

**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.)	
_____)	

THIRTEENTH STATUS REPORT OF THE SPECIAL MASTER

1. Eric D. Green, the court-appointed Special Master for the custody, administration and distribution of the Takata Airbag Restitution Funds, hereby respectfully submits his Thirteenth Status Report pursuant to paragraph 4 of this Court’s Appointment Order (the “Status Report”).¹ The Status Report provides an overview of the Special Master’s work from July 23, 2019 through September 20, 2019 (the “Reporting Period”) and anticipated future efforts. The Special Master is presently on schedule regarding the processing of Claims and distribution of the restitution funds available to eligible Claimants who have filed Claims with the Individual Restitution Fund (the “IRF”).

¹ Capitalized terms used but not defined herein shall have the meanings ascribed to them in the *Twelfth Status Report of the Special Master*, dated July 23, 2019 [Doc. 109].

I. ACTIVITIES IN THE REPORTING PERIOD.

A. FIRST IRF DISTRIBUTION REQUEST AND ADDITIONAL SUBMISSIONS RELATED THERETO.

2. On August 6, 2019, the Special Master filed his *Request for Approval of First Distribution of Individual Restitution Fund* (the “First IRF Distribution Request”) (Dkt No. 111). In the First IRF Distribution Request, the Special Master indicated that he evaluated each Current Claim, determined whether such claims were eligible for compensation from the IRF, and, if eligible, assigned a point value to each Claim. As described in the First IRF Distribution Request, the Special Master awarded a total of 151,847 points to Current Claimants following the completion of all internal reviews and appeals.

3. Additionally, as described in the First IRF Distribution Request, the Special Master consulted with his economist, NERA Economic Consulting, Inc. (“NERA”) and his other professionals regarding the evaluation of updated economic models and Current Claims data provided by NERA. The Special Master and his professionals analyzed the updated economic model against NERA’s initial liability estimation in order to determine the Special Master’s proposed value of an IRF point, and relatedly, the appropriate allocation of the IRF that should be reserved for Future Claims. In the First IRF Distribution Request, and in consultation with his professionals and advisors, the Special Master proposed the value of an IRF point to be \$64.34. Based on that point value,

approximately 92% of the IRF would have been reserved for Future Claims. However, as described further in paragraph 6 below, the Special Master now proposes to set the value of an IRF point at \$71.01, which would reduce the amount reserved for Future Claims to approximately 91% of the IRF.

4. On July 29, 2019, the Court entered a *Minutes Order of July 25, 2019 Conference with Special Master* (the “Minutes Order”) (Dkt No. 110). The July 2019 Minutes Order established an August 30, 2019 deadline for Current Claimants to submit written objections to the Special Master’s proposed Current Claim dispositions in the First Distribution Request (the “Supplemental Review Period”).

5. On September 16, 2019, the Special Master filed the *Special Master’s Supplemental Request for Approval of First Distribution of Individual Restitution Fund* (the “Supplemental Request”) (Dkt. 113). As described in the Supplemental Request, during and following the Supplemental Review Period, the Special Master determined to supplement his First IRF Distribution Request in two ways.

6. First, during the period following the First IRF Distribution Request, the Special Master and his professionals obtained additional and updated data and information regarding the recall completion rates achieved by various original equipment manufacturers. Based upon such updated recall completion information and other information and data that the Special Master and his professionals

received in August, 2019, the Special Master revised the proposed value of an IRF Point to \$71.01. The increase in the proposed value of an IRF Point causes the allocation of the IRF to Current Claims to slightly increase and the allocation to Future Claims to slightly decrease. Specifically, if the Court approves the Supplemental Request, approximately 91% of the IRF would be reserved for Future Claims and approximately 9% of the IRF would be made available to compensate eligible Current Claims.

7. Second, after reviewing additional information submitted during the Supplemental Review Period, the Special Master adjusted the proposed point awards for three Current Claimants. Based on these proposed point award adjustments, the Special Master proposed that a total of 153,372 points be awarded for Current Claims. Accordingly, the Special Master recommends that \$10,890,945.72² of the IRF be allocated to compensate eligible Current Claimants, with the balance reserved for Future Claimants.

8. Additionally, on September 16, 2019, and in response to the Court's August 27, 2019 *Order Requiring Special Master to Submit Certain Information* (Dkt No. 112) (the "Information Order"), the Special Master filed a responsive pleading submitting the materials requested by the Court. The Order required the Special Master to provide certain information to assist the Court in its review of

² The Special Master increased the proposed gross allocation to current claimants by approximately \$300.00 to account for rounding the dollar value of a point to whole cents for the benefit of eligible Current Claimants.

whether to approve the: (1) proposed awards, distribution on account of such awards, and denials of claims; and (2) proposed setting of a value of a point in accordance with the Supplemental Request. On September 16, 2019, in accordance with the instructions provided in the Information Order, the Special Master filed his response and related exhibits under seal in the miscellaneous case provided for in the Information Order. This responsive filing contains exhibits detailing the information requested regarding appeals, objections made by claimants, and background information regarding the future claims reservation determination.

**B. EVALUATING FUTURE CLAIMS
FOR COMPENSATION FROM THE
INDIVIDUAL RESTITUTION FUND AND THE TATCTF.**

9. The Special Master has now received 142 “Future Claims,” *i.e.*, claims filed after August 31, 2018 or arising out of an accident after April 10, 2018. The Future Claims population breaks down as follows:

- 44 assert IRF, Trust, and POEM Claims;
- 74 assert IRF and Trust Claims;
- 6 assert solely an IRF Claim;
- 2 assert solely a Trust Claim;
- 1 asserts solely a POEM Claim;
- 1 asserts IRF and POEM Claims;

- 0 assert Trust and POEM Claims; and
- 10 fail to assert any claim type.

10. The Special Master and his professionals are reviewing and evaluating these Future Claims. In most instances, the Special Master has sent notices to Claimants regarding any existing deficiencies with Future Claims. Claimants will then have an opportunity to cure the named deficiencies as part of the claims evaluation process. The Special Master is currently reviewing responses that have been received and will soon be able to notify Future Claimants as to their eligibility.

11. Of the 142 Future Claims received by the Special Master: (i) 23 have been deemed compensable and approved by the Special Master, (ii) 9 have been deemed potentially compensable and are awaiting review by the Special Master, (iii) 6 are under review for compensability, (iv) 83 were deemed deficient, and (v) 21 were deemed ineligible.

12. 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 for Current and Future Claims, 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.

C. REVISED ESTIMATION OF CURRENT AND FUTURE IRF CLAIMS.

13. As described above, in connection with Supplemental Request, NERA worked closely with Epiq Systems, the Special Master's claims administrator, 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 also shared its information and estimation analysis with the Future Claimants' Representative in the U.S. Bankruptcy Proceedings who, in consultation with his own economists, has performed similar analyses. The Trustee of the Takata Airbag Tort Compensation Trust Fund (the "TATCTF") must obtain the consent of the Future Claimants' Representative prior to setting the initial value of a point under the TATCTF's governing documents.

14. NERA has prepared a report with the results of its analysis of the Current Claims data and its revised estimation of current and future liabilities. A copy of NERA's report was recently provided to the Court in connection with the Supplemental Request.

II. GOING FORWARD EFFORTS.

15. The Special Master and his team will continue to receive claims for compensation from the IRF and TATCTF, and will continue the process of

reviewing, evaluating and processing claims. The Special Master and his team will also continue to evaluate the claims data and recall completion rate data to ensure that the dollar value of a point remains conservative yet fair.

CONCLUSION

16. 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 20, 2019

Respectfully submitted,

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

**Eric D. Green, as Special Master of the
Takata Restitution Funds**