

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

**In re: American Honda Motor Co., Inc.,
CR-V Vibration Marketing and Sales
Practices Litigation,**

Case No. 2:15-md-2661

**Judge Michael H. Watson
Magistrate Judge Deavers**

This document relates to: ALL CASES.

**ORDER GRANTING PRELIMINARY APPROVAL
OF CLASS SETTLEMENT**

The parties to this litigation have entered into a Stipulation of Settlement and Release (“Settlement Agreement” or “Agreement”). Plaintiffs have filed a motion for preliminary approval of the settlement, which Defendant American Honda Motor Co., Inc. (“AHM”) does not oppose. ECF No. 94. The Court has read and considered the Settlement Agreement, all Exhibits thereto, and the parties’ arguments in support of preliminary settlement approval and finds that there is sufficient basis for: (1) granting preliminary approval of the settlement; (2) certifying the proposed Settlement Class for settlement purposes pursuant to Fed. R. Civ. P. 23(b)(2); (3) appointing Class Counsel for the Settlement Class; (4) appointing AHM as Settlement Administrator; (5) directing that the Settlement Class be notified of the proposed settlement in the form and manner proposed by the parties; and (6) setting a schedule for final settlement approval.

The Court now **GRANTS** the motion for preliminary approval and makes the following findings and orders:

A. Certification of the Settlement Class

1. The Court preliminarily certifies the following Settlement Class¹ pursuant to Rule 23(b)(2) of the Federal Rules of Civil Procedure:

All persons or entities who own or lease any Settlement Class Vehicle in the United States, including its territories and Puerto Rico.

Excluded from the Settlement Class are AHM, any entity that is a subsidiary of or is controlled by AHM, anyone employed by Class Counsel; any judge to whom this case is assigned, his or her spouse, and members of the judge's staff; and anyone who purchased a Settlement Class Vehicle for the purpose of resale.

2. For purposes of settlement, the Court appoints Eric H. Gibbs and David K. Stein of Gibbs Law Group LLP and Gregory M. Travaglio and Mark H. Troutman to serve as Class Counsel.

3. For purposes of settlement only, the Court finds that applicable requirements of Rule 23 of the Federal Rules of Civil Procedure have been satisfied for the following reasons. Joinder of all members of the Settlement Class in a single proceeding would be impractical because of their numbers and dispersion—the Settlement Class encompasses owners and lessees of approximately 340,000 vehicles across the United States. Common issues exist

¹ All capitalized terms not otherwise defined in this Order shall take the meaning set forth in the Agreement.

among Settlement Class members; in particular, each Settlement Class Member's claims depend on whether certain 2015 Honda CR-Vs are prone to unpleasant vibration and whether AHM sufficiently notified 2015 CR-V owners and lessees about the existence and availability of the product enhancements as described in Technical Service Bulletin 15-046 (the "Product Enhancements"). Plaintiffs' claims are typical of those of the Settlement Class because Plaintiffs: (1) own or lease 2015 CR-Vs, which they allege are prone to unpleasant vibration; and (2) have claims arising from AHM's alleged failure to provide sufficient information to Plaintiffs and the Settlement Class, including of the existence and availability of the Product Enhancements. Plaintiffs and their counsel will fairly and adequately protect the interests of the Settlement Class. Plaintiffs have no interests antagonistic to those of the Settlement Class, and are represented by counsel experienced and competent to prosecute this matter on behalf of the Settlement Class. Finally, the Settlement Class may be certified under Rule 23(b)(2), as AHM acted on grounds that apply generally to the Settlement Class, such that the proposed injunctive relief is appropriate respecting the Settlement Class as a whole.

B. Preliminary Approval of the Settlement

4. For purposes of settlement, the Court preliminarily approves the proposed settlement under Rule 23(b)(2) and Rule 23(e), finding that its terms appear sufficiently fair, reasonable, and adequate to warrant (1) dissemination of notice pursuant to the Class Action Fairness Act ("CAFA"); and (2) the

implementation of the Notice Plan as described in the Settlement Agreement.

The Court finds that the Settlement Agreement contains no obvious deficiencies, falls within the range of possible approval, and that the parties entered into the Settlement in good faith, following arms-length negotiations between their respective counsel with the assistance of neutral mediator Frank A. Ray.

5. Within forty-five (45) days after the entry of this Order or as soon as reasonably practical thereafter, AHM shall implement the Customer Outreach Program set forth in the Agreement substantially in the form attached to the Agreement as Exhibits G-J.

C. Notice Plan

6. The purpose of the Notice Plan is to provide information to interested members of the proposed Settlement Class.²

7. The Court hereby approves the Notice Plan, the form and procedure for disseminating notice of the proposed settlement to the Settlement Class set forth in the Agreement. The Court finds that the notice to be given constitutes reasonable and appropriate notice that satisfies the requirements of Rule 23(c)(2)(A) and Rule 23(e)(1).

8. Within thirty (30) days of entry of this Order or as soon as reasonably practical thereafter, AHM, which shall serve as Settlement

² Because the proposed settlement is certified pursuant to Fed. R. Civ. P. 23(b)(2), the parties are not required to provide individual notice to all affected settlement class members. Fed. R. Civ. P. 23(c)(2), (e)(1).

Administrator, will provide Class Counsel with a proposed protocol to optimize web searches for terms related to 2015 CR-V vibration.

9. Within forty-five (45) days of entry of this Order, AHM will establish the Settlement Website. AHM will purchase keyword and phrase sponsorship on popular Internet search engines for a 180-day period so that Settlement Class Members who use those search terms will be directed to the Settlement Website. The forms of notice provided for by the Notice Plan shall be substantially in the form of the documents attached as Exhibits C, E, and G-J to the Settlement Agreement.

10. AHM shall comply with the requirements of 28 U.S.C. § 1715(b) and serve notice of the proposed settlement upon the appropriate Federal official and the appropriate State official of each state in which a Settlement Class member resides. Honda shall file with the Court a certification of the date upon which it served the CAFA Notice within ten (10) days of its service of the Notice (or the next business day if on the tenth day the court is closed).

11. Within sixty (60) days after entry of this Order or as soon as reasonably practical thereafter, AHM shall provide an affidavit for the Court, with a copy to Class Counsel, attesting that Notice was disseminated in a manner consistent with the Settlement.

12. AHM shall bear costs of implementation of the Notice Plan and Settlement Website consistent with the terms of the Agreement, except AHM shall not be responsible for the costs of contacting Settlement Class Members

who contacted Class Counsel prior to the execution date of the Agreement, and who are not already receiving notice regarding vibration in 2015 Honda CR-V vehicles.

D. Procedure for Objecting to the Settlement

13. Any Settlement Class Member who wishes to object to the Settlement must within one hundred and five (105) days of the date of entry of this Order, submit a written notice of objection to the address set forth on the Settlement Website. To state a valid objection, an objecting Settlement Class Member must provide the following information in writing: (i) his/her/its full name, current address, and current telephone number; (ii) the model year of his/her/its Class Vehicle(s), as well as the VIN of his/her/its Class Vehicle(s); (iii) a statement of the position(s) the objector wishes to assert, including the factual and legal grounds for the position(s); and (iv) copies of any other documents the objector wishes to submit in support of his/her/its position. The objector must also sign and date the objection. In addition, any objecting Settlement Class Member shall provide a detailed list of any other objections he/she/it previously submitted or which have been submitted on the objector's behalf (by, for example, the objector's counsel) to any class action settlements submitted in any court, whether state, federal, or otherwise, in the United States in the previous five (5) years. If the Settlement Class Member or his or her counsel has not objected to any other class action settlement in any court in the United States in the previous five (5) years, he, she, or it shall affirmatively so state in the written

materials provided in connection with the objection.

14. Any objecting Settlement Class Member may appear at the Final Approval Hearing, provided the Settlement Class Member's written objection includes a statement of the Settlement Class Member's intent to appear. If the Settlement Class Member intends to appear at the Final Approval Hearing through counsel, the Settlement Class Member's written objection must also state the identity of any attorney who will appear at the Final Approval Hearing on the Settlement Class Member's behalf. Any Settlement Class Member who does not comply with the deadlines and other specifications set forth in the Notice, the Agreement and/or this Order will be deemed to have waived any objections to the Settlement and may be barred from speaking or otherwise presenting any views at the Court's Final Approval Hearing.

15. The filing of an objection allows Class Counsel and/or counsel for AHM to notice such objecting person for and take his/her/its deposition consistent with the Federal Rules of Civil Procedure at an agreed-upon location, as well as to seek any documentary evidence or other tangible things that are relevant to the objection. Failure by an objecting Settlement Class Member to make himself/herself/itself available for a deposition or to comply with expedited discovery requests may result in the Court striking the objection and otherwise denying that person the opportunity to be heard. If the Court finds the objection frivolous, or made for an improper purpose, the Court may tax the costs of any such discovery to the objecting Settlement Class Member (or his/her/its counsel).

16. These procedures and requirements for objecting are intended to ensure the efficient administration of justice and the orderly presentation of any Settlement Class Member's objection to the Settlement, in accordance with the due process rights of all Settlement Class Members.

E. Hearing and Briefing Schedule

17. The Final Approval Hearing, and a hearing regarding an award of Class Counsel Fees and Expenses shall be held on Tuesday November 6, 2018, at 10:00 a.m. in the Joseph P. Kinneary U.S. Courthouse, Room 109, 85 Marconi Boulevard, Columbus, Ohio 43215. At this Final Approval Hearing, the Court will consider: (a) whether the Settlement should be approved as fair, reasonable, and adequate for the Settlement Class and whether judgment should be entered on the terms stated in the Agreement; and (b) whether Plaintiffs' applications for attorney fees and expenses ("Fee Applications") should be granted.

18. Counsel for the parties shall file memoranda, declarations, or other statements and materials in support of the request for final approval of the Settlement no later than sixty (60) days after the entry of this order.


19. Plaintiffs' counsel shall file their Fee Applications no later than sixty (60) days after the entry of this Order.

20. Any responses to Settlement Class Member objections shall be filed by no later than one hundred thirty (130) days after entry of this Order.

21. The Court reserves the right to adjust the time and date of the Final Approval Hearing and related deadlines. In that event, the revised hearing date

or deadlines shall be posted on the Settlement Website, and the parties shall not be required to provide any additional notice to the Settlement Class.

IT IS SO ORDERED.



MICHAEL H. WATSON, JUDGE
UNITED STATES DISTRICT COURT