

**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.)	

TWELFTH 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 Twelfth Status Report pursuant to paragraph 4 of this Court’s Appointment Order.¹ The Status Report provides an overview of the Special Master’s work from May 23, 2019 through July 23, 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 *Eleventh Status Report of the Special Master*, dated May 23, 2019 [Doc. 108].

I. ACTIVITIES IN THE REPORTING PERIOD.

A. EVALUATING CLAIMS FOR COMPENSATION FROM THE \$125 MILLION INDIVIDUAL RESTITUTION FUND AND THE TATCTF.

2. In a prior reporting period, the Special Master launched the claims administration and processing program for the IRF and the Takata Airbag Tort Compensation Trust Fund (“TATCTF”).² Under this program, 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.

3. The deadline for filing as a “Current Claim” was August 31, 2018. As described more fully in the Tenth Status Report, the Special Master has completed the review of all Current Claims and assigned a point value to all complete Current Claims.

² 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.

4. Of the 282 Current Claims, the Special Master and his team determined that 103 of these Claims are eligible for compensation and 179 are ineligible for compensation.

5. Of the 103 eligible Current Claims, 90 assert personal injury and 13 assert wrongful death. The breakdown of the 103 eligible Current Claims is as follows:

- 84 IRF and Trust Claims;
- 12 IRF, Trust, and POEM Claims;
- 6 IRF Claims; and
- 1 Trust Claim.³

6. For each of the 103 eligible Current Claims, the Special Master, with the assistance of his professionals, finalized the point awards following both an initial evaluation and additional review sessions to ensure that each eligible Current Claim was treated fairly and equitably as compared to similar eligible injury claims.

7. With respect to the ineligible claims, these Claims are ineligible primarily for the following reasons: (1) the Claim remains deficient following the expiration of the deadline to cure deficiencies (February 13, 2019); (2) the Claim

³ This Trust Claim is an international claim that is ineligible to receive compensation from the IRF.

alleges a non-deployment of the airbag, which is not compensable under either the IRF or TATCTF; or (3) a Takata airbag was not installed in the subject vehicle.

8. On May 3, 2019, the Special Master sent award letters to eligible Claimants notifying the Claimants of their proposed point award. These letters included the number of points that such Claimant had been awarded, as well as the likely dollar range for the value of the Claim, based upon the likely value of a point. On May 3, 2019, the Special Master also sent denial letters to ineligible Claimants and deficient Claimants, notifying the Claimants of the basis of the determination that their claims are not compensable.

9. 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 30 days of receipt of the determination letter. The Special Master received: (i) 55 Notices of Appeal solely of a determination of ineligibility; (ii) 69 Notices of Appeal solely of the amount of an award, one of which was withdrawn by the claimant leaving 68; and (iii) 6 Notices of Appeal of both determination of partial eligibility and the amount of an award.

10. Independent third-party Review Officers are in the process of re-examining these 129 claims for which Notices of Appeal were filed and will be

making a recommendation to the Special Master. The Special Master will consider the recommendation of the Review Officer, and, as applicable and in his discretion, confirm or revise the Claimant's award. Once the appeals process is complete, the Special Master will notify Claimants of the final Claim award (subject to Court approval), and submit the final proposed monetary awards and denials to the Court for its review and approval.

11. The Special Master has also received 116 "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:

- 26 assert IRF, Trust, and POEM Claims;
- 60 assert IRF and Trust Claims;
- 6 assert solely an IRF Claim;
- 2 asserts solely a Trust Claim;
- 1 asserts solely a POEM Claim;
- 1 asserts IRF and POEM Claims;
- 1 asserts Trust and POEM Claims; and
- 19 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. Claimants will then have an opportunity to cure the named deficiencies as part of the claims evaluation process.

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 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.

B. REVISED ESTIMATION OF CURRENT AND FUTURE IRF CLAIMS

14. The Special Master and his economist, NERA Economic Consulting ("NERA"), have prepared and are now in the process of finalizing 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. This revised estimate is also necessary to determine the dollar value of a point.

15. NERA worked closely with Epiq Systems, Inc. ("Epiq"), as successor-in-interest to Garden City Group, 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, using his own economists, has performed similar analyses as part of those proceedings, and who, pursuant to the terms of the Third Amended Trust Distribution Procedures, must consent to the initial value of a point for a Trust Claim. NERA has determined that the Current Claims data closely aligns with NERA's initial estimation contained in the IRF Methodology.

16. Upon the expiration of the period to cure deficient claims and the Special Master's final determination regarding the point value of each eligible Current Claim, NERA began reviewing the final claims data, including the number of eligible Current Claims, injury types, and points awarded by the Special Master.

17. 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. At the present time, based on this report, the Special Master estimates that the value of a point for the IRF will fall within the range of \$52.00 - \$57.00. The report is still in the process of being finalized; however, the Special Master will seek the Court's approval on the proposed revised estimation once the report is final.

18. 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 complete a final calculation of the funds

available from the total IRF for Current Claims and allocate 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. This process is currently on schedule. Accordingly, allowing for completion of the appeals process, finalization and approval of the estimation analysis, lien resolution, and final approval by the Court of the awards, the Special Master continues to expect to be in a position to make distributions this fall.

II. GOING FORWARD EFFORTS.

19. 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, evaluating and processing 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

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

Dated: July 23, 2019

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 July 23, 2019, 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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Respectfully submitted,

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