

distribution of \$975 million in restitution (the “Restitution Funds”) that Takata agreed to pay to designated claimants, including auto manufacturers (the “OEMs”) and individuals with personal injuries.¹ This proposed ninth distribution addresses only the restitution to individuals under the Individual Restitution Fund (defined below).

Contemporaneously with the acceptance of the Plea Agreement, the Court entered the *Restitution Order* [Dkt. No. 24] (the “Restitution Order”) requiring Takata to, among other things, pay \$125 million in restitution to 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” or “IRF”).

Pursuant to the Plea Agreement, on July 31, 2017, the Court entered an order appointing Eric D. Green as Special Master of the Takata Restitution Funds (the “Appointment Order”) [Dkt. No. 40] to administer the Individual Restitution Fund (as well as the OEM Restitution Fund). Pursuant to paragraph 2 of the Appointment Order, the Special Master’s responsibilities include, *inter alia*, establishing

¹ The Restitution Order requires, *inter alia*, Takata to pay \$850 million in restitution to the OEMs in connection with their purchase of Takata airbags inflators (the “OEM Restitution Fund”). The Special Master previously submitted the proposed allocation of the OEM Restitution Fund and requested Court approval of the proposed notice program [Dkt. No. 49]. The Court entered the order approving the proposed notice program to distribute notice regarding the OEM Restitution Fund on November 28, 2017 [Dkt. No. 50], and the distribution of the \$850 million in restitution to the OEMs has been completed in accordance with the Court’s orders [Dkt. Nos. 81, 90, 100, 105].

procedures, subject to Court approval, to determine eligible claimants and the amount of loss eligible for compensation, developing a formula or formulas, subject to Court approval, for distributing funds to eligible claimants, making determinations regarding allowed claims, and making a recommendation to the Court regarding allocation of funds from the Individual Restitution Fund.

A. The Revised IRF Methodology.

On March 21, 2018, the Court entered an order approving the Special Master’s proposed approach to distributing the funds in the IRF (the “Revised IRF Methodology”).² The Revised IRF Methodology sets forth the requirements for qualifying as an Eligible Claimant³ and divides eligible claims into two categories: (i) “Current Claims” filed with the Special Master by August 31, 2018; and (ii) “Future Claims”⁴ filed after August 31, 2018. Under the Revised IRF Methodology, a portion of the IRF is allocated to Current Claims and the balance is

² *Order Granting Special Master’s Request for Approval of the Revised Individual Restitution Fund Methodology* [Dkt. No. 77] and *Overruling Defendant’s Objection* [Dkt. No. 78] (the “IRF Methodology Order”).

³ “Eligible Claimant” means an individual (1) who has suffered personal injury or death caused by the rupture or aggressive deployment of a Takata phase-stabilized ammonium nitrate (PSAN) airbag inflator (the “PSAN Airbag Inflator Malfunction”; (2) who was at the time the PSAN Airbag Inflator Malfunction occurred (a) in a vehicle located or registered in the United States, its territories or its possessions, or (b) a U.S. citizen or permanent resident (wherever the PSAN Airbag Inflator Malfunction occurred); and (3) who has not already resolved his or her claim against Takata Corporation and/or any of its affiliates.

⁴ The Special Master now refers to “Future Claims” as simply “Claims” given that all claims that are processed pursuant to this Request and thereafter were filed after August 31, 2018.

reserved for Future Claims based on estimations of Current and Future Claims conducted by NERA.

Given that the estimated value of all anticipated Current and Future Claims far exceeds the \$125 million in the Individual Restitution Fund, the Special Master decided to utilize a relative valuation approach to determine awards to Eligible Claimants. Under this approach, points are assigned to claims based on injury categories in an injury valuation matrix and certain other factors, and then the points assigned to each claim are converted to a monetary award based on the number and value of allowed claims and the funds available. Future Claims are valued and paid under the same procedures as Current Claims. In the event that there are fewer Future Claims than estimated, unused funds will be distributed to all eligible claimants on a proportional basis.

On February 4, 2021, the Special Master moved the Court to modify the Revised IRF Methodology and the points schedule incorporated therein [Dkt. No. 138] (the “Points Modification Motion”) to more equitably compensate personal injury victims. On February 26, 2021, the Court entered an order approving the Points Modification Motion [Dkt. No. 140].

B. The Claim Forms and Notice Program.

On May 29, 2018, the Special Master obtained Court approval of the following in connection with the IRF: (i) the Notice Program; (ii) the Personal Injury

Claim Form; (iii) the Wrongful Death Claim Form; (iv) the lists of required supporting documentation; (v) the Notice of Claim Form, which enables claimants to timely file but defer consideration of their claim; and (vi) the HIPAA Release.⁵

The next day, May 30, 2018, the Special Master launched the targeted Notice Program for the IRF, including direct notification through mail and email, indirect notice through international publication and a press release, and various types of online media. With respect to the direct notification, the Claims Administrator mailed a claim package consisting of a direct notice, claim forms, supporting documentation checklists, and a notice of claim. This targeted notice supplemented the notice program in the U.S. Bankruptcy Proceedings, which was designed to reach approximately 83 million past and present registered owners of a vehicle containing a Takata PSAN Inflator. Subsequently, the Special Master has received, evaluated, processed, and paid claims pursuant to the IRF Methodology upon receiving Court approval in response to periodic distribution requests.

C. Eighth Distribution Request.

Recently, on March 22, 2021, the Special Master filed the *Special Master's Request for Approval of Eighth Distribution of Individual Restitution Fund* [Dkt. No. 141] (the "Eighth IRF Distribution Request"). In the Eighth IRF Distribution

⁵ *Order Granting Special Master's Request for Approval of Individual Restitution Fund Claim Forms, Notice Program, and Extension of Current Claims Filing Deadline*, dated May 29, 2018 [Dkt. No. 94].

Request, the Special Master indicated that he evaluated each Claim, determined whether such claims were eligible for compensation from the IRF, and, if eligible, assigned a point value to each claim. In total, after all internal reviews and appeals, 15,285 points were awarded to those Claimants. On May 11, 2021, the Court entered its *Order Granting Special Master's Request for Approval of Eighth Distribution of Individual Restitution Fund* [Dkt. No. 145].

D. The Evaluation of Claims Subject to Ninth Distribution Request.

Since entry of the Order, the Special Master has administered, reviewed, analyzed, and evaluated eighteen (18) additional Claims. The purpose of this Request is to seek the Court's approval of the Special Master's determinations for these Claims.

Epiq reviewed each of the eighteen (18) Claims: (i) for facial deficiencies, such as a missing signature, lack of basic documentation, or failure to supply required information; and (ii) for more substantive deficiencies, such as failure to supply evidence of a rupture or aggressive deployment. If deficiencies were identified by Epiq, then deficiency notices were sent out to those claimants, or their attorneys, identifying the deficiencies and requesting supplementation within the cure period set forth in the Revised IRF Methodology.

Once a Claim was deemed complete, it was evaluated by staff at Epiq, reviewed by senior management at Epiq according to criteria developed and

specified by the Special Master, and then sent to the Special Master for final review and determination.

Ultimately, of the eighteen (18) Claims, the Special Master and his team determined that six (6) of the Claims are eligible for compensation and twelve (12) of the Claims are ineligible for compensation.

With respect to the twelve (12) ineligible Claims, they were determined to be ineligible for one of the following reasons: (i) for three (3) of the Claims, a Takata airbag was not installed in the subject vehicle;; (ii) seven (7) of the Claims failed to provide sufficient evidence of aggressive deployment; (iii) for one (1) of the Claims, it was determined that the injury was caused by a non-Takata airbag even though an eligible airbag was installed in the subject vehicle; and (iv) for one (1) of the Claims, the injury was caused by non-deployment of the airbag.

For each of the six (6) eligible Claims, the Special Master, with the assistance of his advisors, finalized the point awards following both an initial evaluation and additional review sessions to ensure that each eligible Claim was treated fairly and equitably.

i. Notice Of Award Or Denial.

Next, the Special Master sent either award or denial letters to the eighteen (18) Claimants, as applicable, notifying them of the Special Master's determination and, if eligible, their proposed point award. Award letters included the number of points

that each Claimant had been awarded, as well as the dollar value of a point and the dollar value of their Claim. The denial letters that were sent to ineligible Claimants notified the Claimants of the basis of the Special Master's determination.

ii. Appeal Process.

Upon receipt of the award or denial letter, Claimants were provided the opportunity to appeal the Special Master's determination through the internal appeals process set forth in the Revised IRF Methodology. Claimants could initiate an appeal by filing a Notice of Appeal with the Special Master within thirty (30) days of receipt of the determination letter (the "Appeal Deadline"). Prior to the expiration of the Appeal Deadline, the Special Master received: (i) two (2) Notices of Appeal regarding a determination of ineligibility; (ii) and three (3) Notices of Appeal solely on the amount of an award.

As directed in the Revised IRF Methodology, independent third-party Review Officers then re-examined the five (5) claims for which a Notice of Appeal was filed and made a recommendation to the Special Master as to that Claim that they reviewed. Each of the three (3) eligibility appeals were affirmed by the Review Officer. As for the two (2) valuation appeals, one (1) appeal was affirmed, and one (1) appeal was recommended for additional points. The Special Master carefully reviewed and considered each of these Review Officer's recommendations and determined to affirm the original award for all claims. For the one claim where the

Review Officer recommended additional points, the Special Master had already awarded the maximum points permitted under the Revised IRF Methodology. Consequently, neither the Special Master (nor the Review Officer) is permitted to award this claimant additional points under the IRF's governing documents. The Special Master's recommendation to the Court with respect to each appeal is contained in **Exhibit C**.

II. Ninth Distribution Request.

A. Claims Determinations.

In accordance with the Court-approved Revised IRF Methodology, the Special Master has evaluated each Claim, determined whether it is eligible for compensation from the IRF, and, if eligible, assigned a point value. In total, after all internal reviews and appeals, 5,350 points were awarded for the six (6) eligible Claims. In accordance with the *Order Granting Special Master's Motion To Modify The Point Value In Connection With The Revised Individual Restitution Fund Methodology* [Dkt. No. 146], the value of a point is currently set at \$178.00 for the six (6) eligible Claims. Accordingly, the Special Master recommends that \$952,300.00 be distributed to the Claimants included in this proposed distribution.

Attached hereto as **Exhibit A** is a chart of the six (6) Claims determined to be eligible for compensation, the points awarded to each Claim, and the corresponding monetary value of each point award, based on the proposed dollar value of a point.

Attached hereto as **Exhibit B** is a chart reflecting the twelve (12) Claims determined to be ineligible for compensation, organized by basis for denial. Attached hereto as **Exhibit C** is a chart reflecting the claims that were subject to internal appeal and the corresponding dispositions. The names of the claimants in each exhibit are removed in order to protect each Claimant's personal information.

The Special Master recommends that the Court approve the Claimants listed on **Exhibit A** as Eligible Claimants and the distribution of the monetary awards listed on **Exhibit A** to these Claimants. The Special Master further recommends that the Court approve the denial of the Claims listed on **Exhibit B**.

B. Releases.

The Court previously approved conditioning payment from the IRF on the execution and submission of a release to the Special Master. *See* IRF Methodology Order. In addition, the Court ordered that attorney's fees for Claims may not exceed twenty-five percent 25% of an award, except for good cause shown as to why the permissible attorney's fees portion of an award should be upwardly adjusted. *See id.*, at Section VII(I). The Special Master recommends requiring that, as a condition for payment from the IRF to any individual represented by counsel, counsel must execute a rider to the release acknowledging and agreeing to abide by the restriction on attorney's fees set forth in the IRF Methodology Order.

C. Notice And Objections.

Consistent with the procedures set forth in the *Minutes of July 25, 2019 Conference with Special Master* [Dkt. No. 110] (attached hereto as **Exhibit D**), the Special Master will notify Claimants: (i) of their point award and the monetary value of the award (if any); (ii) of the filing of this Request; and (iii) that they may object to the Request by submitting a written response to the Special Master on or before June 14, 2021. Shortly following the objection deadline, the Special Master will confer with the Court and file with the Court in the miscellaneous case docket a supplemental filing providing further information with (i) a brief background materials as to the claims for which Notices of Appeal were filed, the recommendations of the independent third-party Review Officers with respect to those appeals, and the Special Master's recommendations as to same; and (ii) any objections filed on or before June 14, 2021, as permitted in the Request and the Special Master's recommendation with respect to any such objections. Following that submission and any further meeting or request of the Court, the Special Master will request that the Court enter an order approving this Request.

CONCLUSION

WHEREFORE, the Special Master requests that the Court enter an order substantially in the form attached hereto as **Exhibit E** approving: (a) the distribution to Claimants as set forth on **Exhibit A** hereto; (b) the determination that the claims

of the Claimants set forth on **Exhibit B** are ineligible for compensation from the Individual Restitution Fund; and (c) conditioning payment from the IRF to individuals represented by counsel on execution of a rider by counsel acknowledging and agreeing to abide by the restriction on attorney's fees set forth in the IRF Methodology Order.

Dated: May 21, 2021

Respectfully submitted,

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

Eric D. Green, Special Master

EXHIBIT A

	Claim No.	Points Awarded	Monetary Award¹
1	121	150	\$26,700.00
2	242	2,250	\$400,500.00
3	245	100	\$17,800.00
4	246	100	\$17,800.00
5	10001075	350	\$62,300.00
6	10001146	2,400	\$427,200.00
	Total	5,350	\$952,300.00

¹ Calculated at \$173.00 per point.

EXHIBIT B

	Claim No.	Ineligibility Reason
1	90	Insufficient Proof of Aggressive Deployment
2	120	Insufficient Proof of Aggressive Deployment
3	10000087	Insufficient Proof of Aggressive Deployment
4	10000827	Insufficient Proof of Aggressive Deployment
5	10000914	Insufficient Proof of Aggressive Deployment
6	10000934	Insufficient Proof of Aggressive Deployment
7	10001091	Insufficient Proof of Aggressive Deployment
8	252	Ineligible Takata PSAN Inflator
9	10000790	Ineligible Takata PSAN Inflator
10	10001145	Ineligible Takata PSAN Inflator
11	250	Non-Deployment
12	243	Non-Takata PSAN Inflator Airbag Caused Injury

EXHIBIT C

IRF Pending Claims

Notice of Appeals - Valuations

Affirmed Appeals

No.	Claim ID	Special Master's Point Award	Reviewer	Recommendation
1	121	150	Yanni	Affirm

IRF Pending Claims

**Notice of Appeals – Valuations
Recommendations to Increase Award**

No.	Claim ID	Special Master's Point Award	Reviewer	Reason for Recommendation	Special Master Decision	Special Master Reasoning
1	242	2,250	Gertner	Reviewer would increase point award an additional 250 points above the 50% Extraordinary Review points already provided.	Deny Recommendation	After considering the Review Officer's recommendation, the Special Master has determined that the IRF Methodology does not allow for a further increase in points, as Extraordinary Review has already been granted for the maximum allowable 50% increase from the adjusted base of 1,500 points.

**IRF Pending Claims
Eligibility Notice of Appeal – Non-Deployment**

Claims arising from the non-deployment of an airbag are not eligible for compensation from the IRF.

Affirmed Appeals

No.	Claim ID	Reviewer	Recommendation
1	250	Rosen	Affirm

IRF Pending Claims
Eligibility Notice of Appeal – Insufficient Proof of Aggressive Deployment

The Claimant did not offer evidence meeting aggressive deployment compensability criteria. Specifically, the Claimant did not offer evidence of a delayed-deployment of a dual-stage inflator.

Affirmed Appeals

No.	Claim No.	Reviewer	Recommendation
1	90	Rosen	Affirm
2	120	Gertner	Affirm

EXHIBIT D

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

_____)	
UNITED STATES OF AMERICA,)	
Plaintiff)	Case No. 16-CR-20810-04
)	
v.)	Honorable George Caram Steeh
)	
TAKATA CORPORATION,)	
Defendant.)	
_____)	

MINUTES OF JULY 25, 2019 CONFERENCE WITH SPECIAL MASTER

On July 25, 2019, Special Master Eric D. Green conferred with the Court to discuss the substantial progress made in evaluating Current Claims. The Special Master reported that he and his team of professionals have nearly completed the Current Claims evaluation process, including the initial evaluation of each Current Claim, provision of notice of initial determinations and the opportunity to appeal, the re-examination of claims on appeal by the Review Officers, and the Special Master’s consideration of the recommendations of the Review Officers, all in accordance with the revised IRF Methodology approved by the Court on March 21, 2018 (Doc. 78). The Court and the Special Master then discussed the process for obtaining court approval of Current Claim dispositions and the final dollar value of a point. After conferring with the Special Master, the Court considered and approved the following procedure and timeline:

EXHIBIT E

3. The Court [APPROVES] the Special Master's determination that the claims of the Claimants set forth in Exhibit B are ineligible for compensation from the Individual Restitution Fund.

4. The Court [APPROVES] conditioning payment from the IRF to individuals represented by counsel on execution of a rider by counsel acknowledging and agreeing to abide by the restriction on attorney's fees set forth in the IRF Methodology Order.

5. The Court [DIRECTS] that Distributions shall be made in accordance with the procedures set forth in the Revised IRF Methodology.

6. This Court retains jurisdiction over all matters covered by, or related to, this Order.

So ordered.

Dated: _____, 2021

GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE