

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

MICHELLE NELSON, individually and)	
on behalf of all others similarly situated,)	
)	
<i>Plaintiff,</i>)	No. 3-17-1114
)	
v.)	
)	Hon. Eli Richardson
NISSAN NORTH AMERICA, INC.,)	
a California corporation,)	
)	
<i>Defendant.</i>)	

**ORDER PRELIMINARILY APPROVING CLASS ACTION SETTLEMENT
AGREEMENT, CONDITIONALLY CERTIFYING SETTLEMENT CLASS, AND
DIRECTING NOTICE OF PROPOSED CLASS SETTLEMENT**

WHEREAS, Michelle Nelson and John Anglin (“Plaintiffs”), and Defendant, Nissan North America, Inc. (“NNA” or “Nissan”) have reached a proposed settlement and compromise of the claims in the above-captioned matter, which is embodied in the Settlement Agreement filed with the Court; and

WHEREAS, the Parties have applied to the Court for preliminary approval of the proposed Settlement, the terms and conditions of which are set forth in the Settlement Agreement; and

WHEREAS, the Capitalized Terms herein shall have the same meaning as in the Settlement Agreement;

NOW, THEREFORE, the Court, having read and considered the Settlement Agreement and accompanying documents, as well as the Amended Motion for Preliminary Approval of Class Settlement and supporting papers, and the Parties to the Settlement Agreement having consented to the entry of this order, AND GOOD CAUSE APPEARING,

IT IS HEREBY ORDERED:

1. Subject to further consideration by the Court at the time of the Final Approval Hearing, the Court preliminarily approves the Settlement as fair, reasonable, and adequate to the Settlement Class, as falling within the range for possible final approval, and as meriting submission to members the Settlement Class for their consideration.

2. For purposes of the Settlement only, the Court conditionally certifies the Settlement Class, defined as:

All persons in the United States and its territories including Puerto Rico who purchased any White-painted Nissan Rogue produced between January 11, 2013 and April 23, 2013, and/or any White-painted Infiniti QX56 produced between November 20, 2009 and December 12, 2012.

Excluded from the Settlement Class are NNA; any entity that is a subsidiary of or is controlled by NNA; anyone employed by Class Counsel; any judge to whom the Underlying Actions are assigned, his or her spouse, and members of the judge's staff.

3. The Court preliminarily finds, solely for the purposes of considering this Settlement, that the requirements of Federal Rule of Civil Procedure 23 appear to be satisfied, including requirements for the existence of numerosity, typicality, commonality, adequacy of representation, and manageability of the Settlement Class, that common issues of law and fact predominate over individualized issues, and that settlement and certification of the Settlement Class is superior to alternative means of resolving the claims and disputes at issue in the Underlying Actions.

4. Plaintiffs Michelle Nelson and John Anglin shall serve as Class Representatives of the Settlement Class.

5. The Court appoints the following counsel as Class Counsel for purposes of this settlement:

Lead Class Counsel:

Myles McGuire
Evan M. Meyers
David L. Gerbie
MCGUIRE LAW, P.C.
55 W. Wacker Drive, 9th Fl.
Chicago, IL 60601
Tel: (312) 893-7002
mmcguire@mcgpc.com
emeyers@mcgpc.com
dgerbie@mcgpc.com

Plaintiffs' Steering Committee:

Robert A. Cox
Edwin E. Wallis III
GLASSMAN, WYATT, TUTTLE & COX, P.C.
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Memphis, TN 38103
Tel: 901-527-4673
Fax: 901-527-5320
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The Court preliminarily finds that Plaintiffs and Class Counsel have and will fairly and adequately represent and protect the interests of the absent members of the Settlement Class in accordance with Federal Rule of Civil Procedure 23.

6. The Court approves the nomination of KCC to administer notice to the class.

7. A Final Approval Hearing shall be held before this Court at 1:00 p.m. on December 19, 2019, in Courtroom 874, 801 Broadway, Nashville, Tenn. 37203, to address: (a) whether the proposed Settlement should be finally approved as fair, reasonable and adequate; (b) whether the Final Approval Order should be entered; (c) whether Class Counsel's application for attorney's fees, expenses, and Class Representatives' service awards should be approved; and (d) any other matters that the Court deems appropriate.

8. With the exception of such proceedings as are necessary to implement, effectuate and grant final approval to the terms of the Settlement Agreement, all proceedings with respect to the claims in the Underlying Actions are stayed and all members of the Settlement Class are enjoined from commencing or continuing any action or proceeding in any court or tribunal asserting any claims encompassed by the Settlement Agreement.

9. The Court has reviewed and approves, as to form and content, the Summary Settlement Notice, the Short Form Notice, and the Long Form Notice, all of which are attached to the Settlement Agreement. The Summary Settlement Notice shall be posted on the Settlement website and published in at least one national publication.

10. The Court finds that the Parties' plan for providing notice to the Settlement Class described in Section 4 of the Settlement Agreement constitutes the best notice practicable under the circumstances and shall constitute due and sufficient notice to the Settlement Class of the pendency of the Underlying Actions, certification of the Settlement Class, the terms of the

Settlement Agreement, and the Final Approval Hearing, and complies fully with the requirements of the Federal Rules of Civil Procedure, the United States Constitution, and any other applicable law. The Settlement Administrator shall complete dissemination of notice in the manner prescribed in Section 4 of the Settlement Agreement no later than 60 days after the date of this Order.

11. The Court further finds that the Notice Plan in Section 4 of the Settlement Agreement will adequately inform members of the Settlement Classes of their right to exclude themselves from the Settlement Class so as not to be bound by the terms of the Settlement Agreement should they so choose. Any member of the Settlement Class who desires to be excluded from the Settlement Class, and therefore not bound by the terms of the Settlement Agreement, must submit to the Settlement Administrator, pursuant to the instructions set forth in the Notice, a timely and valid written request for exclusion no later than November 29, 2019. Settlement Class Members shall be bound by all determinations and orders pertaining to the Settlement, including the release of all claims to the extent set forth in the Settlement Agreement, whether favorable or unfavorable, unless such persons request exclusion from the Settlement Class in a timely and proper manner, as hereinafter provided. Settlement Class Members who do not timely and validly request exclusion shall be so bound even if they have previously initiated or subsequently initiate litigation or other proceedings against NNA relating to the claims released under the terms of the Settlement Agreement.

12. Any member of the Settlement Class who elects to be excluded shall not be entitled to receive any of the benefits of the Settlement, shall not be bound by the release of claims under the Settlement Agreement, and shall not be entitled to object to the Settlement or appear at the Final Approval Hearing. The names of all person and entities timely submitting valid requests for exclusion shall be provided to the Court before the Final Approval Hearing.

13. Any member of the Settlement Class who does not submit a valid and timely request for exclusion may object to the Settlement Agreement, to Class Counsel's application for attorneys' fees, expenses, and costs; to the Class Representatives' Incentive Awards, or to the proposed Final Approval Order. All objections must be postmarked by November 29, 2019. All objections must be submitted to the Parties' counsel and the Settlement Administrator, and postmarked by November 29, 2019. The Parties shall file such objections with the Court 14 days before the Final Approval Hearing. No member of the Settlement Class shall have the right to appear and to be heard at the Final Approval Hearing, either personally or through an attorney, unless written notice of the Settlement Class Member's objection and any brief in support of the objection have been submitted in conformance with the procedure set out in the detailed Long Form Notice, which is Exhibit 4 to the Settlement Agreement. Any attorney representing a member of the Settlement Class wishing to object must file a notice of appearance with the Court.

14. Service of all papers on counsel for the Parties shall be made as follows to the counsel listed in paragraph 12.2 of the Settlement Agreement: for Class Counsel, Myles McGuire, McGuire Law, P.C., 55 W. Wacker Dr., 9th Floor, Chicago IL 60601; for NNA's Counsel, to William R. Sampson, Shook Hardy & Bacon, LLP, 2555 Grand Blvd., Kansas City MO 64108.

15. Any member of the Settlement Class who does not make an objection in the time and manner provided in the detailed Long Form Notice, which is Exhibit 4 to the Settlement Agreement, shall be deemed to have waived such objection and be forever foreclosed from making any objection to the fairness or adequacy of the proposed settlement as incorporated in the Settlement Agreement; the payment of attorney's fees, costs, and expenses; the Class Representatives' Incentive Awards; or the Final Approval Order.

16. In the event that the proposed Settlement is not approved by the Court, or in the event that the Settlement Agreement becomes null and void pursuant to its terms, this Order and all orders entered in connection therewith shall become null and void, shall be of no further force and effect, and shall not be used or referred to for any purposes whatsoever in the Underlying Actions or in any other case or controversy; in such event, the Settlement Agreement and all negotiations and proceedings directly related thereto shall be deemed to be without prejudice to the rights of any and all of the Parties, who shall be restored to their respective positions as of the date and time immediately preceding the execution of the Settlement Agreement.

17. Class Counsel may file a motion seeking an award of attorneys' fees, costs, and expenses, as well as Incentive Awards for the Class Representatives, no later than October 30, 2019.

18. All papers in support of the final approval of the proposed Settlement shall be filed no later than 7 days before the Final Approval Hearing.

19. The Court may, for good cause, extend any of the scheduled dates or deadline set forth in this Order without further notice to the members of the Settlement Class. The Final Approval Hearing may, from time to time and without further notice to the Settlement Class, be continued by order of the Court.

20. For clarity, the deadlines set forth above and in the Settlement Agreement are as follows:

Notice to be completed by:	October 15, 2019
Fee and Expense Application:	October 30, 2019
Objection and Exclusion Deadline:	November 29, 2019
Final Approval Submissions:	December 12, 2019

Final Approval Hearing:

December 19, 2019 at 1:00 p.m.

Reimbursement Claims Deadline:

December 19, 2020

IT IS SO ORDERED.

Dated: August 16, 2019


Hon. Eli Richardson
U.S. District Court Judge

Darbo, Jordan P. (SHB)

From: cmecf@tnmd.uscourts.gov
Sent: Friday, August 16, 2019 10:31 AM
To: deadmail@tnmd.uscourts.gov
Subject: Activity in Case 3:17-cv-01114 Nelson v. Nissan North America, Inc. Order

Categories: Purple Category

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U.S. District Court

Middle District of Tennessee

Notice of Electronic Filing

The following transaction was entered on 8/16/2019 at 12:29 PM CDT and filed on 8/16/2019

Case Name: Nelson v. Nissan North America, Inc.

Case Number: [3:17-cv-01114](#)

Filer:

Document Number: [83](#)

Docket Text:

ORDER Preliminarily Approving Class Action Settlement Agreement, Conditionally Certifying Settlement Class, and Directing Notice of Proposed Class Settlement. Final Approval Hearing set for 12/19/2019 01:00 PM in Courtroom 874 before District Judge Eli J. Richardson. Signed by District Judge Eli J. Richardson on 8/16/19. (DOCKET TEXT SUMMARY ONLY-ATTORNEYS MUST OPEN THE PDF AND READ THE ORDER.)(gb)

3:17-cv-01114 Notice has been electronically mailed to:

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3:17-cv-01114 Notice SHOULD be delivered by other means to:

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1092242875 [Date=8/16/2019] [FileNumber=3863545-0
] [119e86e5cd0837727c23e80727ac92e721e6269b46d245c21425f4501289ac5111e
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