

3. On the same date, the Court entered the *Restitution Order*, dated Feb. 27, 2017 [ECF No. 24] requiring Takata to pay restitution in the amount of \$125,000,000 to the individuals who suffered or will suffer personal injury caused by the malfunction of a Takata airbag inflator and who have not already resolved their claims against Takata (the “Individual Restitution Fund”) and \$850,000,000 in restitution to automobile manufacturing companies (the “OEMs”) that purchased airbags with phase-stabilized ammonium nitrate inflators (“PSAN Inflators”) from Takata or any of its subsidiaries (the “OEM Restitution Fund,” together with the Individual Restitution Fund, the “Restitution Funds”).

4. As part of the Plea Agreement, the United States and Takata recommended that this Court appoint a Special Master to determine the proper administration and disbursement of the Restitution Funds.

5. On July 31, 2017, the Court entered the Appointment Order appointing Eric D. Green as Special Master. Paragraph 4 of the Appointment Order requires the Special Master to report on the status of his work every 60 days.

II. ACTIVITIES IN THE REPORTING PERIOD.

6. Pursuant to the Appointment Order, the Special Master shall develop and implement no later than 90 days from the date of the Appointment Order (unless such date is extended by the Court upon the request of the Special Master) proposed procedures for carrying out his duties.

7. These duties include, among other things: (i) establishing a trust to hold the funds paid into the Restitution Funds; (ii) establishing procedures to determine eligible claimants and the amount of loss eligible for compensation from the Restitution Funds; (iii) developing a formula or formulas for distributing funds to eligible claimants; (iv) reviewing claims; (v) recommending to the Court distributions from the Restitution Funds; and (vi) establishing procedures for distributions.

8. To that end, during the Reporting Period, the Special Master has focused on building and tasking a team of professionals to assist in carrying out his duties under the Appointment Order. Specifically, the Special Master has made progress on, *inter alia*: (i) developing a notice plan and channels for communications with potential claimants; (ii) creating a legal structure to hold the Restitution Funds in trust; (iii) meeting with Takata, TK Holdings, Inc. (“TKH”),¹ counsel to the Official Committee of Unsecured Tort Claimant Creditors in the U.S. Bankruptcy Proceedings (the “Tort Claimants Committee”), counsel for plaintiffs in the multi-district litigation, *In re Takata Airbag Prods. Liab. Litig.*, Case No. 15-md-02599-FAM (S.D. Fla.) (the “MDL Plaintiffs,” and together with the Tort Claimants Committee, the “Plaintiff Groups”), the OEM group, the

¹ TKH and certain of its affiliates are debtors in Chapter 11 proceedings in the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”), jointly administered for procedural purposes only at Case No. 17-11375 (BLS) (the “U.S. Bankruptcy Proceedings”).

Department of Justice, and the National Highway Traffic Safety Administration (“NHTSA”); (iv) obtaining and analyzing information from Takata and its affiliates, automobile manufacturers, and plaintiffs’ counsel regarding PSAN airbag inflators and personal injury claims; and (v) discussing allocation of the OEM Restitution Fund with a group of OEMs.

A. ENGAGEMENT OF PROFESSIONALS.

9. From August 1, 2017 through September 6, 2017, the Special Master and Takata engaged in negotiations over the terms of the Special Master’s engagement letter, which was submitted to and approved by the Court on September 13, 2017 in the *Order Approving the Engagement Letter Between Takata Corporation and the Special Master, Authorizing the Special Master’s Retention of Professionals, and Approving the Trust Agreement*, dated Sept. 13, 2017 [ECF No. 44] (the “Engagement Order”). The Special Master executed the engagement letter on September 7, 2017. Takata executed the engagement letter on September 22, 2017, following approval by the supervisor appointed by the bankruptcy court in Japan to supervise Takata in its bankruptcy proceedings.

10. In the Engagement Order, the Court also approved the retention of several professionals to assist the Special Master as follows:

- (i) Brown Rudnick LLP as legal counsel to the Special Master;
- (ii) Garden City Group, LLC as claims administrator, focusing on claims intake and evaluation; developing and implementing a

multiyear notice program aimed at increasing public awareness of the Individual Restitution Fund; and overseeing communication channels with potential claimants;

(iii) NERA Economic Consulting as economist, assisting the Special Master with, among other things, analyzing available data; evaluating the value of current and future claims; and designing a formula for allocating the Individual Restitution Fund; and

(iv) Wilmington Trust, N.A. (the “Trustee”) as trustee of the Takata Corporation Restitution Fund Trust created to hold the Restitution Funds.

B. COMMUNICATIONS WITH POTENTIAL CLAIMANTS.

11. The Special Master has established a website, www.takataspecialmaster.com, to provide information to potential claimants. The website provides an email address and call line for potential claimants’ questions. The Special Master has already begun receiving inquiries from potential claimants and their counsel. Among these communications are several letters sent by purported whistleblowers claiming entitlement to a percentage of the Restitution Funds under the Motor Vehicle Safety Whistleblower Act.

12. Moreover, the Special Master has worked with TK Holdings, Inc. (“TKH”) to include a notification about the appointment of the Special Master and the Special Master’s website in the proposed bar date notice in the U.S. Bankruptcy Proceedings. It is anticipated that, upon Bankruptcy Court approval, this notice will reach millions of individuals who own, or may have owned,

vehicles equipped with PSAN Inflators. The hearing before the Bankruptcy Court on the bar date notice is currently scheduled for October 2, 2017.

13. In addition, the Special Master is developing a notice plan specifically for the Individual Restitution Fund with Garden City Group to provide, among other things: (i) direct notice to attorneys identified through reasonable research as representing Takata claimants; (ii) a targeted public service announcement campaign; (iii) search advertising; and (iv) a social media campaign.

C. CREATION OF THE TAKATA CORPORATION RESTITUTION FUND TRUST.

14. The Special Master, with the assistance of legal counsel, evaluated the optimal legal structure for obtaining control over and maintaining, subject to distribution, the Restitution Funds and created the Takata Corporation Restitution Fund Trust. On September 13, 2017, the Court approved the Trust Agreement in the Engagement Order and directed the funds for the Individual Restitution Fund be paid over to the Trustee. On September 20, 2017, the Special Master formally requested that the District Court transfer the \$125 million for the Individual Restitution Fund to the Takata Corporation Restitution Fund Trust, and the procedures for that transfer are presently progressing.

D. MEETINGS WITH INTERESTED PARTIES AND OBTAINING DATA ON PERSONAL INJURY CLAIMS.

15. The Special Master has conducted several meetings with interested parties to obtain information about PSAN Inflators and related claims and the views of such interested parties on issues related to the Restitution Funds. The Special Master held meetings with the Plaintiff Groups on July 31, 2017, with Takata and TKH on August 1, 2017, with attorneys from the Department of Justice and the Office of the United States Attorney for the Eastern District of Michigan on August 11, 2017, and with NHTSA on September 27, 2017.

16. On August 14 and September 15, 2017, meetings were held with the economists engaged by TKH and the Special Master to review data on predicting the number and timing of future claims. The Special Master is working with Takata, TKH and the OEMs to obtain claim information to assist the economist's analysis of current and future claims, including information related to settlements. The Special Master will again be meeting with the Plaintiff Groups concerning the same topics.

17. The Special Master met with the OEM group on August 14 and September 13, 2017 to discuss, among other things, the allocation and process for allocating the OEM Restitution Fund and the progress of the global transaction in the U.S. Bankruptcy Proceedings that will ultimately fund the OEM Restitution Fund.

18. In addition, in connection with the Individual Restitution Fund, the Special Master has discussed the creation of a program to provide legal assistance to unrepresented claimants with David Santacrose, the director of clinical programs at the University of Michigan Law School.

III. GOING FORWARD EFFORTS.

19. As stated above, the Appointment Order provides that the Special Master shall develop and implement proposed procedures for carrying out his duties within 90 days, unless such date is extended by the Court upon the request of the Special Master. In fulfilling his responsibilities under the Appointment Order, the Special Master has encountered a variety of delays and anticipates additional timing issues.

20. Among other things, the Special Master is in the process of obtaining additional data necessary to develop valuation formulas and methodologies. First, the Special Master is working on obtaining settlement data from the Plaintiff Groups and has scheduled a meeting with the Plaintiff Groups for October 9, 2017. Second, following the September 13, 2017 meeting with the OEM group, the Special Master requested specific categories of settlement data from the OEMs and will be meeting with certain OEMs on September 29 and October 9, 2017. Third, since the September 15, 2017 meeting with the economists engaged by TKH and the Special Master, the Special Master is reviewing and seeking further data in

connection with a complex claims model that TKH's economist has been working on for nearly a year. Fourth, at the September 27, 2017 meeting with NHTSA, the Special Master requested data and analysis related to the PSAN Inflators and recalls.

21. Despite working in an expedited manner, it will take several weeks from the time this information is obtained from TKH's economist, the Plaintiff Groups, the OEMs, and NHTSA for the Special Master's economist, NERA, to test and investigate the key assumptions of TKH's claims model, analyze settlement data obtained from the Plaintiff Groups and OEMs, and provide an independent analysis of current and future claims.

22. Until the data is obtained and analyzed to determine claim types and the allocation methodology, the Special Master's claims administrator, Garden City Group, will be unable to begin drafting the relevant claims forms and documentation checklists. It will undoubtedly take Garden City Group several weeks, even on an expedited basis, to analyze the data and provide recommendations to the Special Master on valuation formulas and methodologies, claims forms, and claims processing protocols.

23. As a result, in light of these circumstances, together with delays occasioned in the negotiation of the engagement of the Special Master with Takata,

it will likely be necessary for the Special Master to request an extension of the 90-day deadline.

24. Irrespective of any extension, over the next 30 days, the Special Master and his team plan to continue to develop a claims resolution protocol and allocation methodology to recommend to the Court, work to establish a fully functional claims facility, and begin testing proposed procedures. As part of this process, the Special Master may retain, with Court approval, a medical liens specialist to assist with developing and implementing a lien resolution strategy. The Special Master will continue to update his website to provide additional information to potential claimants.

CONCLUSION

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

Dated: September 29, 2017

Respectfully submitted,

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

Eric D. Green, Special Master