



(the “IRF”) and the Takata Airbag Tort Compensation Trust Fund (“TATCTF”).<sup>2</sup> Since then, the Special Master and his team have been working diligently to process and evaluate all filed claims.

3. The deadline for filing as a “Current Claim” was August 31, 2018. As of November 15, 2018, Epiq Systems, Inc. (“Epiq”), as successor-in-interest to Garden City Group, the Special Master’s claims administrator, received and logged 291 total claim forms for Current Claims. Of those claims, 259 assert personal injury and 32 assert wrongful death.

4. Claimants complete a single claim form in which they can assert independent claims against each of the following: (i) the IRF; (ii) the TATCTF; or (iii) if the inflator defect manifested in a Honda or Acura vehicle, Honda, in its capacity as a “Participating OEM” in the TATCTF. Claimants are instructed to check different boxes on the claim form to indicate which of these three claim type(s) they are asserting.

5. The Current Claim population breaks down as follows:

- 53 assert IRF, Trust and POEM Claims;

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<sup>2</sup> As described in further detail in the Fifth Status Report, the Special Master also serves as the Trustee of the TATCTF, which was created in the U.S. Bankruptcy Proceedings of certain Takata debtors (including Takata’s U.S. affiliate, TK Holdings Inc.) to, among other things, administer, resolve, and liquidate certain personal injury or wrongful death claims related to the malfunction of Takata PSAN Inflators (“PSAN PI/WD Claims”). All PSAN PI/WD Claims against Takata Corporation, TK Holdings Inc. and its affiliated debtors (“Trust Claims”) or against any Consenting OEM that elects to become a “Participating OEM” (“POEM Claims”) are channeled to the TATCTF. To date, Honda/Acura is the only Participating OEM.

- 175 assert both IRF and Trust Claims;
- 19 assert solely an IRF Claim;
- 7 assert solely a Trust Claim;
- 2 assert solely a POEM Claim;
- 1 asserts a Trust and POEM Claims;
- 5 assert IRF and POEM Claims; and
- 29 fail to designate any claim type.

6. The Special Master and his team of professionals have sent deficiency notices to Claimants who have failed to designate any claim type, notifying them that at least one claim type must be selected for their claim form to be processed. The Special Master's team is also contacting Claimants who have filed a Trust Claim or a POEM Claim but not an IRF Claim to find out why the Claimant has not asserted an IRF Claim and to ask whether the Claimant would like to amend its claim to add an IRF Claim.

7. The Special Master and his team of professionals have reviewed and evaluated almost all Current Claims for eligibility and compensability. This process is proceeding according to plan and on schedule. The first step in the process is for Epiq to review a submitted claim for facial deficiencies, such as a missing signature, lack of basic documentation, or failure to supply required information, or for more substantive deficiencies, such as failure to supply

evidence of a rupture or aggressive deployment. Deficiency notices are then sent out to those claimants, or their attorneys, with deficient claims with requests for supplementation within the 90-day cure period for deficiencies. Once a claim is deemed complete, it is evaluated and scored by staff at Epiq, reviewed by senior management at Epiq, and then sent to the Special Master for final review and determination. The Special Master reviews each and every claim, and as of the date of this Status Report, has reviewed almost every complete Current Claim.

8. Of the 291 Current Claims, the Special Master and his team initially determined that 69 of these Claims are eligible for compensation,<sup>3</sup> 172 Claims have some deficiency, and 50 Claims are ineligible for compensation. The Special Master is in the process of notifying Current Claimants of their present status by letter. The letters include: (1) notice of compensability letters, informing Claimants that their Claim has been reviewed and processed, tentatively deemed eligible, and the Claimant need not submit any additional information; (2) letters informing Claimants that their Claim included a facial deficiency, such as a missing signature or insufficient documentation; and (3) letters informing Claimants that their Claim contains a substantive deficiency, such as insufficient proof of a rupture or aggressive deployment or insufficient proof of eligibility. As of November 16, 2018, 264 letters have been mailed to Claimants or their

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<sup>3</sup> Of the 69 claims eligible for compensation, 10 assert IRF, Trust and POEM Claims, 56 assert IRF and Trust Claims, and 3 assert solely an IRF Claim.

attorneys. Numerous Claimants have received multiple letters. The breakdown of letters is as follows:

- 69 notice of tentative compensability letters;
- 33 facial deficiency letters; and
- 162 substantive deficiency letters.

9. The Special Master intends to notify the 50 Claimants with ineligible Current Claims by mid-December, 2018 that their Claim has been denied. These Claims are ineligible primarily for one of two reasons: (1) the Claim alleges a non-deployment of the airbag, which is not compensable under the IRF or Trust, or (2) a Takata airbag was not installed in the subject vehicle. Claimants will have the opportunity to appeal the Special Master's determination upon receipt of their ineligibility notice.

10. The Special Master and his professionals have assigned a preliminary point value to the majority of Current Claims. After the 90-day cure period for deficiencies ends in mid-February 2019, the Special Master and his professionals will complete the initial scoring for all eligible claims and then meet to compare all proposed awards for Current Claims to ensure internal consistency. Awards will be finalized at this time. The Special Master anticipates that this will occur in mid-March. After the awards are finalized, the Special Master will send letters to eligible Claimants notifying them of their proposed point award and the likely

dollar amount of their monetary award. Claimants will then have an opportunity to appeal the Special Master's proposed award through the internal appeals process set forth in the revised IRF Methodology. Once that appeals process is complete, the Special Master will submit the final proposed monetary awards to the Court for its review and approval.

11. The Special Master has also received 47 "Future Claims," i.e. claims filed after August 31, 2018 or arising out of an accident after April 10, 2018. The Future Claim population breaks down as follows:

- 9 assert IRF, Trust, and POEM Claims;
- 21 assert IRF and Trust Claims;
- 3 assert solely an IRF Claim;
- 0 assert solely a Trust Claim;
- 1 asserts solely a POEM Claim;
- 2 assert IRF and POEM Claims;
- 1 asserts Trust and POEM Claims; and
- 10 fail to assert any claim type.

12. The Special Master and his professionals are reviewing and evaluating these Future Claims and intend to inform Future Claimants of any deficiencies in their Claims in the near future.

13. As part of the claims handling process, the Special Master is also working with a lien resolution consultant to negotiate the handling of Medicare and Medicaid liens on individual awards, and to facilitate the resolution of other, non-governmental liens. This effort will be synchronized with the other steps in the claims resolution process to ensure that all liens are handled properly and each Claimant knows the net amount of the Claimant's award. The lien resolution consultant was recently informed by Medicare that the Claims are not suitable for global lien resolution because of the relatively small number of Claims. Therefore, any liens on Claims will be resolved individually.

**B. REVISED ESTIMATION OF CURRENT AND FUTURE IRF CLAIMS**

14. With the expiration of the Current Claim filing period, the Special Master and his economist, NERA Economic Consulting ("NERA"), are now in the process of preparing the revised estimation of total claims expected over the entire lifetime of the IRF. This revised estimate is necessary to ensure that a sufficient portion of the limited IRF is preserved to treat future claimants fairly and consistently with Current Claimants. NERA is working closely with Epiq and the Special Master's staff at Resolutions, LLC to analyze and compare Current Claims data against the projections contained in the revised IRF Methodology. NERA has also shared its information and estimation analysis with the Future Claimants' Representative in the U.S. Bankruptcy Proceedings who performed similar

analyses as part of those proceedings. NERA has determined that so far the Current Claims data closely aligns with NERA's initial estimation contained in the IRF Methodology.

15. NERA is preparing a report with the results of its analysis of the Current Claims data and its estimation of current and future liabilities. NERA intends to finalize its report with its initial analysis in early December. However, due to the 90-day cure period for deficient claims, the number of eligible Current Claims may shift, which may affect NERA's analysis. Therefore, the Special Master anticipates providing the Court with a further revised estimation of the current and future liabilities after the cure period, when the universe of Current Claims is definitively known.

16. Once the revised estimation of expected total claims is completed and the division between Current Claims and estimated Future Claims is approved, the Special Master will be in a position to calculate the funds available from the total IRF for Current Claims and begin allocating specific amounts of the available restitution funds to allowed Current Claims. The Special Master will then submit its recommendations for the universe of Current Claims to the Court for its final approval.

**C. DISTRIBUTING THE \$850 MILLION OEM RESTITUTION FUND.**

17. In prior reporting periods, the Special Master successfully disbursed \$848,807,416.23 of the \$850 million OEM Restitution Fund to the Consenting OEMs and two Non-Consenting OEMs.

18. Following several attempts by the Special Master to contact the five remaining OEMs (the “Remaining OEMs”) who, despite notice to them, had not claimed and therefore had not received a distribution from the OEM Restitution Fund, the Special Master sought Court approval of proposed procedures to provide final notice to the Remaining OEMs and, after a fourteen day notice period, transfer any funds remaining in the OEM Restitution Fund to the IRF for the benefit of and distribution to individual victims.<sup>4</sup> On August 28, 2018, the Court approved these procedures.<sup>5</sup>

19. Thereafter, the Special Master provided email or mail notification to the Remaining OEMs in accordance with the Court’s order. On September 12, 2016, the Special Master received an executed, but incomplete, Distribution and Release Agreement from Zhejiang Geely Automobile Parts & Components Stock

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<sup>4</sup> See *Special Master’s Request for Approval of Final Notice to Remaining OEMs and Distribution of Unclaimed Funds in the OEM Restitution Fund to the Individual Restitution Fund*, dated August 24, 2018 [Doc. 98].

<sup>5</sup> See *Order Approving Special Master’s Request for Approval of Final Notice to Remaining OEMs and Distribution of Unclaimed Funds in the OEM Restitution Fund to the Individual Restitution Fund*, dated August 28, 2018 [Doc. 100].

Co., Ltd (“Geely”). The Special Master requested a complete, executed copy of the Distribution and Release Agreement. On November 6, 2018, the Special Master received an executed copy of the Distribution and Release Agreement from Geely. Upon receipt of the executed Distribution and Release Agreement, the Special Master directed the distribution to Geely of its Court-approved allocation payment of \$1,114,622.94.

20. On September 4, 2018, South East Fujian Motor Co., Ltd. (“Fujian Motor”) requested a Chinese translation of the final notice and the Distribution and Release Agreement. In response, the Special Master informed Fujian Motor that the Special Master does not have a Chinese translation and granted an extension of time to submit an executed Distribution and Release Agreement to enable the OEM to engage a translator, should it wish to do so. On October 24, 2018, the Special Master sent Fujian Motor a final notice informing Fujian Motor that if it did not return a signed copy of the Distribution and Release Agreement to the Special Master by November 9, 2018, the Special Master would be authorized to transfer Fujian Motor’s allocable share of the OEM Restitution Fund to the Individual Restitution Fund. The Special Master has not received a response from Fujian Motor, and intends to seek final Court approval to transfer Fujian Motor’s Court-approved final allocation payment of \$47,449.39 to the IRF.

21. No responses were received from three OEMs—Jiangxi Changhe Suzuki Automobile, Co., Ltd.; Forest River, Inc.; and Atiwe Autoteile Herstellungs-und Vertriebs GmbH—whose aggregate Court-approved allocation payment is \$30,511.43. The deadline to respond to the final notice has expired. Accordingly, the Special Master will instruct that this amount be transferred to the IRF.

## **II. GOING FORWARD EFFORTS.**

22. The Special Master and his team will continue to receive claims for compensation from the Individual Restitution Fund and TATCTF, and will continue the process of reviewing and evaluating claims. The Special Master and his team will also continue to evaluate the claims data in order to determine the ratio between Current and Future Claims, as well as the dollar value of a point, so that all awards can be monetized.

## **CONCLUSION**

23. The Special Master will continue to perform his responsibilities and duties consistent with the Appointment Order and all other directives of this Court.

Dated: November 27, 2018

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'E. D. Green', written over a horizontal line.

Eric D. Green, Special Master

**CERTIFICATE OF SERVICE**

I hereby certify that on November 28, 2018, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system, which will send notification of such filing to the following:

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