should be approved by the Court.

The award of attorneys' fees in a class action settlement is within the Court's discretion. *Rossi v. Procter & Gamble Co.*, 2013 WL 5523098, at *9 (D.N.J. Oct. 3, 2013). The Supreme Court has recognized a preference of allowing litigants to

resolve fee issues through agreement. *Hensley v. Eckhart*, 461 U.S. 424, 437 (1983). In this district, courts routinely approve agreed-upon attorneys' fees when the amount is independent from the class recovery and does not diminish the benefit to the class and is fair, adequate and reasonable under the circumstances. See *Mirakay v. Dakota Growers Pasta Co., Inc.*, 2014 WL 5358987, at *11 (D.N.J. Oct. 20, 2014); *Rossi*, 2013 WL 5523098, at *9; *Pro v. Hertz Equipment Rental Corp.*, 2013 WL 3167736, at *6 (D.N.J. June 20, 2013); *In re LG/Zenith Rear Projection Television Class Action Litigation*, 2009 WL 455513, at *8 (D.N.J. Feb. 18, 2009). Where attorneys' fees are paid independent of the award to the class, the court's fiduciary role in overseeing the award is greatly reduced because there is no potential conflict between the attorneys and class members. *Mirakay*, 2014 WL 5358987, at *11; *Rossi*, 2013 WL 5523098, at *9 (citing *McBean v. City of New York*, 233 F.R.D. 377, 392 (S.D.N.Y. 2006)).

“While the Court is not bound by the agreement between the parties, the fact that the award was the product of arm's-length negotiations weighs strongly in favor of approval.” *Rossi*, 2013 WL 5523098, at *10. “[T]he benefit of a fee negotiated by the parties at arm's-length is that it is essentially a market-set price – [Defendants] ha[ve] an interest in minimizing the fee and Class Counsel have an interest in maximizing the fee to compensate themselves for their work and assumption of risk.” *Id.* Here, these standards clearly weigh in favor of approving the requested

fee. The agreed upon fee agreement was the product of protracted contested negotiations, which occurred only after the Parties had reached agreement on the substantive relief to the class.

B. The Requested Award Is Presumptively Fair and Reasonable since it will not Diminish the Settlement Fund

The Federal Rules of Civil Procedure expressly authorize that “the court may award reasonable attorney’s fees and nontaxable costs that are authorized by law or by the parties’ agreement.” Fed. R. Civ. P. 23(h). Federal courts at all levels encourage litigants to resolve fee issues by agreement whenever possible. As the United States Supreme Court explained, “[a] request for attorney’s fees should not result in a second major litigation. Ideally, of course, litigants will settle the amount of a fee.” *Hensley*, 461 U.S. at 437; *see also Johnson v. Georgia Hwy. Exp., Inc.*, 488 F.2d 714, 720 (5th Cir. 1974) (“In cases of this kind, we encourage counsel on both sides to utilize their best efforts to understandingly, sympathetically, and professionally arrive at a settlement as to attorney’s fees.”); *M. Berenson Co., Inc. v. Faneuil Hall Marketplace, Inc.*, 671 F. Supp. 819, 829 (D. Mass. 1987) (“Whether a defendant is required by statute or agrees as part of the settlement of a class action to pay the plaintiffs’ attorneys’ fees, ideally the parties will settle the amount of the fee between themselves.”). Accordingly, courts regularly approve agreed-upon attorneys’ fees awards paid by the defendant, rather than the class members,

especially where that amount does not decrease the benefit obtained for the class. *See LG/Zenith*, 2009 WL 455513, at *8-9 (approving agreed upon attorneys' fee award that did not diminish settlement fund); *In re Ins. Brokerage Antitrust Litig.*, 2007 WL 1652303, at *4 (D.N.J. June 5, 2007), *aff'd*, 579 F.3d 241 (3d Cir. 2009); *In re Prudential Ins. Co. of Am. Sales Practice Litig.*, 106 F. Supp.2d 721, 732 (D.N.J. 2000) (finding it significant that attorneys' fees would not diminish settlement fund); *see also McBean*, 233 F.R.D. at 392 (granting class counsel full amount of fees agreed to by defendant where attorneys' fees were separate from class settlement and did not diminish class settlement); *Dupler v. Costco Wholesale Corp.*, 705 F. Supp.2d 231, 245 (E.D.N.Y. 2010) (same); *Bezio v. Gen. Elec. Co.*, 655 F. Supp.2d 162, 167-68 (N.D.N.Y. 2009) (same); *In re Sony SXRDR Rear Projection Television Class Action Litig.*, 2008 WL 1956267, at *15-16 (S.D.N.Y. May 1, 2008) (same); *DeHoyos v. Allstate Corp.*, 240 F.R.D. 269, 322 (W.D. Tex. 2007) (same).

Here, VWGoA agreed not to object to Class Counsel applying for and the Court awarding Class Counsel the amount of \$1.95 million in attorneys' fees and case expenses in connection with the relief obtained for the class, subject to the Court's approval. This award of attorneys' fees and case expenses, together with the Settlement Class Representative Service Award, is completely separate and apart from the relief available to the Class and does not reduce the relief to the Class in

any manner. As noted previously, attorneys' fees were not negotiated or discussed until after agreement was reached between the Parties on all other terms of the settlement. Jt. Decl. ¶¶ 9-10.

The fee arrangement was negotiated under the best of market conditions – an arm's length negotiation before a mediator experienced in class action litigation – a process which the courts have encouraged. *Matter of Cont'l Ill. Sec. Litig.*, 962 F.2d 566, 568-70 (7th Cir. 1992) (market factors, best known by negotiating parties themselves, should determine quantum of attorneys' fees). The virtue of a fee negotiated by the parties at arm's length is that it is, essentially, a market-set price. Defendant has an interest in minimizing the fee; Class Counsel have an interest in maximizing the fee to compensate themselves (as the case law encourages) for their risk, innovation, advocacy, expertise and creativity. The negotiations are informed by the parties' knowledge of the work done and result achieved and their views on what the Court may award if the attorneys' fees award were litigated.

Because the fee arrangement in this case was negotiated by experienced counsel at arm's length and through an experienced mediator, judicial deference to the parties' fee agreement is warranted. *See In re Schering-Plough/Merck Merger Litig.*, 2010 WL 1257722, at *18 (D.N.J. Mar. 26, 2010) (“[W]ith regard to attorneys' fees[,] ... the presence of an arms' length negotiated agreement among the parties weighs strongly in favor of approval,’ even if it is ‘not binding on the

court.”) (quoting *Weber v. Gov. Emples. Ins. Co.*, 2009 U.S. Dist. LEXIS 91322, *53 (D.N.J. Sep. 30, 2009)).⁵

As explained in *McBean*, 233 F.R.D. at 377, a court need not review an application for attorneys’ fees with a heightened level of scrutiny where, as here, the Parties have contracted for an award of fees that will not be paid from a common fund. “If money paid to the attorneys comes from a common fund, and is therefore money taken from the class,” the court reasoned, “then the Court must carefully review the award to protect the interests of the absent class members.” *Id.* at 392.

Class Counsels’ requested award of \$1.95 million in connection with conferring a substantial benefit on the class is presumptively reasonable where that award will not diminish the settlement fund.

C. The Factors Governing Approval of Attorneys’ Fees and Expenses Support the Requested Amount

1. Class Counsel Obtained a Substantial Benefit for Settlement Class Members

The reasonableness of attorney fee awards in class action cases are traditionally viewed under the factors enunciated in *Gunter v. Ridgewood Energy*

⁵ See also *Ingram v. Coca-Cola Co.*, 200 F.R.D. 685, 695 (N.D. Ga. 2001) (giving “substantial weight to a negotiated fee amount”); *In re Apple Computer, Inc. Deriv. Litig.*, 2008 WL 4820784, at *3 (N.D. Cal. Nov. 5, 2008) (“A court should refrain from substituting its own value for a properly bargained-for agreement.”); *Cohn v. Nelson*, 375 F. Supp. 2d. 844, 861 (E.D. Mo. 2005) (“[W]here, as here, the parties have agreed on the amount of attorneys’ fees and expenses, courts give the parties’ agreement substantial deference.”);

Corp., 223 F.3d 190, 195 n.1 (3d Cir. 2000); *see In re AT & T Corp.*, 455 F.3d 160, 166 (3d Cir. 2006).⁶ “Attorneys’ fees are awardable even though the benefit conferred is purely nonpecuniary in nature.” *In re Schering-Plough/Merck Merger Litig.*, 2010 WL 1257722, at *15 (quoting *Merola v. Atlantic Richfield Co.*, 515 F.2d 165, 169-70 (3d Cir. 1975)).

The first *Gunter* factor, as relevant here (*i.e.*, the number of persons benefitted), plainly weighs in favor of approving the requested attorneys’ fees and expenses. *See Beneli v. BCA Fin. Servs., Inc.*, 324 F.R.D. 89, 108 (D.N.J. 2018) (“The first *Gunter* factor ‘consider[s] the fee request in comparison to . . . the number of class members to be benefitted.’”) (quoting *Rowe v. E.I. DuPont de Nemours & Co.*, 2011 WL 3837106, at *18 (D.N.J. Aug. 26, 2011)). 3,929,514 class notices were sent on September 15, 2025 to Settlement Class Members, who received direct notice. *See* Declaration of Lara Jarjoura (the “Jarjoura Decl.”) at ¶ 10. The settlement website will further ensure that thousands more will be informed of their settlement rights. *Id.* at ¶¶ 13-15. As outlined *supra*, and detailed in the

⁶ The *Gunter* factors include: (1) the size of the fund created and the number of persons benefitted; (2) the presence or absence of substantial objections to the settlement terms and/or fees requested by counsel; (3) the skill and efficiency of the attorneys involved; (4) the complexity and duration of the litigation; (5) the risk of nonpayment; (6) the amount of time devoted to the case by plaintiffs’ counsel; and (7) the awards in similar cases. *See Gunter*, 223 F.3d at 195 n.1. One factor—the presence or absence of objectors—is irrelevant at this juncture. The deadline for filing objections is not until October 15, 2025. As such, Plaintiff will respond separately to any objections and/or opt-outs with supplemental memoranda filed pursuant to the deadlines set in the Preliminary Approval Order.

Settlement Agreement at § II, this Settlement provides a substantial benefit to the class. Certain Settlement Class Members will receive an extension of their warranties for the allegedly defective and malfunctioning engine turbochargers in Settlement Class Vehicles, including reimbursement for out-of-pocket costs for repair or replacement of the turbochargers at the amounts set forth in the Settlement Agreement; *see* Settlement Agreement at § II. The warranty extension period is applicable to the Generation 3 Settlement Class Vehicles to cover 50% of the cost of a turbocharger repair or replacement, by an authorized Audi dealer (for Audi vehicles) or Volkswagen dealer (for Volkswagen vehicles), during a period of up to 8.5 years or eighty-five thousand (85,000) miles (whichever occurs first) from the vehicle's In-Service Date, if the cause of the turbocharger failure or malfunction is that the wastegate failed due to fork head and/or link pin corrosion. Also, for Generation 3 Settlement Class Vehicles that are more than 8.5 years old as of the Notice Date, the Warranty Extension will be up to 60 days after the Notice Date or 85,000 miles from the vehicle's In-Service Date (whichever occurs first).

Given the inherent litigation risks in this putative nationwide class action, the benefit is highly significant as it provides substantial tangible benefits without the

risks and delays of continued litigation. This *Gunter* factor favors approval of the request fee.⁷

2. Skill and Efficiency of Counsel: Class Counsel Brought this Matter to an Efficient Conclusion

Class Counsels' success in bringing this litigation to a successful conclusion is perhaps the best indicator of the experience and ability of the attorneys involved. *In re AremisSoft Corp. Sec. Litig.*, 210 F.R.D. 109, 132 (D.N.J. July 31, 2002) (“the single clearest factor reflecting the quality of the class counsels’ services to the class are the results obtained”). The quality of the work which has been presented to the Court, the undersigned believe, speaks for itself. Faced with the substantial risk of further litigation, as discussed above, Class Counsel’s results here are substantial. Class Counsel have delivered a significant benefit to the nationwide Class in the face of numerous potentially fatal obstacles. Moreover, because vehicles tend to depreciate over time and generally may not remain in the class member’s possession after a period, the fact that this Settlement was achieved within approximately a two-year period is significant and allows a greater number of Settlement Class Members to immediately benefit from the Settlement.

That a case settles as opposed to proceeding to trial “in and of itself, is never

⁷ Because Settlement Class Notices have been just issued to the Class on or about September 15, 2025, the *Gunter* factor concerning objections, if any, will be further addressed in Plaintiffs’ subsequent submission in support of approval of the Settlement and/or a supplemental submission on this motion.

a factor that the district court should rely upon to reduce a fee award. To utilize such a factor would penalize efficient counsel, encourage costly litigation, and potentially discourage able lawyers from taking such cases.” *Gunter*, 223 F.3d at 198. In achieving the Settlement, Class Counsel invested significant time and worked for over three years to bring this class action settlement to fruition. *See* Jt. Decl. ¶¶ 9-13.

Class Counsel have substantial experience litigating large-scale class actions and multidistrict litigations. The Agreement is an extremely favorable resolution for the Class given the risks attendant with continued litigation.

The quality and vigor of opposing counsel is also relevant in evaluating the quality of the services rendered by Class Counsel. *See In re Ikon Office Solutions, Inc. Securities Litigation*, 194 F.R.D. 166, 194 (E.D. Pa. 2000); *In re Warner Communications Securities Litigation*, 618 F. Supp. 735, 749 (S.D.N.Y. 1985) (“The quality of opposing counsel is also important in evaluating the quality of plaintiffs’ counsels’ work.”); *Shaw v. Toshiba Am. Info. Sys., Inc.*, 91 F.Supp.2d 942, 970 (E.D. Tex. 2000). Defendant was ably represented by counsel from Shook, Hardy & Bacon L.L.P., who are experienced and seasoned attorneys known for their success in civil litigation matters, particularly consumer products liability class actions involving automobile defects.

Class Counsels' ability to obtain the Settlement for the Class in the face of a formidable opponent further confirms the high quality of Class Counsels' representation. Accordingly, Class Counsel respectfully submit that this *Gunter* factor, recognizing the skill and efficiency of the attorneys involved, strongly supports their application for fees in the requested amount.

3. The Complexity and Duration of the Litigation

This *Gunter* factor is intended to capture “the probable costs, in both time and money, of continued litigation.” *In re Gen. Motors*, 55 F.3d at 812 (quoting *Bryan v. Pittsburgh Plate Glass Co.*, 494 F.2d 799, 801 (3d Cir. 1974)). Plaintiff’s complaint here faced considerable legal and factual hurdles absent settlement. “[E]ven [though] Plaintiffs’ Complaint survived Defendants’ motion to dismiss, their case would have faced additional legal and factual hurdles on summary judgment, at trial, and potentially on appeal.” *In re Ocean Power Techs., Inc.*, 2016 WL 6778218, at *28 (D.N.J. Nov. 15, 2016) (citation omitted). Continued litigation likely would have been very costly for both Parties. The engine turbocharger components involved in the three generations of engine would have required significant expert testimony which may have, in and of itself, posed a challenge to a jury. Even if Plaintiff recovered a large judgment at trial on behalf of the Settlement Class Members, actual recovery likely would be postponed for years. There is also the substantial possibility that Plaintiff would recover nothing. The Settlement

secures a recovery for the Settlement Class now, rather than the “speculative promise of a larger payment years from now.” *In re Viropharma Inc. Sec. Litig.*, 2016 WL 312108, at *16 (E.D. Pa. Jan. 25, 2016). Thus, this *Gunter* factor weighs in favor of approval of the requested fee award.

4. Class Counsel Undertook the Risk of Non-Payment

Class Counsel undertook this action on an entirely contingent fee basis, assuming a substantial risk that the litigation would yield no, or very little recovery and leave them uncompensated for their time as well as for their out-of-pocket expenses. Courts across the country have consistently recognized that the risk of receiving little or no recovery is a major factor in considering an award of attorneys’ fees. *See Warner Communications*, 618 F. Supp. at 747-49 (citing cases). As one court noted:

Counsel’s contingent fee risk is an important factor in determining the fee award. Success is never guaranteed and counsel faced serious risks since both trial and judicial review are unpredictable. Counsel advanced all of the costs of litigation, a not insubstantial amount, and bore the additional risk of unsuccessful prosecution.

In re Prudential-Bache Energy Income Partnerships Securities Litigation, 1994 WL 202394, at *6 (E.D. La. May 18, 1994); *see also In re Ocean Power Techs, Inc.*, 2016 WL 677218, at *28 (“Courts across the country have consistently recognized that the risk of receiving little or no recovery is a major factor in considering an award of attorneys’ fees.”) (citation omitted); *In re Schering-Plough Corp. Enhance ERISA*

Litig., 2012 WL 1964451, at *7 (D.N.J. May 31, 2012) (“Courts routinely recognize that the risk created by undertaking an action on a contingency fee basis militates in favor of approval.”) (citations omitted). Class Counsel litigated this case for more than three years to date without compensation and shouldered the risk that the litigation would yield little to no recovery. Despite the litigation risks, Class Counsel were able to forge a resolution that provides significant present relief to the Class within a relatively modest time period. There is little doubt that Class Counsel undertook a significant risk here and the fee award, respectfully, should reflect that risk. Accordingly, this *Gunter* factor weighs in favor of approving the attorneys’ fee request.

5. Class Counsel Devoted Significant Time to this Case

The next *Gunter* factor looks at counsel’s time devoted to the litigation. *Gunter*, 223 F.3d at 199. Since the inception of this case through August 31, 2025, over one thousand hours of attorney and other professional/paraprofessional time were expended. Jt. Decl., ¶¶ 26-27; *See also*, Graifman Decl., ¶ 5; Sobran Decl., ¶ 5. Based on past experience with consumer automotive products liability defect class actions, including managing the settlement process of such matters, it is estimated that each firm will spend over an additional approximately 350-800 hours between now and the final conclusion of the Action working on future necessary activities.

(Jt. Decl., ¶¶ 26, 27, 32).⁸ The necessary future anticipated work includes interacting with Settlement Class Members seeking guidance and posing questions via phone and email as to the Settlement terms, the claims process and the rights and remedies of Settlement Class Members going forward under the Settlement; the status of submitted claims; assistance with curing deficient claims; the administrative appeal process and attorney review of claim denials; assisting class members requesting exclusion; addressing objections, if any, with respect to the Settlement; coordinating with defense counsel and the Settlement Administrator as to issues concerning claims and payments; reviewing and addressing miscellaneous administrative issues that are certain to occur; overseeing the final distributions and administration; addressing any questions or issues raised by Settlement Class Members in relation to the prospective repairs under the warranty extension where issues inevitably arise at the dealerships; researching, drafting, revising and finalizing the final approval motion papers; addressing any issues in connection with the final approval motion and final approval reply papers; and, attending the final approval hearing before the Court. *See* Jt. Decl., ¶ 32.

⁸ *See Hanlon v. Chrysler Corp.* 150 F.3d 1011, 1029-30 (9th Cir.1998) recognizing that class counsel should be entitled to payment for the future work required of them. (“Class counsel presented affidavits to the district court justifying their fees on the basis of their work on the individual state class actions. The fee award also includes all future services that class counsel must provide through the life of the latch replacement program. They must remain available to enforce the contractual elements of the settlement agreement and represent any class members who encounter difficulties. The factual record provides a sufficient evidentiary basis for the district court’s approval of the fee request.”).

To date, the time incurred by Class Counsel has included, *inter alia*: the time spent in the initial investigation of the case; researching complex issues of law; preparing and filing the initial complaint; reviewing documents produced by VWGoA; working with expert witnesses; engaging in hard-fought settlement negotiations; Settlement documentation; preparing the opposition to VWGoA's various motions to dismiss; preparing and serving the first amended complaint; preparing and serving the second amended complaint; preparing and serving the third amended complaint; and researching and briefing issues relating to the preliminary and final approval of the Settlement as well as a plethora of other required work (*see* Jt. Decl., ¶ 32; Graifman Decl., ¶ 2; Sobran Decl., ¶ 3).⁹ The accumulated hours are reasonable for a complex class action case. As noted, Class

⁹ These activities also include vetting communications with clients, prospective class members and class members; researching and drafting portions of the memorandum of law in opposition to motions to dismiss; preparation of documents for service upon VWGoA; attending court conferences and argument before the court; negotiating the agreement concerning perimeters of the discovery from VWGoA; submission of *pro hac vice* application of co-counsel; receiving and reviewing document production from defendants; contacting and reviewing the matter with experts; settlement conferences and litigation strategy with co-counsel; settlement conferences with all parties; preparing for mediation sessions; research and review of file materials to prepare pre-mediation briefing; submission of pre-mediation materials; preparation and negotiation of term sheet in connection with substantive settlement; legal research, review of file, review comparable settlements in PACER and Westlaw databases; prepare, review and revise settlement agreement; review, revise and negotiate language for Settlement Agreement exhibits (draft class notice, settlement claim form, Preliminary Approval Order and proposed Final Approval Order); conferences with counsel for VWGoA regarding settlement documents; preparation of Preliminary Approval Motion and joint declarations of counsel in support thereof; coordinate and complete exhibits for preliminary approval; prepare, revise and finalize memorandum of law in support of Preliminary Approval Motion; coordinating with court-appointed claims administrator on drafts and finalize the class communications and settlement class notices, settlement claim form and claims deficiency notices.

Counsel's submission today estimates the anticipated future time spent going forward – both in preparing and presenting arguments on final approval, defending the settlement from any objections and/or appellate or other attacks that may result, or assisting Class Members with the claims process. *See, Hanlon*, 150 F.3d at 1029-30.

Thus, this fifth *Gunter* factor weighs in favor of approving the attorneys' fees request.

6. Awards in Similar Cases

With respect to the last *Gunter* factor, the \$1.95 million award requested is modest and is less than comparable awards approved in similar cases. *See In re Volkswagen Timing Chain Product Liability Litigation*, Civil Action No. 16-2765-JLL (D.N.J.) (awarding attorneys' fees of \$8.6 million, representing a 1.8 multiple of lodestar); *Coffeng v. Volkswagen Group of America, Inc.*, Civil Action No. 2:17-cv-01825-JD (N.D.Cal.) (approving award of \$2.4 million in water pump class action settlement (ECF No. 106), representing a multiple of 2.09); *Vaughn v. Am. Honda Motor Co.*, 627 F. Supp.2d 738, 750-51 (E.D. Tex. Sept. 28, 2007) (granting adjusted lodestar of \$9,500,000.00 where proposed settlement provides class members with lease and warranty extensions based on defective odometer claim).

**D. The Value of the Settlement and Benefit Conferred
Demonstrate the Fee should be Approved**

Class Counsel estimate the value of the Agreement's components based in part on documents provided by VWGoA in confirmatory discovery, including the warranty claim rate for the Settlement Class Vehicles during their respective NVLW periods.¹⁰ (Jt. Decl., ¶¶ 20-22). Class Counsel conservatively estimate that the total value of claims herein would equal approximately \$9.89 million. Thus, the fee request of \$1.95 million is a modest 19.7% of the estimated Settlement's value.

**E. Class Counsel's Lodestar Demonstrates the Requested
Fees and Expenses are Fair and Reasonable**

In addition to analysis under the benefit-conferred methodology supporting the fee and expense award requested, the lodestar analysis in this Action also more than reasonably supports the requested fee and expense award. In determining the reasonableness of the lodestar, the Court need not engage in a "full-blown lodestar inquiry." *In re AT&T Corp.*, 455 F.3d at 169 n.6. Where there have been no objections to the lodestar calculations, "a full-blown lodestar analysis is an unnecessary and inefficient use of judicial resources." *Dewey v. Volkswagen of America*, 728 F.Supp.2d 546, 592 (D.N.J. 2010). To calculate the lodestar amount, counsel's reasonable hours spent on the litigation are multiplied by counsel's

¹⁰ The information cited herein is based on confidential documents produced by VWGoA during confirmatory discovery. If the Court requires further information as to this estimate, counsel is prepared to provide it *in camera*.

reasonable rates. *See Pennsylvania v. Del. Valley Citizens' Council for Clean Air*, 478 U.S. 546, 565 (1986).

Class Counsel incurred, and will continue to incur additional time in connection with the continued work in this case. Class Counsel have spent over one thousand hours to date and will spend an additional 350-800 hours shepherding the action, addressing issues relating to claims administration and the claims process to final conclusion. Jt. Decl. ¶¶ 26-28. The hours incurred and to be incurred were on matters for the benefit of the litigation and in representation of the Settlement Class. Given the effort expended and the complexity of the legal and factual issues involved and the result achieved, the hours incurred (and to be incurred) are entirely reasonable.

The hourly rates vary appropriately between attorneys and paralegals, depending on the position, experience level, and locale of the particular attorney. The rates for each individual attorney and paralegal are set forth in Class Counsel's declarations and in the exhibits to the declarations. Jt. Decl., ¶¶ 26-31 and n.9; Graifman Decl., ¶¶ 3-4 and Exh. 1; Sobran Decl., ¶ 5. As noted in footnote 10 of the Joint Declaration, the attorneys' fee award request is based on Mr. Graifman's hourly rate approved in recent class action Settlements. Mr. Sobran's current hourly rate is \$850.00.¹¹ The lodestar rates requested here are based on a reasonable hourly

¹¹ Mr. Sobran's old hourly rate of \$750.00 dates back more than 7 years was approved in *Coffeng*

billing rate for such services given the geographical area, the nature of the services provided and the experience of the attorneys. *Gunter*, 223 F.3d at 195.

Taking into account the several factors discussed above, including the economic benefits of the Settlement, the complexity and risk of the litigation, and the skill and experience of counsel, Class Counsels' requested rates are reasonable. Altogether, this yields a collective lodestar based solely on the current time for Class Counsel (up to and through August 31, 2025) of approximately \$831,625 in lodestar, and a total of \$14,609.67 in expenses which will be paid entirely from the single \$1,950,000.00 fee award sought. Notably, this does not account for the additional time that remains to be expended by Class Counsel to bring this litigation to conclusion. The additional time is estimated as between 350 to 800 hours. If the midpoint of 575 hours is used and the average rate of \$500 per hour is used, the additional time would be approximately \$287,500. The total hours will then equal approximately 1,608 hours and the total lodestar would equal \$1,119,125.

The lodestar request represents an anticipated multiple of **1.73** (subject to further confirmation in Class Counsel's supplemental submissions).¹²

and several other national class action automotive settlements.

¹² The actual fee portion of the requested fee and expense award is \$1,935,930.33 after deduction of the \$14,609.67 of expenses from the total. Using only the current lodestar of \$831,625, the multiplier is a modest 2.33.

V. THE CLASS REPRESENTATIVE SERVICE AWARD SHOULD BE APPROVED

Service awards for class representatives promote the public policy of encouraging individuals to undertake the responsibility of representative lawsuits. The efforts of the Class Representative were instrumental in achieving the Settlement on behalf of the Class and justify the award requested here. The Class Representative came forward to prosecute this litigation for the benefit of the class as a whole. She sought successfully to remedy a widespread wrong and have conferred valuable benefits upon her fellow class members. The Class Representative provided a valuable service to the class by: (a) providing information and input in connection with the drafting of the complaint; (b) overseeing the prosecution of the litigation; (c) participating in early initial discovery; (d) consulting with counsel during the litigation; and, (f) offering advice and direction at critical junctures, including the Settlement of the Action. A \$3,500.00 incentive award for the Class Representative in recognition of her services to the class is modest under the circumstances, and well in line with awards approved by federal courts in New Jersey and elsewhere. *Bernhard v. TD Bank, N.A.*, 2009 WL 3233541, at *2 (D.N.J. Oct. 5, 2009) (“[C]ourts routinely approve incentive awards to compensate named plaintiffs for services they provided and the risks they incurred during the course of the class action litigation.”) (quoting *Cullen*, 197 F.R.D. at 145); *McGee*, 2009 WL 539893 at *18 (quoting *In re Lorazepam &*

Clorazepate Antitrust Litig., 205 F.R.D. 369, 400 (D.D.C.2002)) (“Incentive awards are ‘not uncommon in class action litigation and particularly where ... a common fund has been created for the benefit of the entire class.’ ”); *In re Am. Investors Life Ins. Co. Annuity Mktg. & Sales Practices Litig.*, 263 F.R.D. 226, 245 (E.D. Pa. 2009) (awarding representative plaintiffs incentive payments in the amounts of \$10,500.00 and \$5,000.00, for a total of \$115,000.00, finding those amounts to be “reasonable compensation considering the extent of the named plaintiffs’ involvement and the sacrifice of their anonymity.”); *Bezio*, 655 F. Supp. 2d at 168 (incentive awards in the amount of \$5,000.00 each are “within the range of awards found acceptable for class representatives.”). Here, as with the negotiated fee-and-expense award, the incentive award of \$3,500.00 to the Class Representative is particularly uncontroversial and no deduction from the Settlement payments to class members will be made to make such payment. Plaintiffs and Class Counsel respectfully request that the incentive award provided for in § VIII (C) of the Settlement Agreement be approved.

VI. CLASS COUNSEL’S EXPENSES ARE REASONABLE AND SHOULD BE APPROVED

In addition to being entitled to reasonable attorneys’ fees, it is well-settled that prevailing Plaintiffs’ attorneys are “entitled to reimbursement of reasonable litigation expenses.” *Carroll v. Stettler*, No. 10-2262, 2011 U.S. Dist. LEXIS 121185, at *26 (E.D.Pa. Oct. 19, 2011) (citing *In re GMC Pick-Up Fuel Tank Prods.*

Liab. Litig., 55 F.3d at 820 n.39); *see also In re Safety Components Int'l, Inc.*, 166 F. Supp. 2d 72, 108 (3d Cir. 2001) (“Counsel for a class action is entitled to reimbursement of expenses that were adequately documented and reasonably and appropriately incurred in the prosecution of the class action.”) (citing *Abrams v. Lightolier, Inc.*, 50 F.3d 1204, 1225 (3d Cir. 1995)).

Class Counsel’s out-of-pocket expenses incurred in this litigation currently total approximately \$14,609.67. Jt. Decl. ¶ 35; *see also* Graifman Decl., ¶¶ 8-9 and Exh. 2; Sobran Decl., ¶ 7 and Exh. 1. The expenses are of the type typically billed by attorneys to paying clients in the marketplace and include such costs as court filing fees, copying fees, computerized research, travel in connection with this litigation, mediator fees, discovery expenses and similar costs. All of the expenses incurred were reasonable and necessary for the successful prosecution of this case and should be approved. Class Counsel will incur additional expenses on this case going forward, including working with the Claims Administrator, communicating with Settlement Class Members, and research with respect to the Final Approval Hearing. As a part of their Settlement Agreement, the Parties agreed that Plaintiffs would seek attorneys’ fees and reimbursement of expenses not to exceed a total of \$1.95 million. Class Counsel requests the Court approve this amount.

CONCLUSION

Class Counsel respectfully submit that the award of attorneys' fees and reimbursement of expenses are justified and are fair, reasonable and adequate. Similarly, the Class Representative Service Award is fair, reasonable and adequate. Accordingly, Plaintiff respectfully submits the request for attorneys' fees and reimbursement of expenses and the service fee award all be approved in the amounts requested. A proposed Final Order and Judgment will be submitted upon filing of the Motion for Final Approval of the Settlement.



Gary S. Graifman, Esq.
Daniel C. Edelman, Esq.
**KANTROWITZ, GOLDHAMER
& GRAIFMAN, P.C.**
135 Chestnut Ridge Road
Montvale, NJ 07645
Tel: (201) 391-7000
ggraifman@kgglaw.com
dedelman@kgglaw.com

Thomas P. Sobran, Esq.
THOMAS P. SOBRAN, P.C.
7 Evergreen Lane
Hingham, MA 02043
(781) 741-6075
tsobran@sobranlaw.com
(admitted *pro hac vice*)

Attorneys for Plaintiffs

Dated: September 30, 2025

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

JULIE KIMBALL,
Individually and on behalf of all others
similarly situated,

Plaintiffs,

v.

Civil Action No. 2:22-cv-04163-JMV-MAH

VOLKSWAGEN GROUP OF AMERICA,
INC.,

Defendant.

**JOINT DECLARATION OF GARY S. GRAIFMAN AND THOMAS P. SOBRAN IN
SUPPORT OF AN AWARD OF ATTORNEYS' FEES, REIMBURSEMENT OF
EXPENSES AND AWARD OF CLASS REPRESENTATIVE SERVICE PAYMENTS**

GARY S. GRAIFMAN and THOMAS P. SOBRAN declare pursuant to 28 U.S.C. § 1746 under the penalties of perjury as follows:

1. Gary S. Graifman is a shareholder of the law firm Kantrowitz, Goldhamer & Graifman, P.C. (hereinafter "KGG") and Thomas P. Sobran is the sole proprietor of Thomas P. Sobran, P.C. (hereinafter "TPS" or "Sobran"). Each firm was appointed settlement class counsel by this Court pursuant to the Order Granting Preliminary Approval of Class Action Settlement, Directing Notice to the Class, and Setting a Hearing for Final Approval (hereinafter "Preliminary Approval Order") entered May 30, 2025. ECF No. 106.¹ In the Preliminary Approval Order, the Court also preliminarily approved the class action settlement, conditionally certified the class, as defined below, and approved the notice to be sent to settlement class members (hereinafter

¹ These two firms hereinafter are referred to as "co-lead counsel" or "settlement class counsel."

“Settlement Class” or “Settlement Class Member(s)”).

2. Co-lead counsel were directly involved in, responsible for, and have personal knowledge of all aspects of this class action (hereinafter “Action”). Settlement class counsel (also referred to herein as “Class Counsel”) submit this declaration in support of the motion for an award of attorneys’ fees and reimbursement of expenses and approval of payment of service award of \$3,500.00 to the settlement class representative.² The date set for filing the motion for final approval of the settlement (hereinafter “Settlement Agreement”) and final certification of the Settlement Class pursuant to the Preliminary Approval Order is December 4, 2025.

INTRODUCTION AND OVERVIEW

3. The Settlement Agreement resolving this Action provides substantial benefits to the Settlement Class (as described *infra*) and is the culmination of extensive arm’s-length negotiations of a vigorously contested case where all parties were represented by experienced attorneys. This Action and Settlement Agreement involves present and former owners/lessees of certain specific Volkswagen and Audi brand vehicles, distributed by Volkswagen Group of America, Inc. and Audi of America, Inc. (collectively “VWGoA” or “Defendant”) in the United States and Puerto Rico, equipped with Generation 1, Generation 2 or Generation 3 EA888 engines (as delineated in § I (X)(1)-(3) of the Agreement), and specifically identified by Vehicle Identification Number (“VIN”) on VIN lists attached as Exhibits 4A-C to the Settlement Agreement (hereinafter “Class Vehicles”), incorporating allegedly defective turbochargers that prematurely failed. Class Vehicles are specifically identified in the Settlement Class notice sent

² Unless otherwise defined herein, capitalized terms have the same meaning as set forth in the Settlement Agreement which has been previously filed with the Court and is annexed hereto as **Exhibit “1.”**

to the Settlement Class Members.³ The complaint alleges Class Vehicles have defective turbochargers that failed or malfunctioned, causing monetary loss. Plaintiffs alleged that VWGoA concealed a defect in design, material, manufacturing, and/or workmanship in the class engine turbocharger which resulted in premature failure, forcing Plaintiffs to incur out of pocket costs to repair or replace the defective turbocharger, and causing turbocharger failure before the end of the useful life of the engine.

4. The complaint also alleges VWGoA never disclosed the defect to Plaintiff or the Class. Defendants are alleged to have improperly transferred the cost of repair and/or replacement of the defective turbochargers to Plaintiff and Class Members by allegedly concealing the

³ Settlement Class Vehicles are defined as specific Volkswagen and Audi brand vehicles, distributed by VWGoA in the United States and Puerto Rico, which are equipped with Generation 1, Generation 2 or Generation 3 EA888 engines (as delineated in (i)-(iii) below) and specifically identified by Vehicle Identification Number (“VIN”) on VIN lists that are attached as Exhibits 4A-C to the Settlement Agreement.

(i) Generation 1 Settlement Class Vehicles means certain of the following Settlement Class Vehicles equipped with Generation 1 EA888 engines: certain model year 2008-2014 VW GTI and Golf R vehicles, 2012-2013 VW Beetle vehicles, 2009 VW Jetta Sportwagen vehicles, 2008-2013 VW Jetta Sedan and GLI vehicles, 2009-2016 VW Eos vehicles, 2008-2010 VW Passat vehicles, 2009-2017 VW CC vehicles, 2009-2018 VW Tiguan vehicles, 2008-2009 Audi A3 11 vehicles, and 2015-2018 Audi Q3 vehicles, which are specifically identified by Vehicle Identification Number (“VIN”) on a VIN list that is attached as Exhibit 4A to the Agreement.

(ii) Generation 2 Settlement Class Vehicles means certain of the following Settlement Class Vehicles equipped with Generation 2 EA888 engines: 2009-2014 Audi A4 vehicles, 2010-2014 Audi A5 vehicles, 2013-2015 Audi A6 vehicles, 2011-2014 Audi Q5 vehicles, and 2011-2012 Audi TT vehicles, which are specifically identified by Vehicle Identification Number (“VIN”) on a VIN list that is attached as Exhibit 4B to the Agreement.

(iii) Generation 3 Settlement Class Vehicles means certain of the following Settlement Class Vehicles equipped with Generation 3 EA888 engines: 2015-2018 VW Golf vehicles, 2015-2021 VW GTI vehicles, 2015-2019 VW Golf R vehicles, 2015-2019 VW Golf Sportwagen and Alltrack vehicles, 2019-2024 VW Jetta GLI vehicles, 2019-2021 VW Arteon vehicles, 2018-2023 VW Atlas vehicles, 2020-2023 VW Atlas Cross Sport vehicles, 2015-2020 Audi A3, 2019-2024 Audi Q3 vehicles, and 2016-2023 Audi TT vehicles, which are specifically identified by Vehicle Identification Number (“VIN”) on a VIN list that is attached as Exhibit 4C to the Agreement.

existence of the turbocharger defect. Engine turbocharger repairs cost upwards of approximately \$3,000.00 depending on the model and year of the Class Vehicle.

5. VWGoA maintains that the putative Class Vehicles and their turbochargers function properly and are not defective, that no applicable warranties (express or implied) were breached, that no common law or legal duties or applicable statutes, laws, rules and/or regulations were violated, that the Class Vehicle components and systems were properly designed, tested, manufactured, distributed, marketed, advertised, warranted, and sold, and that Plaintiffs and the putative class do not have valid claims for liability or damages.

6. Plaintiff and the Class in this Action are owners and/or lessees of Class Vehicles subject to turbocharger failure. Plaintiffs' extensive independent investigation into the alleged issues, and informal discovery (and the subsequent notice process) disclosed that there are approximately 1.7 million Settlement Class Vehicles nationwide. The Claims Administrator, JND Legal Administration, confirmed that Settlement Class Member Notices were sent out in September 15, 2025 to 3,929,514 past and present owners and lessees of Class Vehicles.

7. This Action was filed on June 21, 2022 (ECF No. 1) asserting various individual and putative class claims on behalf of Plaintiff and a nationwide class and California state subclass. Prior to filing the initial complaint, Plaintiff's counsel conducted a thorough investigation into the instant claims and allegations. During the course of the action, the Plaintiff and Defendant exchanged disclosures and other information that enabled them to properly assess the strengths and weaknesses of their respective positions, claims and defenses.

8. On September 15, 2022, Defendant filed a motion to dismiss the complaint (ECF No. 20), which, after full briefing, was granted by the Court on March 2, 2023, with leave for Plaintiff to replead the claims in an amended complaint. *See* ECF No. 29. On March 31, 2023,

Plaintiff filed an amended complaint alleging substantially similar facts and class claims sounding in fraud, breach of express warranties, negligent misrepresentation, and various violations state consumer protection statutes. *See* ECF No. 30. On May 15, 2023, Defendant filed a motion to dismiss the amended class action complaint (ECF No. 33), which, on August 28, 2023, the Court granted in part and denied in part, with leave to replead. *See* ECF No. 45. On October 6, 2023, Plaintiff filed a second amended class action complaint asserting parallel causes of action. *See* ECF No. 51. On December 11, 2023, Defendant filed a motion to dismiss the second amended class action complaint (ECF No. 60), which the Court granted in part and denied in part on September 3, 2024, again with leave to replead. *See* ECF No. 78. On November 14, 2024, Plaintiff filed her third amended class action complaint. *See* ECF No. 85. Plaintiff and VWGoA then commenced engaging in discussions for settlement.

SETTLEMENT NEGOTIATIONS AND SETTLEMENT TERMS

9. Class Counsel and Defendant's Counsel conducted vigorous arm's-length negotiations over a substantial period of time. Counsel for the Parties held multiple negotiation sessions, which involved numerous communications via telephone, email and videoconference. Over the course of the several months, vigorous and extensive arm's-length negotiations of the disputed claims ensued. Defendant provided Class Counsel with relevant confirmatory discovery, thus counsel on both sides possessed adequate knowledge of the facts, issues, and the strengths or weaknesses of their respective positions. Following further vigorous arm's-length negotiations, Class Counsel and Defendant's Counsel ultimately came to agreement upon the specific terms and conditions of the formal Settlement Agreement. No discussions concerning attorney fees occurred prior to execution of the term sheet. After further protracted negotiations, the Settlement Agreement was fully executed on January 6, 2025.

10. Thereafter, the Parties engaged in mediation through the auspices of JAMS with an experienced mediator, Bradley Winter. Extensive negotiations through the mediator led to resolution of the attorney fee issue. VWGoA and Class Counsel agreed that Class Counsel may apply for the following fee, case expense reimbursement and class representative participation payments, subject to court review and approval: Plaintiff would submit a request for attorneys' fees and reimbursement of expenses in the amount of \$1.95 Million; and a participation service payment for the class representative of \$3,500.00. Both payments would be paid by VWGoA separately and not diminish class relief.

11. A formal settlement agreement was negotiated and drafted together with a notice plan and exhibits to the Settlement Agreement. The Settlement Agreement was executed on or about January 6, 2025. The Court entered its Order Granting Preliminary Approval of the Class Action Settlement ("Preliminary Approval Order") and Notice Plan on May 30, 2025 (ECF No. 106). The Notice Plan was implemented in accordance with the Preliminary Approval Order in September 2025.

12. The numerous in-person and remote settlement negotiations, conducted at arm's-length, were intensive, and at times, contentious. VWGoA vigorously disputed Plaintiff's claims and maintained there was no defect in the engine turbochargers or any non-disclosure or consumer statute violation entitling Plaintiff to any damages in this action. VWGoA also contended, and would no doubt continue to contend, that failures of the turbochargers were the result of normal and expected wear and tear that passenger vehicle engines experience over time and/or were the result of improper maintenance. VWGoA would likely continue to argue the durational limits of the existing turbochargers and engines are not procedurally or substantively unconscionable.

13. After approximately three years of contentious litigation and settlement negotiations, and with the assistance of this Court, Class Counsel achieved an exceptional result for Settlement Class Members in extending the warranty for Class Vehicles. The Settlement benefits members whose vehicles have experienced turbocharger failure prior to the notice date and within 8.5 years or 85,000 miles (whichever occurred first) from the vehicle's in-service date, paid out-of-pocket expense to repair or replace a turbocharger failure will receive 50% of the qualified amount paid. Additionally, the Settlement benefits Settlement Class Members in the event their vehicles experience a turbocharger failure after the notice date and within that 8.5 year or 85,000-mile period. The claims period for Settlement Class Members to request reimbursement under the Settlement Agreement runs through 75 days after the September 15, 2025 Notice Date and provides more than a reasonable period of time to request reimbursement relief. (ECF No. 106). The Settlement terms also provide a reasonable period within which Settlement Class Members can cure any deficiencies in the proof submitted in support of their reimbursement claims.⁴

14. The nationwide settlement will resolve all claims before this Court. The Settlement Agreement consists of two distinct programs: a reimbursement program to compensate Settlement Class Members for a meaningful portion of the out-of-pocket payments made for past turbocharger repairs or replacements, within the time and mileage schedule described below and a warranty extension that enlarges the warranty for defective or malfunctioning turbochargers for a period of 8.5 years or 85,000 miles (whichever occurs first) of the vehicle in-service date. Under the reimbursement portion of the Settlement Agreement, VWGoA agrees to reimburse the specified

⁴ The Settlement terms are more particularly described in the Brief in support of this motion being filed concurrently, and the Settlement Agreement §II.

percentage of the paid repair invoice amount for the covered part(s) and labor for repair or replacement of the turbochargers within 8.5 years or 85,000 miles (whichever occurs first) from the Settlement Class Vehicle's in-service Date and prior to the Notice Date. *See* Settlement Agreement at § II.

15. To obtain monetary benefits, Settlement Class Members submit a simple claim form (included in the notice packets with the Class Notice), with the required documentary proof (repair records and receipts) showing, *inter alia*, the existence of a turbocharger failure or malfunction, the amount paid for the repairs necessitated by a failed turbocharger, proof of ownership and reasonable adherence to the vehicle's engine maintenance schedule. The Settlement Agreement allows for reimbursement of fifty percent (50%) of the past paid out-of-pocket expense for one repair or replacement of the failed or malfunctioned turbocharger per Class Vehicle. *Id.*⁵

16. Settlement Class Members may also file a claim form electronically online at the settlement website's claims portal at www.TurboClassSettlement.com. The settlement website provides links to relevant case documents including copies of the Preliminary Approval Order, Class Notice, claim form and papers filed in connection with this motion for attorney's fees, expenses and class representative service awards.

Extended Warranty Benefits

17. The Settlement Agreement also provides another valuable benefit to eligible Settlement Class Members by extending the New Vehicle Limited Warranties to cover fifty percent (50%) of Settlement Class Vehicle turbocharger repairs or replacements by an authorized

⁵ If the invoice does not specify the turbocharger repair or placement was the result of a failed wastegate or fork head, there is still a reimbursement, at an amount of 40%.

Audi dealer (if an Audi vehicle) or Volkswagen dealer (if a VW vehicle), of a failed or malfunctioning turbocharger of said vehicle if the cause of the failure or malfunction was that the wastegate failed due to fork head and/or link pin corrosion, for a period of 8.5 years or 85,000 miles (whichever occurs first) from the in-service date of the Settlement Class Vehicle. If, as of the Notice Date, a Generation 3 Settlement Class Vehicle is more than 8.5 years of age from its In-Service Date, then the Warranty Extension's time duration for that vehicle will be extended until sixty (60) days after the Notice Date or 85,000 miles from vehicle's the In-Service Date, whichever occurs first. The Warranty Extension is subject to the same terms, conditions, and limitations set forth in the Settlement Class Vehicle's original NVLW and Warranty Information Booklet, and shall be fully transferable to subsequent owners to the extent that its time and mileage limitation periods have not expired. The Warranty Extension shall not cover or apply to turbocharger/wastegate failures or malfunctions due to abuse, misuse, alteration or modification, lack of proper maintenance, a collision or crash, vandalism and/or other impact, or damage from an outside source.

18. As discussed earlier, there are approximately 1.7 million Class Vehicles. Approximately 3,929,514 Class Notices were sent advising Class Vehicle owners of the proposed Settlement. Because the notice packets were recently mailed on September 15, 2025, (and the settlement website went live simultaneously with the notice packet mailing), Class Counsel do not yet have any indication as to the extent of objections, if any. Class Counsel expect to respond to any such objections, if any, in the subsequent filings scheduled for such responses.

19. Class Counsel estimate the value of the Settlement's benefit on a class wide basis to be a conservatively estimated minimum of approximately \$9.89 million, not including the costs of Class Notice and administration.

20. The warranty extension afforded to owners and lessees as a result of the Settlement is from eight and one-half (8.5) years or 85,000 miles (whichever comes first) which adds one (1) additional year to the warranty and an additional 15,000 miles (the NVLW was, pre-settlement, seven (7) years or 70,000 miles, whichever occurred first).

21. Class Counsel estimate that the owners or lessees of approximately between 7,183 to 14,367 Class Vehicles will file a claim to seek reimbursement under the Settlement or resort to future warranty under the prospective warranty program under the Settlement. This is based on the historical incident rate for repairs occurring during the original NVLW warranty periods for the various class vehicle generations of the subject EA888 engine. It is respectfully submitted that this number is a conservative estimate since, given as the vehicles age, the additional time and mileage manifests turbocharger failures more frequently.

22. Based on this data and using the 50% reimbursement for a qualified repair, Class Counsel believe the total value of the Settlement is conservatively estimated to be \$9.89 million.

**CLASS COUNSEL'S FEE AND EXPENSE APPLICATION
IS FAIR, REASONABLE AND ADEQUATE**

23. Class Counsel undertook the prosecution of the Action entirely on a contingency fee basis and assumed significant risks in prosecuting these claims. Class Counsel understood that they were undertaking expensive and complex litigation with no guarantee of receiving compensation for the enormous investment in time and money automotive defect class actions require. The negotiations in this matter were particularly intense and hard-fought stretching over approximately three years. The litigation was complex and the process of achieving settlement was unique in numerous ways. In addition to briefing the motion to dismiss on behalf of a proposed nationwide class, Class Counsel pursued initial independent discovery and investigation and eventually, confirmatory discovery, including proprietary internal warranty information.

24. If the Action had not settled, Plaintiffs would have pursued a nationwide litigation class. If that was not successful, Class Counsel would have been expected to establish the elements of each state law claim brought on behalf of Plaintiffs. The efforts of Class Counsel were well organized and efficiently managed – indeed, there was no incentive to do otherwise as any compensation is entirely contingent.

25. As noted earlier, there was no “clear sailing” provision agreed to prior to reaching settlement on the merits. The parties could not agree on Class Counsel’s legal fees until much later in the negotiation and settlement process, including only after a third-party neutral mediated the issue and after multiple additional discussions among Class Counsel and Defendant’s Counsel. The benefits Settlement Class Members will enjoy, including the past reimbursement and the extended warranty, are benefits for which Settlement Class Members will pay no legal fees or expenses. Under the Settlement Agreement (if approved by the Court), VWGoA has agreed not to object to a fee and expense application by Class Counsel up to a maximum of \$1.95 million and a \$3,500.00, service award to the class representative. These payments will not reduce any of the benefits afforded to Settlement Class Members.⁶

26. Class Counsel, in the aggregate, have expended to date approximately 1,033.80 hours during the course of this action. However, Class Counsel’s work is not done. Based on experience in other consumer class actions involving defective automobiles, Class Counsel estimate an additional 350-800 hours will be required to shepherd this matter through to completion, including, generally, preparing for filing the motion for final approval, addressing any objections, facilitating and assisting Class Members in the claims reimbursement and claims

⁶ Plaintiffs’ Memorandum of Law in Support of Approval of an Award of Attorneys’ Fees, Reimbursement of Expenses and an Award of Class Representative Service Payments accompanies this joint declaration.

administrative review process and addressing prospective warranty issues as they arise.⁷ Class Counsel estimate the total time expected to be incurred in the within matter is approximately 1,608.80 hours (for a description of the anticipated future time, *see* Graifman Decl., ¶¶ 2-3; Sobran Decl., ¶¶ 5- 6).⁸ The lodestar schedules attached to Class Counsel’s firm declarations, to which declarations are annexed hereto as “**Exhibit “2”**” (Graifman fee declaration for KGG) and **Exhibit “3”**” (Sobran fee declaration for TPS) also anticipate future hours.

27. The actual current and future anticipated lodestar of each firm is set forth as follows:

CLASS COUNSEL TOTAL CURRENT LODESTAR

FIRM NAME	Hours	Lodestar
KGG	558.80	\$427,875
TPS, PC	475	\$403,750
TOTAL	1,033.80	\$831,625

⁷ *See Hanlon v. Chrysler Corp.* 150 F.3d 1011, 1029-30 (9th Cir.1998) recognizing that class counsel should be entitled to payment for future work required of them. (“Class counsel presented affidavits to the district court justifying their fees on the basis of their work on the individual state class actions. The fee award also includes all future services that class counsel must provide through the life of the latch replacement program. They must remain available to enforce the contractual elements of the settlement agreement and represent any class members who encounter difficulties. The factual record provides a sufficient evidentiary basis for the district court’s approval of the fee request.”).

⁸ The hourly rates, the hours incurred, and the lodestars are set forth in each of the declarations submitted herewith by the two firms comprising Class Counsel: Kantrowitz Goldhamer & Graifman, P.C. (“KGG”), Thomas P. Sobran, P.C. (“Sobran” or “TPS”). These materials are submitted here as “**Exhibits 2,**” and “**Exhibit 3**” (*see* Exhibit 1 annexed to the KGG Firm Declaration for respective lodestar amount and ¶5 of Sobran Firm Declaration). In addition, *see* Exhibit 2 to the KGG Declaration and Exhibit 1 to the Sobran Declaration for case expenses incurred. Each of the firm declarations annex their respective firm resumes as Exhibits 3 and 2 respectively thereto.

CLASS COUNSEL CURRENT AND FUTURE ANTICIPATED LODESTAR⁹

FIRM NAME	Hours	Lodestar
KGG & TPS, PC	1,608	\$1,119,125

28. In support of the hourly rates of Class Counsel, counsel submit that they are experienced attorneys in the field of class action litigation who practice regularly in federal courts across the country. The hourly rates for comparable experienced class action lawyers providing similar services are equal to or exceed Class Counsel's rates.

29. Class Counsel have extensive experience litigating and settling nationwide consumer automotive class actions. Messrs. Graifman and Sobran were recently co-lead counsel and a member of the executive committee, respectively, in *In re Volkswagen Timing Chain Prod. Liab. Litig.*, litigated in the District of New Jersey and settled on a nationwide basis.¹⁰ The settlement in that matter involved the timing chain components for approximately 477,000 Volkswagen and Audi vehicles. The settlement claims history there, to date, has resulted in approximately \$21.5 million in paid claims. This amount does not include the warranty extension program which, like the program here, includes post-effective date repairs.

30. Gary S. Graifman and Thomas P. Sobran were recently co-lead counsel in another automotive products liability case also involving defective engine timing chains in approximately 874,781 BMW vehicles. The claims in that matter numbered in excess of 27,000. Final approval was granted on June 10, 2020 and the attorney fee awarded by Judge Cathy L. Waldor was \$3.7

⁹ The additional time is estimated as between 350 to 800 hours. The midpoint of 575 hours is used for this estimate and the average rate of \$500 per hour is used. Based on this, the additional time will be approximately \$287,500. The total hours equal approximately 1,608 hours. The total lodestar equals \$1,119,125.

¹⁰ *In re Volkswagen Timing Chain Prod. Liab. Litig.*, 2:16-cv-02765-JLL (D.N.J.).

million.¹¹

31. Class Counsel further state they are familiar with the hourly rates regularly charged by firms practicing in this field before the federal and state courts of New Jersey. The hourly rates sought by Class Counsel for the services rendered here are in line with the prevailing hourly rates currently charged by class action attorneys with comparable skill, experience, and reputation for the legal services rendered in class action litigation in federal courts of this district.¹² As previously discussed, the fees requested here will be paid by VWGoA over and above the amount of payments to Settlement Class Members and/or the value of the extended warranty work done for Settlement Class Members now and in the future.

32. As noted above, Class Counsel's work in the Action is only partially complete. Substantial work in connection with facilitating the settlement process has only commenced. The Settlement Class Notices were recently disseminated. The necessary future work that will be incurred includes: interacting with Settlement Class Members seeking guidance and posing questions via phone and email as to the Settlement Agreement terms, the claims process, rights and remedies of Settlement Class Members going forward under the settlement and the status of submitted claims; assistance with curing deficient claims; the administrative appeal process and attorney review of claim denials; assisting Settlement Class Members requesting exclusion; addressing objections, if any, with respect to the Settlement Agreement; coordinating with defense counsel and the Claims Administrator, JND Legal Administration, as to issues concerning claims

¹¹ See *Gelis, et al. v. Bayerische Motoren Werke Aktiengesellschaft, et al.*, United States District Court for the District of New Jersey, Civil Action No. 17-cv-7386 WHW-CLW.

¹² By way of example, in *In re: Volkswagen Timing Chain*, the court approved counsel's hourly rates of \$850.00 per hour for Mr. Graifman and \$750.00 per hour for Mr. Sobran. In *Gelis*, the court approved attorneys' fees based on the hourly rate of \$895.00 per hour for Mr. Graifman and \$750.00 per hour for Mr. Sobran.

and payments; reviewing and addressing miscellaneous administrative issues that are certain to occur; overseeing the final distributions and administration, including potential appeals of claims denials; addressing any questions or issues raised by Settlement Class Members in relation to the warranty extension; researching, drafting, revising and finalizing the final approval motion papers; addressing any issues in connection with the final approval motion and final approval reply papers; and, attending the Final Approval Hearing before the Court.

33. With respect to the fee requested here, if the additional anticipated time is taken into consideration, the lodestar would equal approximately \$1,119,125. This is equal to a 1.73 multiplier.¹³

34. Alternatively, as set forth in Plaintiffs' Memorandum of Law in Support of Approval of an Award of Attorneys' Fees, Reimbursement of Expenses and an Award of Class Representative Service Payments, if the valuation of the Settlement discussed above is used, conservatively estimated as \$9.89 million, the requested fee is approximately 19.7% of the Settlement value herein.

35. During the course of the Action, Class Counsel incurred expenses of \$14,609.67. The itemization of these expenses for each firm are set forth in each firm's Declaration in Exhibit 2 (of the KGG Firm Declaration) and Exhibit 1 (of the Sobran Declaration). Each firm declaration is annexed hereto as Exhibits "2" and "3," respectively. In this Action, Class Counsel were extremely efficient in limiting the expenses of the case. Because one of lead counsel is a factory-trained Volvo, BMW and Mercedes-Benz mechanic and service manager (and has testified as an expert witness in automotive cases), Class Counsel did not need to formally retain multiple experts

¹³ The actual fee portion of the requested fee-and-expense award is \$1,935,390.33 after the deduction of \$14,609.67 in expenses as requested.

to inspect various Class Vehicle engine turbochargers and/or or other components in developing their analysis and findings. The expenses incurred here were reasonable and necessary for the prosecution of the Action, are the types of expenses that plaintiffs’ counsel typically incur in complex litigation, and for which plaintiffs’ counsel are typically reimbursed when the Action gives rise to a settlement and final approval. These expenses will be paid separately from, and in addition to, the benefits made available to the Class by VWGoA. Expenses and attorneys’ fees requested do not diminish class relief in any respect. The breakdown of these expenses by firm are as follows:

LAW FIRM EXPENSES

FIRM NAME	Expenses
KGG	\$9,693.42
TPS, PC	\$4,916.25
TOTAL EXPENSES	\$14,609.67

36. In addition, Class Counsel requests an incentive award of \$3,500.00, for the named Settlement Class Representative that will be paid by VWGoA. The Class Representative fully participated in the litigation process on behalf of Settlement Class Members and cooperated in every respect with Class Counsel. The representative provided documentation to Class Counsel as evidence for her claims and the claims of the putative class; reviewed and approved of the pleadings and motions and communicated with counsel about settlement discussions. The Settlement Class Representative played a key role in assuring there would be a recovery for the Class. This individual placed her name in public as the party who litigated this case.


37. Accordingly, Plaintiffs and Class Counsel respectfully request that legal fees and expenses in the amount of \$1.95 Million be approved and that the Court also approve an incentive award of \$3,500.00 for the named Settlement Class Representative.

Under the penalties as provided by law, the undersigned declare that the statements as set forth in this declaration are true and correct to the best of their knowledge.

Dated: September 30, 2025



Gary S. Graffman



Thomas P. Sobran (admitted *pro hac vice*)

EXHIBIT 1

CLASS SETTLEMENT AGREEMENT

This Class Settlement Agreement (the “Settlement Agreement” or the “Agreement”), is made and entered into as of this 6th day of January, 2025, by and between Plaintiff Julie Kimball (“Plaintiff”), individually and as representative of the Settlement Class defined below, and Volkswagen Group of America, Inc. (“VWGoA”) (“Defendant”) (all collectively referred to as the “Parties”).

WHEREAS, on June 21, 2022, Plaintiff filed a putative class action entitled *Julie Kimball, on behalf of herself and all others similarly situated v. Volkswagen Group of America, Inc., et al.*, 2:22-cv-04163-JMV-MAH, United States District Court, District of New Jersey, asserting various individual and putative class claims relating to the turbochargers of the putative class vehicles (hereinafter, “the Action”);

WHEREAS, VWGoA filed Motions to Dismiss Plaintiffs’ original and amended class action complaints (ECF 20, 33, and 60) which were fully briefed, and decided by Orders of this Court dated March 2, 2023 (ECF 28), August 28, 2023 (ECF 45), and September 3, 2024 (ECF 78);

WHEREAS, VWGoA denies Plaintiff’s allegations and claims with respect to both liability and damages, and maintains, *inter alia*, that the putative class vehicles and their turbochargers function properly and are not defective, that no applicable warranties (express or implied) were breached, that no common law or legal duties or applicable statutes, laws, rules and/or regulations were violated, that the subject vehicles’ components and systems were properly designed, tested, manufactured, distributed, marketed, advertised, warranted, and sold, and that the Action is not suitable for class treatment if it were to proceed through litigation and trial;

WHEREAS, the Parties, after investigation and careful analysis of their respective claims and defenses, and with full understanding of the potential risks, benefits, expense, and uncertainty

of continued litigation, desire to compromise and settle all issues and claims that were asserted or could have been asserted in the Action by or on behalf of Plaintiff and members of the Settlement Class;

WHEREAS, the Parties agree that neither this Settlement Agreement and exhibits, the underlying Settlement itself, nor its negotiations, documents, or any filings relating thereto, shall constitute or be construed as, (i) any admission or evidence of liability, damages, or wrongdoing on the part of Defendant or any Released Party, and/or (ii) the existence or validity of any fact, allegation, claim, and/or issue of law that was or could have been asserted in the Action, all of which are expressly denied by Defendant.

WHEREAS, this Settlement Agreement is the result of vigorous and extensive arm's length negotiations of highly disputed claims, with adequate knowledge of the facts, issues, and the strengths or weaknesses of the Parties' respective positions, and with the assistance of an experienced neutral Mediator from JAMS; and

WHEREAS, the Settlement is fair, reasonable, and adequate; in all respects satisfies the requirements of Fed. R. Civ. P. 23; and is in the best interests of the Settlement Class.

NOW, THEREFORE, in consideration of the mutual promises and agreements set forth below, the Parties hereby agree as follows:

I. DEFINITIONS

A. "Action"

"Action" refers to the putative class action entitled *Julie Kimball, on behalf of herself and all others similarly situated v. Volkswagen Group of America, Inc., et al.*, 2:22-cv-04163-JMV-MAH, pending in the United States District Court for the District of New Jersey.

B. “Agreement,” “Settlement,” or “Settlement Agreement”

“Agreement,” “Settlement,” or “Settlement Agreement” means this Settlement Agreement including all terms, provisions and conditions embodied herein and all attached Exhibits (which are an integral part of, and incorporated by reference in, this Settlement Agreement).

C. “Claim Administrator” or “Settlement Administrator”

The “Claim Administrator” or “Settlement Administrator” shall mean JND Legal Administration.

D. “Claim” or “Claim for Reimbursement”

“Claim” or “Claim for Reimbursement” means the timely and proper mailing or submission online, to the Claim Administrator, of the required fully completed, signed, and dated Claim Form, together with all required Proof of Repair Expense documents (as defined in Section I.S. of this Agreement), and to the extent required under the terms of this Settlement, Proof of Adherence to Maintenance Requirements (as defined in Section I.R. of this Agreement) and other required documentation, in which a Settlement Class Member (as defined in Section I.V. of this Agreement) seeks to claim reimbursement for a percentage of certain past paid and unreimbursed out-of-pocket repair expenses pursuant to the terms, conditions and limitations set forth in Section II.B. of this Settlement Agreement.

E. “Claim Form”

“Claim Form” means the form that must be fully completed, signed, dated, and timely mailed to the Claim Administrator or timely submitted through the Settlement Website, together with all required Proof of Repair Expense, Proof of Adherence to Maintenance Requirements documentation, and any other required documentation in order to make a Claim for Reimbursement under the terms of this Settlement Agreement, which Claim Form will be substantially in the form attached hereto as Exhibit 1.

F. “Claim Period”

“Claim Period” means the period of time within which a Claim for Reimbursement under this Settlement must be mailed (postmarked) or submitted online to the Claim Administrator, which period shall expire seventy-five (75) days after the Notice Date.

G. “Class Counsel” or “Plaintiff’s Counsel”

“Class Counsel” or “Plaintiff’s Counsel” shall mean Kantrowitz, Goldhamer & Graifman, P.C. and Thomas P. Sobran, P.C.

H. “Class Notice”

“Class Notice” means the postcard Class Notice that will be mailed to the Settlement Class, which will be substantially in the form attached hereto as Exhibit 2, and the long form Class Notice that will be made available on the Settlement Website, which will be substantially in the form attached hereto as Exhibit 3.

I. “Class Notice Plan” or “Notice Plan”

“Class Notice Plan” or “Notice Plan” means the plan for disseminating the Class Notice to the Settlement Class as set forth in Section IV of this Settlement Agreement, and includes any further notice provisions that may be agreed upon by the Parties.

J. “Court”

“Court” means the United States District Court for the District of New Jersey, located in Newark, New Jersey.

K. “Defense Counsel”

“Defense Counsel” means Shook, Hardy & Bacon L.L.P.

L. “Effective Date”

“Effective Date” means the third business day after: (1) the Court enters a Final Order and Judgment approving the Settlement Agreement, substantially in the form agreed upon by counsel

for the Parties, and (2) all appellate rights with respect to said Final Order and Judgment, other than those related solely to any award of attorneys' fees, costs or service/incentive payments, have expired or been completely exhausted in such a manner as to affirm such Final Order and Judgment. "Appellate rights" will presumptively be deemed to have expired or been completely exhausted if after thirty (30) days after the Judgment is filed, no Notice of Appeal has been filed by any class member.

M. "Fee and Expense Application"

"Fee and Expense Application" means Class Counsel's application for an award of reasonable attorneys' fees, costs, and expenses ("Class Counsel Fees and Expenses"), and for a Class Representative Service Award.

N. "Final Fairness Hearing"

"Final Fairness Hearing" means the hearing at or after which the Court will determine whether to grant final approval of the Settlement as fair, reasonable, and adequate under Fed. R. Civ. P. 23(e).

O. "Final Order and Judgment"

"Final Order and Judgment" means the Final Order and Judgment granting final approval of this Settlement Agreement and dismissing the Action with prejudice, the form of which will be agreed by the Parties and submitted to the Court prior to the Final Fairness Hearing.

P. "In-Service Date"

"In-Service Date" means the date on which a Settlement Class Vehicle was first delivered to either the original purchaser or the original lessee; or if the vehicle was first placed in service as a "demonstrator" or "company" car, on the date such vehicle was first placed in service.

Q. “Notice Date”

“Notice Date” means the Court-ordered date by which the Claim Administrator shall mail the Class Notice of this Settlement to the Settlement Class, substantially in the form attached hereto as Exhibit 2. The Notice Date shall be a date that is up to one-hundred (100) days after the Court enters a Preliminary Approval Order.

R. “Proof of Adherence to Maintenance Requirements”

“Proof of Adherence to Maintenance Requirements” means original or legible copies of documents or records evidencing the Settlement Class Member’s adherence to the oil maintenance aspects of the Settlement Class Vehicle’s maintenance schedule set forth in the Warranty and Maintenance Booklet during the time he/she/it owned and/or leased the vehicle up to the date/mileage of the covered repair or replacement, within a variance of ten percent (10%) of each scheduled time and mileage oil maintenance interval. If, however, the Settlement Class Member is unable to obtain said documents or records despite a good faith effort to obtain them, the Settlement Class Member may submit a Declaration, signed under penalty of perjury, detailing: (i) the good faith efforts that were made to obtain the records including why the records are not available, and (ii) attesting to adherence to the oil maintenance aspects of the vehicle’s maintenance schedule during the time he/she/it owned or leased the vehicle, up to the date and mileage of the covered repair or replacement, within the ten percent (10%) variance set forth above.

S. “Proof of Repair Expense”

“Proof of Repair Expense” shall mean all of the following: (1) an original or legible copy of the repair invoice for the subject repair, containing the claimant’s name, the make and model and Vehicle Identification Number (VIN) of the Settlement Class Vehicle, the name and address of the dealer or repair shop that performed the repair covered under this Agreement, the date of

the covered repair and vehicle mileage at the time of the repair, a description of the repair work including the parts repaired or replaced and a breakdown of parts and labor costs of the covered repair and demonstrating that the repair is, in fact, a covered repair under this Agreement; (2) proof of payment of, and the amount paid for, the covered repair; (3) a declaration, signed by the Settlement Class Member under penalty of perjury, confirming that he/she/it did not alter or modify, or have another person or entity alter or modify, the vehicle's engine prior to the covered repair, and (4) if the person claiming reimbursement is not the person to whom the Class Notice was mailed, proof of ownership or lease of the Settlement Class Vehicle at the time of the covered repair. Any cash payment may be verified by an invoice marked "paid" if the invoice is from an authorized dealer or, if from an independent repair facility (e.g., not an authorized dealer) by an invoice marked "paid" and a declaration from the independent repair facility confirming the payment amount received. In addition, if the covered repair was performed within the vehicle's original NVLW time/mileage period by a facility that was not an authorized Audi or VW dealer, then in addition to the above requirements, the Settlement Class Member must submit records showing that he/she/it first attempted to have the repair completed at an authorized dealer but the dealer refused to or was unable to complete the repair under the warranty. If such records could not be obtained after a good faith effort to obtain them, the Settlement Class Member may submit a declaration signed under penalty of perjury to that effect and setting forth the good faith effort(s) made to obtain the records.

T. "Released Claims" or "Settled Claims"

"Released Claims" or "Settled Claims" means any and all claims, causes of action, demands, debts, suits, liabilities, obligations, damages, entitlements, losses, actions, rights of action, costs, expenses, and remedies of any kind, nature and description, whether known or unknown, asserted or unasserted, foreseen or unforeseen, and regardless of any legal or equitable

theory, existing now or arising in the future, by Plaintiff and any and all Settlement Class Members (including their successors, heirs, assigns and representatives) which, in any way, arise from, involve or relate to the Settlement Class Vehicles' turbochargers (and any of their component and related parts including wastegate linkages and actuators), including but not limited to all matters, issues, claims, and requests for damages or other relief that were asserted or could have been asserted in the Action, and all claims, causes of action, demands, debts, suits, liabilities, obligations, damages, entitlements, losses, consequential damages or losses, actions, rights of action and remedies of any kind, nature and description, arising under any state, federal or local statute, law, rule and/or regulation including any consumer protection, consumer fraud, unfair or deceptive business or trade practices, false or misleading advertising, and/or other sales, marketing, advertising and/or consumer statutes, laws, rules and/or regulations, under any common law cause of action or theory, and under any legal or equitable causes of action or theories whatsoever, and on any basis whatsoever including tort, contract, products liability, express warranty, implied warranty, negligence, fraud, misrepresentation, concealment, false or misleading advertising or marketing, unfair, deceptive and/or inequitable business practice, consumer protection, express or implied covenants, restitution, quasi-contract, unjust enrichment, injunctive relief of any kind and nature, including, but not limited, to the California Consumer Legal Remedies Act, California Unfair Competition Law, the Song-Beverly Consumer Warranty Act, the Magnuson-Moss Warranty Act, each and every federal, state and local consumer protection, consumer fraud, deceptive trade practices, unfair practices, false advertising, and/or related statute, law, rule and regulation in the United States and Puerto Rico, all other or similar federal, state or local statutes, laws, rules or derivations thereof, any state Lemon Laws, secret warranty, and/or any other theory of liability and/or recovery whatsoever, whether in law or in

equity, and for any and all injuries, losses, damages, remedies (legal or equitable), costs, recoveries or entitlements of any kind, nature and description, under statutory and/or common law, and including, but not limited to, compensatory damages, economic losses or damages, exemplary damages, punitive damages, statutory damages, statutory penalties or rights, restitution, unjust enrichment, injunctive relief, costs, expenses, counsel fees, and any other legal or equitable relief or theory of relief. This Settlement Agreement expressly exempts claims for personal injuries and property damage (other than for damage to the Settlement Class Vehicle itself).

U. “Released Parties”

“Released Parties” means Volkswagen Group of America, Inc., Volkswagen AG, Audi AG, Audi of America LLC, Volkswagen International America, Inc., Audi of America, Inc., Volkswagen de México S.A. de C.V., Volkswagen Group of America Chattanooga Operations, LLC, Volkswagen Credit, Inc.; all designers, manufacturers, suppliers, assemblers, distributors, importers, retailers, marketers, advertisers, testers, inspectors, sellers, component suppliers, lessors, warrantors, dealers, repairers and servicers of the Settlement Class Vehicles and each of their component parts and systems; all of their past and present directors, officers, shareholders, principals, partners, employees, agents, servants, assigns and representatives; and all of the aforementioned persons’ and entities’ attorneys, insurers, trustees, vendors, contractors, heirs, executors, administrators, successors, successor companies, parent companies, subsidiary companies, affiliated companies, divisions, trustees and representatives of the Settlement Class” or “Settlement Class Members”

“Settlement Class” or “Settlement Class Members” means: “All persons and entities who purchased or leased a Settlement Class Vehicle, as defined in Section I.X. of this Agreement, in the United States of America or Puerto Rico.”

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

W. “Settlement Class Representative”

“Settlement Class Representative” means Plaintiff Julie Kimball.

X. “Settlement Class Vehicles”

“Settlement Class Vehicles” collectively means certain specific Volkswagen and Audi brand vehicles, distributed by VWGoA in the United States and Puerto Rico, which are equipped with Generation 1, Generation 2 or Generation 3 EA888 engines (as delineated in X(1)-(3) below) and specifically identified by Vehicle Identification Number (“VIN”) on VIN lists that are attached as Exhibits 4A-C to this Agreement.

(1) “Generation 1 Settlement Class Vehicles” means certain of the following Settlement Class Vehicles equipped with Generation 1 EA888 Engines: certain model year 2008-2014 VW GTI and Golf R vehicles, 2012-2013 VW Beetle vehicles, 2009 VW Jetta Sportwagen vehicles, 2008-2013 VW Jetta Sedan and GLI vehicles, 2009-2016 VW Eos vehicles, 2008-2010 VW Passat vehicles, 2009-2017 VW CC vehicles, 2009-2018 VW Tiguan vehicles, 2008-2009 Audi A3

vehicles, and 2015-2018 Audi Q3 vehicles, which were distributed by VWGoA in the United States and Puerto Rico and specifically identified by Vehicle Identification Number (“VIN”) on a VIN list that is attached as Exhibit 4A to this Agreement.

(2) “Generation 2 Settlement Class Vehicles” means certain of the following Settlement Class Vehicles equipped with Generation 2 EA888 Engines: certain model year 2009-2014 Audi A4 vehicles, 2010-2014 Audi A5 vehicles, 2013-2015 Audi A6 vehicles, 2011-2014 Audi Q5 vehicles, and 2011-2012 Audi TT vehicles, which were distributed by VWGoA in the United States and Puerto Rico and specifically identified by Vehicle Identification Number (“VIN”) on a VIN list that is attached as Exhibit 4B to this Agreement.

(3) “Generation 3 Settlement Class Vehicles” means certain of the following Settlement Class Vehicles equipped with Generation 3 EA888 Engines: certain model year 2015-2018 VW Golf vehicles, 2015-2021 VW GTI vehicles, 2015-2019 VW Golf R vehicles, 2015-2019 VW Golf Sportwagen and Alltrack vehicles, 2019-2024 VW Jetta GLI vehicles, 2019-2021 VW Arteon vehicles, 2018-2023 VW Atlas vehicles, 2020-2023 VW Atlas Cross Sport vehicles, 2015-2020 Audi A3, 2019-2024 Audi Q3 vehicles, and 2016-2023 Audi TT vehicles, which were distributed by VWGoA in the United States and Puerto Rico and specifically identified by Vehicle Identification Number (“VIN”) on a VIN list that is attached as Exhibit 4C to this Agreement.

II. SETTLEMENT CONSIDERATION

In consideration for the full and complete Release of all Released Claims against the Defendant and all Released Parties, and the dismissal of the Action with prejudice, Defendant VWGoA agrees to provide the following consideration to the Settlement Class:

A. Warranty Extension for Current Owners and Lessees of Generation 3 Settlement Class Vehicles

Effective on the Notice Date, for Generation 3 Settlement Class Vehicles, VWGoA will extend the New Vehicle Limited Warranties (NVLWs) to cover fifty percent (50%) of the cost of repair or replacement (parts and labor), by an authorized Audi dealer [if an Audi vehicle] or Volkswagen dealer [if a VW vehicle], of a failed or malfunctioning turbocharger of said vehicle if the cause of the failure or malfunction was that the wastegate failed due to fork head and/or link pin corrosion, during a period of up to 8.5 years or 85,000 miles (whichever occurs first) from said Settlement Class Vehicle's In-Service Date.

If, as of the Notice Date, a said Generation 3 Settlement Class Vehicle is more than 8.5 years of age from its In-Service Date, then this Warranty Extension's time duration for that vehicle will be extended until sixty (60) days after the Notice Date or 85,000 miles from vehicle's the In-Service Date, whichever occurs first, subject to the same conditions and limitations set forth above.

The Warranty Extension is subject to the same terms, conditions, and limitations set forth in the Settlement Class Vehicle's original NVLW and Warranty Information Booklet, and shall be fully transferable to subsequent owners to the extent that its time and mileage limitation periods have not expired.

The Warranty Extension shall not cover or apply to turbocharger/wastegate failures or malfunctions due to abuse, misuse, alteration or modification, lack of proper maintenance, a collision or crash, vandalism and/or other impact, or damage from an outside source.

B. Reimbursement of Certain Past Paid (and Unreimbursed) Out-Of-Pocket Repair Expenses (All Settlement Class Vehicles)

1. Reimbursement: Settlement Class Members who timely mail to the Settlement Claim Administrator a Claim for Reimbursement (fully completed, dated and signed Claim Form together with all Proof of Repair Expense and other required documentation) shall be eligible for

reimbursement of fifty percent (50%) of the past paid out-of-pocket expense for one (1) repair or replacement (parts and labor) of a failed or malfunctioned turbocharger of a Settlement Class Vehicle that was performed and paid for prior to the Notice Date and within 8.5 years or 85,000 miles (whichever occurred first) from said vehicle's In-Service date, if:

(i) for a Generation 1 Settlement Class Vehicle or Generation 2 Settlement Class Vehicle, the past paid turbocharger repair or replacement was due to the wastegate having no longer functioned properly because of wear at the link plate and pin, and

(ii) for a Generation 3 Settlement Class Vehicles, the past paid turbocharger repair or replacement was due to the wastegate having failed because of fork head and/or link pin corrosion.

However, if the Proof of Repair Expense documentation does not specifically state that the reason for the past paid turbocharger repair or replacement was due to II.B.(1)(i) above (for a Generation 1 Settlement Class Vehicle or Generation 2 Settlement Class Vehicle), or II.B.(1)(ii) above (for a Generation 3 Settlement Class Vehicle), then the reimbursement for the one (1) covered repair will be forty percent (40%) of the past paid invoice amount (parts and labor) provided that, in addition to the Proof of Repair Expense, the Settlement Class Member also submits, with his/her/its Claim for Reimbursement, the Proof of Adherence to Maintenance Requirements documentation.

If the past paid covered repair for which reimbursement under this Section is sought was not performed by an authorized Audi dealer (if an Audi vehicle) or Volkswagen dealer (if a VW vehicle), then the maximum paid invoice amount to which the applicable reimbursement percentage shall be applied shall not exceed \$3,850.

If the past paid covered repair for which reimbursement is sought under this Section was performed within the Settlement Class Vehicle's original NVLW time and mileage period, but not

by an authorized Audi or Volkswagen dealer, then the Settlement Class Member must also submit with his/her/its Claim, in addition to the Proof of Repair Expense and Proof of Adherence to Maintenance Requirements (if applicable), documentation such as a written estimate or invoice, or if documents are not available after a good-faith effort to obtain them, a Declaration signed under penalty of perjury, confirming that the Settlement Class Member first attempted to have the said repair performed by an authorized Audi or Volkswagen dealer, but the dealer declined or was unable to perform the repair free of charge pursuant to the NVLW.

Reimbursement under this Section is subject to the Limitations, Conditions and Claim requirements set forth in Sections II.B.2 and II.B.3 below.

2. Limitations and Other Conditions:

a. Any reimbursement under Section II.B.1. shall be reduced by goodwill or other amount or concession paid by an authorized Audi or Volkswagen dealer, any other entity (including insurers and providers of extended warranties or service contracts), or by any other source. If the Settlement Class Member received a free repair covered under this Agreement, or was otherwise already reimbursed the full amount for the covered repair, then he/she/it will not be entitled to any reimbursement.

b. Defendant shall not be responsible for, and shall not warrant, any repair/replacement work that was not performed by an authorized Audi or Volkswagen dealer.

c. Reimbursement under Section II.B.1. shall not apply to turbocharger/wastegate failures that were caused by abuse, misuse, alteration or modification, lack of proper maintenance, a collision or crash, vandalism and/or other impact or outside source.

3. Requirements for a Valid and Timely Claim for Reimbursement:

a. In order to submit a valid and timely Claim for Reimbursement pursuant to Section II.B. of this Agreement, the Settlement Class Member must mail by first-class U.S. mail to the

Settlement Claim Administrator, postmarked no later than 75-days after the Notice Date, or submit to the Settlement Claim Administrator online through the Settlement Website no later than 75-days after the Notice Date, a fully completed, signed and dated Claim Form, together with the required Proof of Repair Expense, Proof of Adherence to Maintenance Requirements (if applicable), and any other documentary proof required under this Agreement.

b. If the claimant is not a person to whom the Claim Form was addressed, and/or the vehicle with respect to which a Claim is made is not the vehicle identified by VIN number on the mailed Class Notice, the Claim must contain proof that the claimant is a Settlement Class Member and that the vehicle that is the subject of the Claim is a Settlement Class Vehicle.

c. The completed Claim Form and supporting documentation must demonstrate the Settlement Class Member's right to reimbursement, for the amount requested, under the terms and conditions of this Settlement Agreement.

III. CLAIMS ADMINISTRATION

A. Costs of Administration and Notice

As between the Parties, VWGoA shall be responsible for the Claim Administrator's reasonable costs of class notice and settlement administration. The Parties retain the right to audit and review the Claims handling by the Claim Administrator, and the Claim Administrator shall report to both parties jointly.

B. Claim Administration

1. Only timely Claims that are complete and which satisfy the Settlement criteria for reimbursement can be approved for payment. For each approved reimbursement claim, the Claim Administrator, on behalf of VWGoA, shall mail to the Settlement Class Member, at the address listed on the Claim Form, a reimbursement check to be sent within one hundred fifty (150)

days of the date of receipt of the completed Claim, or within one hundred fifty (150) days of the Effective Date, whichever is later. The reimbursement checks shall remain valid for 180 days. The Settlement Class Member may make one (1) request for reissuance of an expired un-negotiated check from the Claims Administrator within 225 days of its original issuance.

2. The Claim Administrator's denial of any Claim in whole or in part shall be binding and non-appealable, except that Class Counsel and Defendant's counsel will, if needed, confer and attempt to resolve in good faith any disputed denial by the Claim Administrator.

3. If the Claims Administrator initially determines that the Claim Form is incomplete, deficient or otherwise not fully completed, signed and/or dated, and/or that supporting documentation is missing, deficient, or otherwise incomplete, then the Claim Administrator will send the Settlement Class Member a letter or notice by regular mail advising of the deficiency(ies) in the Claim Form and/or the documentation. The Settlement Class Member will then have until thirty (30) days after the date of said letter or notice to mail a response to the Claim Administrator that cures all said deficiencies and supplies all missing or deficient information and documentation, or the claim will be denied.

4. If a Claim is denied in whole or in part, either for not meeting the Settlement criteria for reimbursement, or for failure to timely cure any deficiencies or missing or incomplete information/documentation, the Claim Administrator will so notify the Settlement Class Member by sending a letter or notice of the denial by regular mail. Any Settlement Class Member whose claim is denied shall have fourteen (14) days from the date of the Claim Administrator's letter/notice of denial to request an "attorney review" of the denial, after which time Class Counsel and Defense Counsel shall meet and confer and determine whether said denial, based upon the Claim Form and documentation previously submitted, was correct under the terms of the

Settlement, whether the denial should be modified if it is not correct, and/or whether any disputed issues can amicably be resolved. The Claim Administrator will thereafter advise the Settlement Class Member of the attorney review determination, which shall be binding and not appealable.

IV. NOTICE

A. To Attorneys General: In compliance with the Attorney General notification provision of the Class Action Fairness Act, 28 U.S.C. § 1715, the Claim Administrator shall provide notice of this proposed Settlement to the Attorney General of the United States, and the Attorneys General of each state in which a known Settlement Class Member resides. The Claim Administrator shall also provide contemporaneous notice to the Parties.

B. To Settlement Class: The Claim Administrator shall be responsible for the following Settlement Class Notice Plan (“Notice Plan”):

1. On an agreed upon date with the Claim Administrator, but in no event more than one-hundred (100) days after entry of the Preliminary Approval Order, the Claim Administrator shall cause individual postcard Class Notice, substantially in the form attached hereto as Exhibit 2, to be mailed, by first class mail, to the current or last known addresses of all reasonably identifiable Settlement Class Members. The postcard Class Notice will also direct Settlement Class Members to the Settlement Website where they can obtain further information about the Settlement, their applicable rights and deadlines, and to review and download the long form Class Notice, substantially in the form attached hereto as Exhibit 3, and other documentation about the Settlement. Defendant VWGoA may format the Class Notice in such a way as to minimize the cost of the mailing, so long as Settlement Class Members can reasonably read it and Class Counsel approves all changes and formatting. The Claim Administrator shall be responsible for mailing of the Class Notice.

2. For purposes of identifying Settlement Class Members, the Claim Administrator shall obtain from S & P Global or an equivalent company (such as Experian) the names and current or last known addresses of Settlement Class Vehicle owners and lessees that can reasonably be obtained, based upon the VINs of Settlement Class Vehicles to be provided by VWGoA.

3. Prior to mailing the postcard Class Notice, the Claim Administrator shall conduct an address search through the United States Postal Service's National Change of Address database to update the address information for Settlement Class Vehicle owners and lessees. For each individual postcard Class Notice that is returned as undeliverable, the Claim Administrator shall re-mail all such postcard Class Notices where a forwarding address has been provided. For the remaining undeliverable notice packets where no forwarding address is provided, the Claim Administrator shall perform an advanced address search (e.g., a skip trace) and re-mail any undeliverable to the extent any new and current addresses are located.

4. The Claim Administrator shall diligently, and/or as reasonably requested by Class Counsel or Defense counsel, report to Class Counsel and Defense counsel the number of individual postcard Class Notices originally mailed to Settlement Class Members, the number of such individual Class Notices initially returned as undeliverable, the number of additional individual postcard Class Notices re-mailed after receipt of a forwarding address, and the number of those additional individual Class Notices returned as undeliverable.

5. The Claim Administrator shall, upon request, provide Class Counsel and Defense counsel with the names and addresses of all Settlement Class Members to whom the Claim Administrator mailed a postcard Class Notice pursuant to this section.

6. The Claim Administrator shall implement a Settlement website that contains the following information:

- (i) instructions on how to submit a Claim for Reimbursement by mail or online via the Settlement Website;
- (ii) instructions on how to contact the Claim Administrator, Class Counsel and Defense Counsel for assistance;
- (iii) a copy of the Claim Form, Class Notice and this Settlement Agreement, the Preliminary Approval Order, the motion for Final Approval, the Class Counsel Fee and Expense Application, and other pertinent orders and documents to be agreed upon by counsel for the Parties; and
- (iv) the deadlines for any objections, requests for exclusion and mailing of claims, the date, time and location of the final fairness hearing, and any other relevant information agreed upon by counsel for the Parties.

7. No later than ten (10) days after the Notice Date, the Claim Administrator shall provide an affidavit to Class Counsel and Defense counsel, attesting that the Class Notice was disseminated in a manner consistent with the terms of the Class Notice Plan of this Agreement or those required by the Court and agreed by counsel.

8. Notification to Authorized Audi and Volkswagen dealers: Prior to the Notice Date, VWGoA will advise authorized Audi and Volkswagen dealers of the Settlement's Warranty Extension, so that the Warranty Extension may be implemented in accordance with the terms and conditions of this Settlement Agreement. VWGoA shall provide Class Counsel with written confirmation that the notification has been made to authorized Audi and Volkswagen dealers.

V. RESPONSE TO NOTICE

A. Objection to Settlement

Any Settlement Class Member who intends to object to the fairness of this Settlement Agreement and/or to Class Counsel's Fee and Expense Application must, by the date specified in

the Preliminary Approval Order, which date shall be approximately thirty (30) days after the Notice Date, either (i) file any such objection, together with any supporting briefs and/or documents, with the Court either in person at the Clerk's Office of the United States District Court for the District of New Jersey, located at Martin Luther King Building & U.S. Courthouse, 50 Walnut Street, Newark, NJ 07101, or (ii) file same via the Court's electronic filing system, or (iii) if not filed in person or via the Court's electronic system, then, by U.S. first-class mail postmarked within the said 30-day deadline, mail the objection, together with any supporting briefs and/or documents, to the United States District Court for the District of New Jersey, located at Martin Luther King Building & U.S. Courthouse, 50 Walnut Street, Newark, NJ 07101, and also, by U.S. first-class mail postmarked within said deadline, serve same upon the following counsel for the Parties: Gary S. Graifman, Esq., Kantrowitz, Goldhamer & Graifman PC, 135 Chestnut Ridge Road, Suite 200, Montvale, NJ 07645, on behalf of Plaintiff, and Michael B. Gallub, Esq., Shook, Hardy & Bacon L.L.P., 1 Rockefeller Plaza, Suite 2801, New York, New York 10020, on behalf of Defendant.

1. Any objecting Settlement Class Member must include with his or her objection:
 - (a) the objector's full name, address, and telephone number,
 - (b) the model, model year and Vehicle Identification Number of the Settlement Class Vehicle, along with proof that the objector has owned or leased the Settlement Class Vehicle (i.e., a true copy of a vehicle title or registration);
 - (c) a written statement of all grounds for the objection accompanied by any legal support for such objection; and
 - (d) copies of any papers, briefs, or other documents upon which the objection is based and are pertinent to the objection;

(e) the name and address of the lawyer(s), if any, who is/are representing the objecting Settlement Class Member in making the objection;

(f) a statement of whether the objecting Settlement Class Member intends to appear at the Final Fairness Hearing, either with or without counsel, and the identity(ies) of any counsel who will appear on behalf of the Settlement Class Member objection at the Final Fairness Hearing; and

(g) a list of all other objections submitted by the objector, and/or the objector's counsel, to any class action settlements in any court in the United States in the previous five (5) years, including the full case name with jurisdiction in which it was filed and the docket number. If the Settlement Class Member and/or his/her/its counsel has not objected to any other class action settlement in the United States in the previous five years, then he/she/it shall affirmatively so state in the objection.

2. Any Settlement Class Member who has not timely and properly filed an objection in accordance with the deadlines and requirements set forth herein shall be deemed to have waived and relinquished his/her/its right to object to any aspect of the Settlement, or any adjudication or review of the Settlement, by appeal or otherwise.

3. Subject to the approval of the Court, any Settlement Class Member may appear, in person or by counsel, at the Final Fairness Hearing in support of Settlement approval or to explain the bases for a timely filed objection to final approval of the proposed Settlement and/or to any motion for Class Counsel Fees and Expenses or service award. In order to appear at the Final Fairness Hearing, the Settlement Class Member must, no later than the objection deadline, file with the Clerk of the Court, and serve upon all counsel designated in the Class Notice, a Notice of Intention to Appear at the Final Fairness Hearing. The Notice of Intention to Appear must include

copies of any papers, exhibits, or other evidence and identity of any witnesses that the Settlement Class Member (or the Settlement Class Member's counsel) intends to present to the Court in connection with the Final Fairness Hearing. Any Settlement Class Member who does not provide a Notice of Intention to Appear in accordance with the deadline and other specifications set forth in the Class Notice, shall be deemed to have waived and relinquished any right to appear, in person or by counsel, at the Final Fairness Hearing.

B. Request for Exclusion from the Settlement

1. Any Settlement Class Member who wishes to be excluded from the Settlement Class must timely mail a request for exclusion ("Request for Exclusion") to the Claim Administrator, Class Counsel and Defense Counsel, at the addresses specified in the Class Notice, by first-class U.S. mail postmarked no later than the deadline set forth below and specified in the Preliminary Approval Order. To be effective, the Request for Exclusion must be timely mailed and contain all of the following:

- (a) the Settlement Class Member's full name, address and telephone number;
- (b) identify the model, model year and VIN of the Settlement Class Vehicle;
- (c) state that the Settlement Class Member is or was the owner or lessee of the Settlement Class Vehicle; and
- (c) specifically and unambiguously state his/her/its desire to be excluded from the Settlement Class.

2. Any Request for Exclusion must be postmarked on or before the deadline set by the Court, which date shall be approximately thirty (30) days after the Notice Date, and mailed to all of the following: the Claims Administrator, Gary S. Graifman, Esq., Kantrowitz, Goldhamer & Graifman PC, 135 Chestnut Ridge Road, Suite 200, Montvale, NJ 07645, on behalf of Class Counsel, and Michael B. Gallub, Esq., Shook, Hardy & Bacon L.L.P., 1 Rockefeller Plaza, Suite

2801, New York, NY 10020, on behalf of Defense Counsel. Any Settlement Class Member who fails to timely and properly mail a complete Request for Exclusion containing all required information shall not be excluded from the Settlement and shall be subject to and bound by this Settlement Agreement, the Release, and every order or judgment entered relating to this Settlement Agreement.

3. Class Counsel and Defense Counsel will review the purported Requests for Exclusion and determine whether they meet the requirements of a valid and timely Request for Exclusion. Any communications from Settlement Class Members (whether styled as an exclusion request, an objection or a comment) as to which it is not readily apparent whether the Settlement Class Member meant to exclude himself/herself/itself from the Settlement Class will be evaluated jointly by counsel for the Parties, who will make a good faith evaluation, if possible. Any uncertainties about whether a Settlement Class Member is requesting exclusion from the Settlement Class will be submitted to the Court for resolution. The Claim Administrator will maintain a database of all Requests for Exclusion, and will send written communications memorializing those Requests for Exclusion to Class Counsel and Defense counsel. The Claim Administrator shall report the names of all such persons and entities requesting exclusion, and the VINs of the Settlement Class Vehicles owned or leased by the persons and entities requesting exclusion, to the Court, Class Counsel and Defense Counsel at least eighteen (18) days prior to the Final Fairness Hearing, and the list of persons and entities deemed by the Court to have timely and properly excluded themselves from the Settlement Class will be attached as an exhibit to the Final Order and Judgment.

VI. WITHDRAWAL FROM SETTLEMENT

Plaintiff or Defendant shall have the option to withdraw from this Settlement Agreement, and to render it null and void, if any of the following occurs:

1. Any objection to the proposed Settlement is sustained and such objection results in changes to this Agreement that the withdrawing party deems in good faith to be material (e.g., because it increases the costs of the Settlement, alters the Settlement, or deprives the withdrawing party of a material benefit of the Settlement; a mere delay of the approval and/or implementation of the Settlement including a delay due to an appeal procedure, if any, shall not be deemed material); or

2. The preliminary or final approval of this Settlement Agreement is not obtained without modification, and any modification required by the Court for approval is not agreed to by both parties, and the withdrawing party deems any required modification in good faith to be material (e.g., because it increases the cost of the Settlement, alters the Settlement, or deprives the withdrawing party of a benefit of the Settlement; a mere delay of the approval and/or implementation of the Settlement including a delay due to an appeal procedure, if any, shall not be deemed material); or

3. Entry of the Final Order and Judgment described in this Agreement is vacated by the Court or reversed or substantially modified by an appellate court, except that a reversal or modification of an order awarding reasonable attorneys' fees and expenses, if any, shall not be a basis for withdrawal; or

4. In addition to the above grounds, the Defendant shall have the option to withdraw from this Settlement Agreement, and to render it null and void, if more than five-percent (5%) of the persons and entities identified as being members of the Settlement Class exclude themselves from the Settlement Class.

5. To withdraw from this Settlement Agreement under this paragraph, the withdrawing Party must provide written notice to the other Party's counsel and to the Court within ten (10) business days of receipt of any order or notice of the Court modifying, adding or altering any of the material terms or conditions of this Agreement. In the event either Party withdraws from the Settlement, this Settlement Agreement shall be null and void, shall have no further force and effect with respect to any party in the Action, and shall not be offered in evidence or used in the Action or any other litigation or proceeding for any purpose, including the existence, certification or maintenance of any purported class. In the event of such withdrawal, this Settlement Agreement and all negotiations, proceedings, documents prepared and statements made in connection herewith shall be inadmissible as evidence and without prejudice to the Defendant and Plaintiff, and shall not be deemed or construed to be an admission or confession by any party of any fact, claim, matter or proposition of law, and shall not be used in any manner for any purpose, and all parties to the Action shall stand in the same position as if this Settlement Agreement had not been negotiated, made or filed with the Court. Upon withdrawal, either party may elect to move the Court to vacate any and all orders entered pursuant to the provisions of this Settlement Agreement.

6. A change in law, or change of interpretation of present law, that affects this Settlement shall not be grounds for withdrawal from the Settlement.

VII. ADMINISTRATIVE OBLIGATIONS

A. In connection with the administration of the Settlement, the Claim Administrator shall maintain a record of all contacts from Settlement Class Members regarding the Settlement, any Claims submitted pursuant to the Settlement and any responses thereto. The Claim Administrator, on a monthly basis, shall provide to Class Counsel and Defense Counsel summary information concerning the number of Claims made, number of Claims approved, the number of

Claims denied, the number of Claims determined to be deficient, and total dollar amount of payouts on Claims made, such that Class Counsel and Defense Counsel may inspect and monitor the claims process.

B. Except as otherwise stated in this Agreement, as between the Parties, the reasonable costs of the Claim Administrator in dissemination of the Class Notice and administration of the Settlement pursuant to the terms of this Agreement shall be borne by VWGoA.

VIII. SETTLEMENT APPROVAL PROCESS

A. Preliminary Approval of Settlement

Promptly after the execution of this Settlement Agreement, Class Counsel shall present this Settlement Agreement to the Court, along with a motion requesting that the Court issue a Preliminary Approval Order substantially in the form attached as Exhibit 5.

B. Final Approval of Settlement

1. If this Settlement Agreement is preliminarily approved by the Court, and pursuant to a schedule set forth in the Preliminary Approval Order or otherwise agreed by the Parties, Class Counsel shall present a motion requesting that the Court grant final approval of the Settlement and issue a Final Order and Judgment directing the entry of judgment pursuant to Fed. R. Civ. P. 54(b) substantially in a form to be agreed by the Parties.

2. The Parties agree to fully cooperate with each other to accomplish the terms of this Settlement Agreement, including but not limited to, execution of such documents and to take such other action as may reasonably be necessary to implement the terms of this Settlement Agreement. The Parties shall use their best efforts, including all efforts contemplated by this Settlement Agreement and any other efforts that may become necessary by order of the Court, or otherwise, to effectuate this Settlement Agreement and the terms set forth herein. Such best efforts shall

include taking all reasonable steps to secure entry of a Final Order and Judgment, as well as supporting the Settlement and the terms of this Settlement Agreement through any appeal.

C. Plaintiff's Application for Reasonable Class Counsel Fees and Expenses and Class Representative Service Award

1. If the Court grants Preliminary Approval of the Settlement, Class Counsel has stated their intent to make an application for reasonable Class Counsel Fees and Expenses and for a reasonable service award for Settlement Class Representative Plaintiff Julie Kimball (hereinafter, "Fee and Expense Application"), to which Defendant may respond as appropriate. The scheduling of such Fee and Expense Application and any response by Defendant shall be agreed by the Parties and subject to the Court's approval. Prior to Class Counsel's filing of a Fee and Expense Application, the Parties shall discuss the matters in good faith to ascertain if any agreements can be reached with respect thereto, and submit to the Court an agreed schedule for (i) the timing and briefing of the Fee and Expense Application and Defendant's response, and (ii) if the Parties are unable to reach agreement on Class Counsel Fees and Expenses and/or the Settlement Class Representative Service Award, the fact and expert discovery on the issues relevant to the Fee and Expense Application that will be conducted prior to the time that Defendant must file its response. If the Parties cannot agree, then such scheduling and/or discovery matters shall be submitted to the Court for resolution.

2. The Court's determination of the Fee and Expense Application shall be subject to rights of appeal by any of the Parties.

3. The procedure for, and the grant, denial, allowance or disallowance by the Court of, the Fee and Expense Application are not part of the Settlement, and are to be considered by the Court separately from the Court's consideration of the fairness, reasonableness and adequacy of the Settlement. Any order or proceedings relating solely to the Fee and Expense Application, or

any appeal from any order related thereto or reversal or modification thereof, will not operate to terminate or cancel this Settlement Agreement, or affect or delay the Effective Date of the Settlement if it is granted final approval by the Court. Payment of Class Counsel Fees and Expenses and the Settlement Class Representative Service Award will not reduce the benefits to which Settlement Class Members may be eligible under the Settlement terms, and the Settlement Class Members will not be required to pay any portion of the Class Counsel Fees and Expenses and Settlement Class Representative Service Award.

D. Release of Plaintiff's and Settlement Class Members' Claims

1. Upon the Effective Date, the Plaintiff and each and every Settlement Class Member shall be deemed to have, and by operation of the Final Order and Judgment shall have, fully, completely and forever released, acquitted, and discharged the Defendant and all Released Parties from all Released Claims.

2. Upon the Effective Date, with respect to the Released Claims, the Plaintiff and all Settlement Class Members expressly waive and relinquish, to the fullest extent permitted by law, the provisions, rights, and benefits of § 1542 of the California Civil Code, which provides: "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

3. Upon the Effective Date, the Action will be deemed dismissed with prejudice.

IX. MISCELLANEOUS PROVISIONS

A. Effect of Exhibits

The exhibits to this Agreement are an integral part of the Settlement and are expressly incorporated and made a part of this Agreement.

B. No Admission of Liability

Neither the fact of, nor any provision contained in this Agreement, nor any action taken hereunder, shall constitute, or be construed as, any admission of the validity of any claim, allegation or fact alleged in the Action or of any wrongdoing, fault, violation of law or liability of any kind and nature on the part of Defendant and the Released Parties, or any admission by Defendant or any Released Parties of any claim or allegation made in any action or proceeding against them. The Parties understand and agree that neither this Agreement, its content and substance, any documents prepared and/or filed in connection therewith, nor the negotiations that preceded it, shall be offered or be admissible in evidence against Defendant, the Released Parties, the Plaintiff or the Settlement Class Members, or cited or referred to, either in the Action or in any other action or proceeding (judicial or otherwise), except as needed to enforce the terms of this Agreement, its Release of Claims against the Released Parties, and the Final Approval Order and Judgment herein.

C. Entire Agreement

This Agreement represents the entire agreement and understanding among the Parties and supersedes all prior proposals, negotiations, agreements and understandings relating to the subject matter of this Agreement. The Parties acknowledge, stipulate and agree that no covenant, obligation, condition, representation, warranty, inducement, negotiation or understanding concerning any part or all of the subject matter of this Agreement has been made or relied on except as expressly set forth in this Agreement. No modification or waiver of any provisions of this Agreement shall in any event be effective unless the same shall be in writing and signed by the person or party against whom enforcement of the Agreement is sought.

D. Arm's-Length Negotiations and Good Faith

The Parties have negotiated all of the terms and conditions of this Agreement at arm's-length and in good faith. All terms, conditions and exhibits in their exact form are material and necessary to this Agreement and have been relied upon by the Parties in entering into this Agreement. In addition, the Parties hereby acknowledge that they have had ample opportunity to, and that they did, confer with counsel of their choice regarding, and before executing, this Agreement, and that this Agreement is fully entered into voluntarily and with no duress whatsoever.

E. Continuing Jurisdiction

The Parties agree that the Court may retain continuing and exclusive jurisdiction over them, including all Settlement Class Members, for the purpose of the administration and enforcement of this Agreement.

F. Binding Effect of Settlement Agreement

This Agreement shall be binding upon and inure to the benefit of the Parties and their representatives, attorneys, executors, administrators, heirs, successors and assigns.

G. Extensions of Time

The Parties may agree upon a reasonable extension of time for deadlines and dates reflected in this Agreement, without further notice (subject to Court approval as to Court dates).

H. Service of Notice

Whenever, under the terms of this Agreement, a person is required to provide service or written notice to Defense counsel or Class Counsel, such service or notice shall be directed to the individuals and addresses specified below, unless those individuals or their successors give notice to the other parties in writing, of a successor individual or address:

As to Plaintiff: Gary S. Graifman
Kantrowitz Goldhamer & Graifman
Suite 200
135 Chestnut Ridge Road
Montvale, NJ 07645

As to Defendant: Michael B. Gallub, Esq.
Brian T. Carr, Esq.
Shook, Hardy & Bacon L.L.P.
1 Rockefeller Plaza, Suite 2801
New York, NY 10020

I. Authority to Execute Settlement Agreement

Each counsel or other person executing this Agreement or any of its exhibits on behalf of any party hereto warrants that such person has the authority to do so.

J. Return of Confidential Materials

All documents and information designated as “confidential” and produced or exchanged in the Action, shall be returned or destroyed within thirty (30) days after entry of the Final Order and Judgment.

K. No Assignment

The Parties represent and warrant that they have not assigned or transferred, or purported to assign or transfer, to any person or entity, any claim or any portion thereof or interest therein, including, but not limited to, any interest in the litigation or any related action.

L. No Third-Party Beneficiaries

This Agreement shall not be construed to create rights in, or to grant remedies to, or delegate any duty, obligation or undertaking established herein to any third party (other than Settlement Class Members themselves) as a beneficiary of this Agreement. However, this does not apply to, or in any way limit, any Released Party’s right to enforce the Release of Claims set forth in this Agreement.

M. Construction

The determination of the terms and conditions of this Agreement has been by mutual agreement of the Parties. Each Party participated jointly in the drafting of this Agreement and, therefore, the terms and conditions of this Agreement are not intended to be, and shall not be, construed against any Party by virtue of draftsmanship.

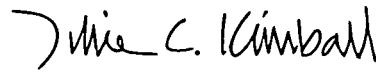
N. Captions

The captions or headings of the sections and paragraphs of this Agreement have been inserted for convenience of reference only and shall have no effect upon the construction or interpretation of any part of this Agreement.

IN WITNESS HEREOF, the Parties have caused this Agreement to be executed, by their duly authorized attorneys, as of the date(s) indicated on the lines below.

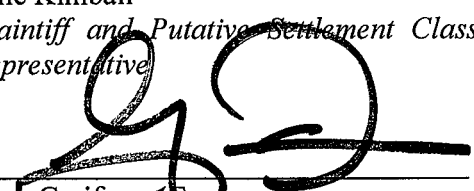
ON BEHALF OF PLAINTIFF:

Dated: December 28, 2024




Julie Kimball
Plaintiff and Putative Settlement Class Representative

Dated: December 29, 2024


Gary Graifman, Esq.
Kantrowitz, Goldhamer & Graifman, PC
135 Chestnut Ridge Road, Suite 200
Montvale, New Jersey 07645
Class Counsel for Plaintiff and the Settlement Class


Dated: December ²⁹__, 2024



Thomas Sobran, Esq.
Thomas P. Sobran PC
7 Evergreen Lane
Hingham, Massachusetts 02043
*Class Counsel for Plaintiff and the
Settlement Class*

ON BEHALF OF DEFENDANT:

Dated: January 6, 2025



Michael B. Gallub, Esq.
SHOOK, HARDY & BACON L.L.P.
1 Rockefeller Plaza, Suite 2801
New York, New York 10020
*Attorneys for Defendant Volkswagen
Group of America, Inc.*

EXHIBIT 2

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

JULIE KIMBALL,
Individually and on behalf of all others
similarly situated,

Plaintiffs,

v.

Civil Action No. 2:22-cv-04163-JMV-MAH

VOLKSWAGEN GROUP OF AMERICA, INC.,

Defendant.

**DECLARATION OF GARY S. GRAIFMAN IN SUPPORT
OF APPLICATION FOR ATTORNEYS' FEES AND EXPENSES**

GARY S. GRAIFMAN, ESQ. declares as follows:

1. I am a member of the law firm of Kantrowitz, Goldhamer & Graifman, P.C. (“KGG”), co-counsel for Plaintiff in the above matter, together with the law firm of Thomas P. Sobran, P.C. I am fully familiar with the facts contained herein based upon my personal knowledge and the books and records kept in the ordinary course of KGG’s business. I submit this declaration in support of Class Counsel’s application for an award of attorneys’ fees in above-captioned action (the “Action”), as well as for reimbursement of expenses incurred by my firm in connection with the Action.

2. KGG served as co-counsel in this Action. As co-counsel for the Class, the attorneys and paralegals of my firm were involved in performing the following tasks: pre-litigation investigation of the facts herein; drafting and redrafting of the initial complaint; review and revisions of the amended complaint filed in this district; communications with clients, prospective class members; researching and drafting portions of the multiple memoranda of law in opposition

to multiple motions to dismiss; researching and drafting portions of the motion to dismiss the First Amended Class Action Complaint; researching and drafting the opposition to the motion to dismiss the Second Amended Class Action Complaint; researching and drafting the Second Amended Class Action Complaint; researching and drafting the Third Amended Class Action Complaint; attending court conferences and argument before the court; participation in drafting discovery demands and receiving and reviewing discovery demands from defendants; receiving and reviewing discovery produced by Defendants; conferences with co-counsel concerning litigation strategy, settlement and related issues; settlement conferences with all parties; preparation for mediation before the JAMS mediator; attending mediation before the JAMS mediator; preparation of Preliminary Approval Motion papers; review and revise preliminary approval motion papers; appearances before the court in connection with Preliminary Approval Motion; preparation of documents in connection with the motion for approval of attorneys' fees; legal research; review of file with regard to attorneys' fees approval motion; drafting, reviewing and revising settlement documents; conferences with counsel for defendant regarding settlement documents; and, review and revising final approval documents.

3. The schedule attached hereto as **Exhibit 1** is a summary indicating the amount of time spent by each attorney and professional support staff employee of my firm who was involved in the Action, and the lodestar calculation based on my firm's current billing rates. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by my firm, which are available at the request of the Court. Time expended in preparing this application for fees and reimbursement of expenses has not been included in this request.

4. The hourly rates for the attorneys and professional support staff in my firm included in **Exhibit 1** are the same as the regular rates that would be charged for their services in non-

contingent matters and/or which have been accepted in other similar consumer class action litigation.

5. The total number of hours expended on this Action by my firm currently (up to and through August 31, 2025) is 558.80. The total lodestar for my firm for that period is \$427,875.

6. My firm's lodestar figures are based upon the firm's billing rates, which rates do not include charges for expense items. Expense items are billed separately and such charges are not duplicated in my firm's billing rates.

7. Based on my extensive experience litigating and settling automotive defect class action matters, I anticipate that my office and my co-counsel will spend between 350 to 800 hours, depending on the degree of issues raised during the claims administration and settlement process by the members of the class. Automotive class settlements generally involve the need on the part of class members to submit certain documents which the defendants have negotiated as part of the settlement process, such as proof of ownership, proof of diagnosis of the defect, proof of payment and some representation or proof that the class member followed the recommended maintenance schedule with regard to oil changes. There are approximately 1.7 million vehicles included in the class, making this an active claims administration. In it our intention (and our standard practice) to update the Court at or before the final approval hearing as to supplementation of time incurred in the matter.

8. As detailed in the schedule attached hereto as **Exhibit 2**, my firm has incurred a total of \$9,693.42 in unreimbursed expenses in connection with the prosecution of this Action.

9. The expenses incurred in this Action are reflected in the contemporaneous records of my firm. These records are prepared from expense vouchers, check records and other source materials and are an accurate record of the expenses incurred.

10. With respect to the standing of my firm, attached hereto as **Exhibit 3** is a brief biography of my firm and attorneys in my firm who were principally involved in this Action.

I hereby declare under penalty of perjury that the foregoing facts are true and correct.



GARY S. GRAIFMAN

Dated: September 30, 2025

EXHIBIT 1

EXHIBIT 1

KIMBALL, ET AL. V. VOLKSWAGEN GROUP OF AMERICA, INC.
Case No. 22-cv-04163
TIME & LODESTAR CHART
FIRM NAME: KANTROWITZ GOLDHAMER & GRAIFMAN, P.C.
PERIOD: Inception to August 31, 2025

Timekeeper/Position	Hours	Hourly Rate	Total Lodestar
GARY S. GRAIFMAN (P)	212.80	\$975/hr	\$207,480.00
DANIEL EDELMAN (SA)	281.40	\$700/hr	\$196,980.00
DEBRA BURG (A)	27.50	\$525/hr	\$ 14,437.50
ANDRE ARIAS (A)	2.10	\$525/hr	\$ 1,102.50
ELIZABETH MOCCIA (PL)	<u>35.00</u>	\$225/hr	<u>\$ 7,875.00</u>
TOTAL	558.80		\$427,875.00

Position Key: P= Partner, SA=Senior Associate, A=Associate, PL=Paralegal

EXHIBIT 2

EXHIBIT 2

EXPENSE REPORT FOR

KIMBALL, ET AL. V. VOLKSWAGEN GROUP OF AMERICA, INC.

Case No. 22-cv-04163

EXPENSE CHART (By Category)

FIRM NAME: KANTROWITZ GOLDHAMER & GRAIFMAN, P.C.

PERIOD: Inception to August 30, 2025

<u>Category</u>	<u>Amount</u>
Computer Research and Electronic Document Retrieval (Westlaw, Lexis, Auto News, identity search databases)	\$2,857.13
Court PACER Fees	\$ 171.90
Travel, Hotel, Meals and Related Expenses	\$ 49.00
Photocopying (including commercial or internal copying)	\$ 30.75
Facsimile and Long Distance Telephone	\$ 7.00
Postage and Overnight Delivery (Fed Ex, UPS)	\$ 104.29
Court Filing Fees	\$ 552.00
Mediation Fees	\$5,387.55
Process Service	\$ 533.80
TOTAL	\$9,693.42

Exhibit 3

New York Office:

16 Squadron Boulevard
New City, New York 10956
Tel: 845-356-2570
Fax: 845-356-4335



New Jersey Office:

135 Chestnut Ridge Road
Montvale, New Jersey 07645
Tel: 201-391-7000
Fax: 201-307-1086

KANTROWITZ, GOLDHAMER & GRAIFMAN, P.C. (“KGG”) has a nationwide class action practice and has litigated numerous cases involving complex business litigation, consumer class actions and securities class actions. The firm has litigated a number of cases resulting in reported decisions, including cases of first impression. The firm also has an active personal injury and medical malpractice practice, chaired by Barry S. Kantrowitz, and represents clients in mass tort actions.

GARY S. GRAIFMAN is a partner in the Firm and co-chair of the Consumer Class Action Litigation Group at KGG with Melissa R. Emert. Mr. Graifman specializes in the area of consumer and securities class action litigation. He is admitted to practice before the courts of the State of New York, the State of New Jersey, the United States Federal Courts for the Southern District of New York, the Eastern District of New York, the Northern District of New York, the District of New Jersey, the United States Court of Appeals for the First Circuit, Second Circuit, Third Circuit and the Eighth Circuit. He is also a member of the Class Action Committee of the New Jersey State Bar Association. Mr. Graifman is rated “AV-Preeminent” by Martindale Hubbell and has been nominated by Super Lawyers Magazine as a New Jersey Super Lawyer for 2010-2022. He has been a panelist and speaker on class action issues before various bar organizations including those sponsored by the Class Action Committee of the New Jersey State Bar Association and by the National Employment Lawyers Association, New York Chapter.

A sampling of some of the cases Mr. Graifman has recently been involved in include:

- *In re Volkswagen Timing Chain Products Liability Class Action*, 16-cv-2765 (JLL) (D.N.J.). Mr. Graifman and the Firm served as Co-Lead Counsel in this products liability class action which was settled on a nationwide basis on behalf of the owners and lessees of approximately 477,000 class vehicles. Final approval was granted to the Settlement on December 14, 2018. The Settlement provided one hundred percent reimbursement for timing chain repairs to class members and was valued at approximately \$50 million (inclusive of warranty extension repairs).
- *In re Home Depot Consumer Data Security Breach Litig.*, 1:14-MD-02583-TWT (N.D.Ga.). Mr. Graifman and the Firm served on the five member Plaintiffs’ Steering Committee in this massive data breach consumer class action affecting approximately 50 million consumers which was settled on a nationwide basis in 2016. The settlement was valued at approximately \$27 million.
- *In re Premera Blue Cross Customer Data Security Breach Litig.* 3:15-md-2633 (D. Ore). Mr. Graifman and the Firm were one of the counsel in the *Premera Blue Cross Customer Data Breach* Matter, having done substantial and essential work in the case, which was

given Final Approval in early March 2020. The firm's client was the sole named plaintiff

and representative for the putative California state subclass. The California subclass asserted a claim under the California Confidential Medical Information Act, Cal. Civ. Code §§ 56, *et seq.* which was sustained by Court on a motion to dismiss. The matter settled and final approval was granted on March 2, 2020. Under the terms of the settlement approved, the California subclass was entitled to additional compensation as a result of the California CMIA claim.

- *Oliver, et al. v. Bayerische Motoren Werke Aktiengesellschaft, et al.*, 2:17-cv-12979-CCC-MF (D.N.J.). Mr. Graifman and the Firm served as Co-Lead Counsel on this case which involved defective electric coolant pumps on various BMW model vehicles. The matter settled and Final Approval was granted on March 9, 2021. The class includes approximately 563,227 vehicles. The Settlement is valued at approximately \$30 Million.
- *Coffeng, et al. v. Volkswagen Group of America, et al.*, 3:17-cvb—01825-JD (N.D. Cal.). Mr. Graifman and the Firm serve as Co-Lead Counsel on this consumer class action involving defective water pumps in a multitude of Volkswagen and Audi model vehicles. Final Approval was granted to the settlement on May 14, 2020. The case encompassed a nationwide class of owners and lessees of approximately 873,779 class vehicles and was valued at approximately \$22 million.
- *Chiarelli, et al. v. Nissan, N.A. and Duncan, et al. v. Nissan N.A.*, 14-CV-4327(NGG) (E.D.N.Y.) and 1:16-CV-12120-DJC (D. Mass.), these two companion cases involve multi-state claims concerning defective timing chains on various Nissan model vehicles and involve claims in the states of Massachusetts, New York, Texas, Florida, North Carolina, Maryland, Colorado and Oregon. Final Approval was granted to the settlement on August 25, 2020 before Judge Denise Casper in the U.S. District Court for the District of Massachusetts.
- *Seifi, et al. v. Mercedes-Benz USA, LLC*, 3:12-cv-5495-TEH (N.D. Ca.). Mr. Graifman and the Firm served as co-lead counsel in this litigated consumer class action seeking reimbursement for repairs to various Mercedes model vehicles due to a balance shaft defect. The action settled on a nationwide basis in 2015, valued at approximately \$25 million.
- *In re Rambus Securities Inc. Litigation.*, 06-c-v4346-JF (U.S. District Ct., N.D. Cal.) Mr. Graifman and the Firm served as Co-Lead Counsel for the class in this securities class action involving allegations of backdating of options. The matter was settled for \$18.33 million and approved on May 14, 2008.
- *Sheris v. Nissan North America, Inc.*, 07-cv-2516 (WHW) (U.S. District Ct., D. New Jersey). Mr. Graifman and the Firm served as Co-Lead Counsel for the class in this consumer class action against Nissan for alleged brake defect in the 2005 G35x model vehicle. The Court certified a New Jersey settlement class which involved reimbursement of the cost of brake and rotor replacement up to \$340 per brake replacement.

- *Szymczak v. Nissan N. Am. Inc.* (S.D.N.Y.), Case No. 10-cv-0-7493 (VB) (U.S. District Ct., S.D.N.Y.). Mr. Graifman and the Firm served as co-lead counsel in this litigated consumer class action seeking reimbursement for repairs to Nissan Pathfinder, Xterra or Frontier vehicles caused by cross-contamination of radiator fluid with transmission fluid seeping into the transmission. The matter was settled with Defendants agreeing to extend the warranty to 100,000 miles or 10 years and pay for the repairs during that extended mileage and time period, subject to certain deductibles that applied. The nationwide class action settlement, which involved approximately 300,000 vehicles was approved by the Court in May 2013. The settlement was valued at approximately \$17 million.
- *Jermyn v. Best Buy Stores, L.P.*, 1:08-cv-00214 (CM) (U.S. District Ct., S.D.N.Y.). Mr. Graifman and the Firm served as Co-Lead Counsel in this litigated consumer class action certified as a New York consumer class by Hon. Colleen McMahon. The class consisted of Best Buy purchasers who were denied price match guarantees by Best Buy. The matter settled on a class-wide basis shortly before trial.
- *Lubitz, et al. v. DaimlerChrysler Corp.*, BER-L-4883-04 (New Jersey Superior Court, Bergen Co.) Mr. Graifman and the Firm served as Co-Lead Counsel for the class in this consumer class action against DaimlerChrysler Corp. The Court certified a nationwide settlement class and approved a settlement valued at \$14.5 million to owners of Jeep Grand Cherokees, model years 1999 through 2004.
- *In re Trend Micro Class Action Litigation*, Case No. CV 11-02488 (RMW) (U.S. District Ct., N.D. Calif.). Mr. Graifman and the Firm served as Co-Lead Counsel for the class in this consumer class action concerning the failure to provide the remaining time left on current trial subscriptions when the subscriber on the trial subscription converted to a paid subscription. The case was settled in 2013 and Final Approval of the settlement was entered November 15, 2013 by the Court granting subscribers cash refunds or credit towards their future subscriptions and changing the policy of the Company going forward.
- *In re Symantec Class Action Litig.*, 1-05-cv-053711 (Superior Ct. Of State of California, Co. Of Santa Clara) (Komar, J.). Mr. Graifman and the Firm served as Co-Lead counsel in this consumer class action involving the cut-off of subscription time when the subscriber to Norton's anti-virus software renewed or upgraded earlier than the end of the then-current subscription. After the class was certified upon a litigated motion, the matter was settled for a cash payment or a voucher for further use with the anti-virus subscription (at the consumer's option), with the settlement valued in excess of \$5 million.
- *Lowrance, et al. v. Equinox International Corp.*, 2:99-cv-0969 (D.Nev.). Mr. Graifman and the Firm participated in trying a nationwide consumer class action case in the District of Nevada against multi-level marketing company, Equinox, International Corp. through the entire bench trial, and settling the matter on or about the last day of trial before Judge Johnnie B. Rawlinson, just prior to her elevation to the U.S. Court of Appeals for the Ninth Circuit. The matter was tried with other plaintiffs' counsel, who Mr. Graifman second-

seated, and a multi-state Attorney General Task Force and resulted in the liquidation of Equinox and a settlement fund in excess of \$30 million to repay Equinox distributors.

MELISSA R. EMERT, ESQ., has been representing aggrieved stockholders and consumers for more than 30 years. Ms. Emert recently joined KGG after spending most of her career at a national class action firm where she founded and was Co-Chair of its Consumer and Antitrust Class Action Litigation Groups. Ms. Emert's practice focuses on consumer, antitrust and securities class actions. She has litigated cases throughout the United States and held prominent leadership positions in many large multidistrict litigations ("MDLs"). Melissa is a member of the New York State Bar and is admitted to practice before the United States District Courts for the Southern and Eastern Districts of New York. Melissa graduated from Brooklyn Law School with a Juris Doctor in 1988 and received a Bachelor of Arts from the State University of New York at Stony Brook in 1985.

Examples of Ms. Emert's nationwide class action experience include:

- Court-appointed Co-Lead Counsel in *Carder v. Graco Children's Products, Inc.*, 2:20-cv-00137-LMM (N.D. Ga. 2021) (alleging state consumer protection and common law claims on behalf of consumers resulting from defendant's defective and allegedly unsafe children's car seat products);
- Court appointed Co-Lead Counsel in *In re: Daily Fantasy Sports Litig.*, 1:16-md-02677-GAO (D. Mass 2016) (alleging violations of state consumer protection statutes and common law claims on behalf of consumers participating in defendants' online fantasy sports websites).
- Court appointed member of plaintiffs' executive committee in *In re: Hill's Pet Nutrition, Inc. Dog Food Products Liability Litig.*, 19-md-2887 (D. Kan.) (alleging violations of state consumer protection statutes and common law on behalf of consumers who purchased dog food that contained toxic levels of Vitamin D).
- Discovery Committee in a court approved leadership structure in *In re: Rock 'N Play Sleeper Marketing, Sales Practices, and Products Liability Litigation*, 1:19-md-2903 (W.D.N.Y. 2019) (alleging violations of state consumer protection statutes and common law claims on behalf of consumers who purchased the defective and inherently unsafe Fisher-Price Rock 'n Play Sleeper for their infant children).
- Court appointed member of Plaintiffs' Steering Committee in *In re: Intel Corp. CPU Marketing and Products Liability Litig.*, 3:18-md-02828 (D. Or. 2018) (claims on behalf of Intel processor users that have been affected by Intel's alleged defective processors).
- Court appointed member of Plaintiffs' Executive Committee in *In re: Apple Inc. Device Performance Litig.*, 5:18-md-02827 (N.D. Cal. 2018) (claims on behalf of iPhone and iPad users that have been affected by the alleged intentional slowdown of the processors).
- Court appointed member of Plaintiffs' Steering Committee in *In re: German Automotive Mfr. Antitrust Litig.*, 3:17-md-02796 (N.D. Cal. 2017) (alleging anticompetitive conduct in the market for German-made automobiles).

- Court appointed member of Plaintiffs' Steering Committee in *In Re: Sonic Corp. Customer Data Sec. Breach Litig.*, 1:17-md-02807 (N.D. Ohio 2017) (claims on behalf of persons allegedly affected by Sonic's data breach resulted in a class wide settlement).
- Class Representative Communications and Client Vetting Committee in a court approved leadership structure in *Echavarria, et al. v. Facebook, Inc.*, C 18- 05982 (N.D. Cal. 2018) (claims on behalf of persons that have been allegedly affected by Facebook's "View As" data breach).
- Co-Chair of Plaintiffs' Vetting Committee in a court approved leadership structure in *In re Wawa, Inc. Data Breach Litigation*, No. 19-6019 (E.D. Pa. 2019) (claims on behalf of persons affected by Wawa's data breach and had their personal information compromised).
- Court appointed Interim Class Counsel in *In re: Google Location History Litig.*, 5:18-cv-05062-EJD (N.D. Cal. 2019) (a privacy breach action alleging Google tracked millions of mobile device users' geolocation after falsely representing that activating certain settings will prevent the tracking).
- One of three lead co-counsel in *Hughley, et al. v. Univ. of Central Florida Bd. of Tr.*, 2016-CA-001654-O (9th Judicial Circuit, Florida) (February 2016 data breach; settled November 2017, with UCF spending an additional \$1,000,000 annually to protect students' and employees' personal information).

Melissa also has developed and oversees the following litigation, among others:

- *County of Osceola v. Purdue Pharma Inc.*, 6:18-cv-00164 (M.D. Fl.); *County of Alachua v. Purdue Pharma Inc.*, 1:18-cv-00086-MW-GRJ (N.D. Fl.); *County of Palm Beach v. Purdue Pharma Inc.*, 50-2018-CA-004109 (N.D. Fl.) (each alleging opioid manufacturers and distributors defrauded the counties, among others, to generate improper revenue at the county's expense).
- *In Re: Uber Tech., Inc., Data Sec. Breach Litig.*, 2:18-ml-02826-PSG-GJS (C.D. Cal.) (alleging a failure to secure and safeguard riders' and drivers' personally identifiable information ("PII") caused 57 million driver and rider accounts to be compromised).
- *In Re: 21st Century Oncology Customer Data Sec. Breach Litig.*, 8:16-md-02737 (M.D. Fla.) (October 2015 data breach in which the PII of more than two million 21 Century patients was compromise).
- *Suvino v. Time Warner Cable, Inc.*, 1:16-cv-07046 (S.D.N.Y.) (settled action which alleged violations of the Americans with Disabilities Act by Time Warner).
- *Guariglia et al v. The Procter & Gamble Company*, 2:15-cv-04307 (E.D.N.Y.) (settled action which alleged violations of law in connection with P&G's design, manufacture, marketing, advertising, and selling of Tide Pods).

JAY I. BRODY, ESQ. is a commercial litigator with an emphasis in class action litigation, including consumer fraud, automotive defect, and securities and shareholder actions, as well as 12 commercial litigation. Prior to joining the firm, Mr. Brody served as a law clerk for Justice Miriam Naor, President of the Supreme Court of Israel and the Superior Courts of the State of Connecticut. While in law school, Mr. Brody served as a Student Assistant District Attorney in the Office of the New York County District Attorney, and interned at the New York State Department of Financial Services and United States Department of Justice.

Mr. Brody received his B.S. in accounting from Yeshiva University, and his J.D. from The Benjamin N. Cardozo School of Law in 2013, where he served on the Public Law, Policy and Ethics Journal. He is admitted to practice before the State Courts of New York and New Jersey, and the United States Federal Court in the Southern District of New York, Eastern District of New York, and District of New Jersey.

DANIEL C. EDELMAN, ESQ., is an experienced commercial litigator and member of KGG's national Consumer Class Action Litigation Group, representing aggrieved plaintiffs in consumer fraud, data breach, automotive defect, biometric data privacy, and securities and shareholder actions. Mr. Edelman's practice also includes white collar defense, representing companies in governmental and regulatory agency investigations at the local, state and federal levels. Mr. Edelman has represented publicly owned and privately-held companies, including FINRA- member broker dealers, investment advisors, real estate investment and development companies and construction companies. Mr. Edelman has also represented high net-worth individuals in high profile business and partnership disputes, and also business umbrella organizations and their affiliates in complex commercial litigation. Typical matters include claims for fraud, breach of contract, business torts, defamation, and real estate litigation.

As an appellate advocate, Mr. Edelman has authored winning briefs before the New York State Supreme Court Appellate Division and the Second Circuit.

Mr. Edelman has also advised start-up companies on risk mitigation and employee handbook policies, and is experienced in drafting and reviewing various transactional, employment and vendor agreements, as well as entity formation documents.

Prior to practicing law, Daniel served as an associate director at CBS News in New York, where he worked for the *CBS Evening News with Dan Rather*, and CBS News Special Events. Daniel received his Juris Doctor from the Benjamin N. Cardozo School of Law and graduated *magna cum laude* from Brandeis University in 1998.

Daniel is a member of the Rockland County Bar Association and is admitted to practice law before the State Courts of New York and New Jersey, and the United States District Court for the Southern District of New York and District of New Jersey.

EXHIBIT 3

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

JULIE KIMBALL,
Individually and on behalf of all others
similarly situated,

Plaintiffs,

v.

Civil Action No. 2:22-cv-04163-JMV-MAH

**VOLKSWAGEN GROUP OF AMERICA,
INC.,**

Defendant.

**DECLARATION OF THOMAS P. SOBRAN IN SUPPORT OF
APPLICATION FOR ATTORNEYS' FEES AND EXPENSES**

Thomas P. Sobran (“Sobran”) declares on personal knowledge pursuant to 28 U.S.C. § 1746 as follows:

1. The affirmations in this declaration are based upon personal knowledge and contemporaneous records kept in the ordinary course of business. This declaration is in support of my application for an award of attorneys’ fees in this class action proceeding (hereinafter “VW Turbocharger class action”) as well as expense reimbursement incurred in furtherance of the VW Turbocharger class action.

2. I am the sole proprietor of Thomas P. Sobran, P.C. and concentrate in automotive products liability and class actions. Together with co-counsel Gary S. Graifman, a partner at the law firm Kantrowitz, Goldhamer & Graifman, P.C., I represent the plaintiffs in the above-captioned matter as co-lead class counsel.

3. Together with co-counsel, I undertook the following activities in the VW Turbocharger class action: pre-litigation investigation of the underlying facts, drafting and revisions of the initial complaint and subsequent amended complaints; drafting of a pre-litigation demand letter; vetting of, and

communications with prospective class members and the class member; procuring exemplar engine turbochargers and related components; exemplar turbocharger teardowns, examination of alternative and updated VW/Audi turbochargers and related components together with competitor vehicle turbochargers; contacting and reviewing the case with potential automotive experts including technical analysis of multiple exemplar turbocharger assemblies; reviewing workshop and repair manuals for class vehicles; reviewing class vehicle maintenance and service materials; researching automotive defect databases including the National Highway Traffic Safety Administration; researching and drafting memorandum of law in opposition to motions to dismiss; drafting formal and informal discovery; gathering and organizing class representative vehicle information and documents; conferring with co-counsel as to litigation and settlement strategies; preparation of settlement memoranda and participation in settlement discussions. I also participated in reviewing and revising settlement documents including the term sheet, settlement agreement and exhibits; preparing and editing class communications, class notices and forms for claims and deficiency notices; and, drafting, reviewing and revising preliminary approval documents and resolution of related tangential issues. I also engaged in numerous telephone conferences and emails with the class representative and class members as to case specifics, eligible class vehicles and repairs, case status and settlement. Other activities include numerous telephone conferences and emails with VW's counsel. I also prepared mediation materials and attended a mediation convened before JAMS mediator Bradley Winter.

4. Additional anticipated future activities include preparing final approval papers; responding to class member inquires via telephone and email, including reviewing claim denials and engaging in curing claim deficiencies; and, addressing objections and opt-outs of class members and appeals, if any, together with related procedures.

5. The hourly rate for Thomas P. Sobran is \$850.00. Lodestar calculations are based upon my billing rates that do not include charges for expenses incurred in prosecuting the VW Turbocharger

class action. Case related expenses items are invoiced separately and are not duplicated in hourly or loadstar calculations. The total time expended on the VW Turbocharger class action during the relevant time period prior (inception to August 31, 2025) is 475 hours which yields a lodestar of \$403,750. My lodestar time was prepared from contemporaneous daily time records regularly maintained as part of my record keeping and are available to the Court upon request. Time expended in preparing this application for fees and reimbursement of expenses has not been included in this fee request.

6. Based on my experience litigating, settling and administering automotive defect class action cases, it is estimated that I and my co-counsel will spend between 350 to 800 additional hours (depending on the degree of issues raised during the claims administration and settlement process by the members of the class) administering this settlement. Automotive class settlements generally involve the requirement of class members to submit certain documents which the defendants have negotiated as part of the settlement process, such as proof of vehicle ownership, proof of diagnosis of the defect, proof of payment and some representation or proof that the class member followed the recommended maintenance schedule. There are approximately 1.7 million vehicles included in the class. It is my standard practice to update additional hours incurred in this matter at the time of final settlement.

7. As detailed in the case expense schedule attached hereto as **Exhibit 1**, I incurred a total of \$4,916.25 in unreimbursed expenses in connection with the prosecution of VW Turbocharger class action. The expenses incurred in VW Turbocharger class action are reflected in the contemporaneous records of my firm. These records are prepared from expense vouchers/receipts, check records and other source materials and are an accurate record of the expenses incurred.

8. Attached as **Exhibit 2** is a brief biography of Thomas P. Sobran, P.C.

I declare under penalty of perjury under the laws of the Commonwealth of Massachusetts and the United States of America that the above is true and correct.

Executed this 30th day of September 2025.



Thomas P. Sobran

EXHIBIT 1

THOMAS P. SOBRAN, P.C. CASE EXPENSES

Kimball v. Volkswagen Group of America, Inc.,

United States District Court for the District of New Jersey Civil Action No.: 2:22-cv-04163-JKS-MAH

Category	Amount
Ex-Kimball vehicle VW/Audi inspection rental fee	\$1,000.00
Exemplar engine turbochargers	\$300.00
Travel and meals	\$166.00
PHV filing fee	\$250.00
N.J. client fund installments	\$225.25
Mediation fees	\$3,000.00
TOTAL EXPENSES	\$4,916.25

EXHIBIT 2

THOMAS P. SOBRAN

**7 EVERGREEN LANE
HINGHAM, MA 02043**

**TELEPHONE (781) 741-6075
FACSIMILE (781) 741-6074
EMAIL: tsobran @ sobranlaw.com**

EDUCATION

University of Miami School of Law

Coral Gables, Florida
Juris Doctor, June 1983

Boston University

Boston, Massachusetts
Bachelor of Arts, May 1978

LEGAL EXPERIENCE

Class action experience includes:

- Co-lead counsel *Gellis, et al. v. Bayerische Motoren Werke Aktiengesellschaft, et al.*, United States District Court, District of New Jersey Civil Action Civil Action No. 17-cv-7386-WHW
- Co-lead counsel *Oliver, et al. v. Bayerische Motoren Werke Aktiengesellschaft*, United States District Court, District of New Jersey Civil Action Civil Action No. 2:17-cv-12979-CCC
- Co-lead counsel *Coffeng, et al. v. Volkswagenwerk Aktiengesellschaft, et al.*, United States District Court for the District of Northern California, Civil Action No. 3:17-cv-01825-JD
- Executive committee *Salcedo v. Subaru of America, Inc., et al.*, United States District Court, District of New Jersey Civil Action No. 1:17-cv-08173 JHR
- Executive committee *In Re Volkswagen Timing Chain Product Liability Litigation*, United States District Court, District of New Jersey Civil Action No. 2:16-cv-2765 JLL
- Lead counsel *Fisher, et al. v. Mitsubishi Electric Corporation, et al.*, United States District Court, District of Connecticut Civil Action No. 3:09-CV-1899 RNC
- Lead counsel *Diveroli, et al. v. Volkswagenwerk Aktiengesellschaft, et al.*, United States District Court, District of Massachusetts Civil Action No. 07-cv-10196 JLT later consolidated into *In re Volkswagen*, MDL 1790
- Other class action proceedings involve defective consumer products including automobiles, automotive products and electronic goods

Non-class action experience includes:

- Thirty-five years of experience involving complex products liability litigation with an emphasis on automotive defects and crashworthiness proceedings

- In excess of fifteen (15) personal injury cases resulting in verdicts or settlements of more than one million dollars
- Representation of gas turbine helicopter engine manufacturer in aviation accidents involving loss of aircraft and personal injury
- Expert witness in subject matter area of automotive products liability in legal malpractice proceedings
- Qualified and testified at trial as an expert witness in the subject matter area of Porsche 911 engine design and repair procedures in Massachusetts District Court
- Co-authored papers presented at Massachusetts Continuing Legal Education products liability seminars
- Prepared course materials presented by past American Association of Justice (formerly ATLA) President at the 34th Annual Advocacy Institute

Automotive experience

- Factory-trained Volvo, Honda, BMW, Mercedes-Benz and Porsche automotive technician and service manager
- Extensive knowledge of vehicle-component design and manufacture together with assembly, test and repair procedures
- Extensive experience in automotive engine blueprinting and race preparation including designing, machining / fabricating automotive components
- Extensive motor vehicle modification and race preparation experience including turbo charging, internal engine components as well as other components including transmissions and suspension systems
- Ability to read and interpret design drawings, schematics and test protocols employing SAE and DIN standards
- Crew member of NASCAR Craftsman Truck Series and NASCAR Busch Series race teams; crew chief for SCCA Porsche 916 race team responsible for engine build and crew member on SCCA Trans-Am Pro Series team

Miscellaneous

- Professional memberships include Society of Automotive Engineers, Association for the Advancement of Automotive Medicine, Center for Auto Safety and Insurance Institute for Highway Safety
- Familiarity with National Highway Traffic Safety Administration investigation procedures, testing protocol and data bases