

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

VINCE EAGEN, on behalf of himself and
all others similarly situated,

Plaintiff,

v.

AMERICAN HONDA MOTOR CO.,
INC.,

Defendant.

Case No.: 3:12-cv-01377-SI

Assigned to Hon. Susan Illston
Courtroom: 10

**SUPPLEMENTAL DECLARATION
OF STEVEN N. BERK IN SUPPORT
OF PLAINTIFF’S UNOPPOSED
MOTION FOR FINAL APPROVAL
OF CLASS ACTION SETTLEMENT
& AWARD OF ATTORNEYS’ FEES
& EXPENSES**

CLASS ACTION

Complaint Filed: March 19, 2012
Hearing: March 21, 2014, at 9:00 a.m.

I, STEVEN N. BERK, declare as follows:

1. I am a member in good standing of the state bars of the District of Columbia and Illinois and am the principal in the law firm of Berk Law PLLC (“Berk Law”), one of the law firms serving as Plaintiff’s counsel and which the Court preliminarily appointed as Class Counsel in the above-captioned action against Defendant American Honda Motor Co., Inc. (“AHM”).

2. I submit this Declaration in support of Plaintiff’s Unopposed Motion for Final Approval of Class Action Settlement & Award of Attorneys’ Fees & Expenses (Dkt. 99) and the Parties’ Class Action Settlement Agreement and Release dated September 5, 2013 (“Settlement”), a true and correct copy of which has been filed with the Court (Dkt. 73-1).

3. In their role as Class Counsel, the attorneys of Berk Law have communicated via letter, telephone, and e-mail with hundreds of Settlement Class Members who contacted the firm after receiving the Class Notice. The majority of those Settlement Class Members expressed their support for the Settlement.

4. A true and complete copy of Plaintiff’s Unopposed Motion for Final Approval of Class Action & Award Attorneys’ Fees & Expenses and Plaintiff’s Memorandum in support

1 thereof was publicly accessible via the Settlement Administrator's settlement website for this
2 matter, <http://www.enginemisfiresettlement.com>, on or before January 17, 2014.

3 5. During the course of investigating, developing, and litigating this case Berk Law
4 retained or otherwise consulted with at least three automotive experts, each of which was
5 unwilling or unable to identify a standard rate of oil consumption for consumer passenger vehicles
6 such as the Class Vehicles.

7 6. During the course of settlement discussions with Defendant's counsel, Class
8 Counsel raised the issue of AHM providing reimbursement of Engine Misfire Out-of-Pocket
9 Expenses via direct mail, seeking to make such provision a term of the Settlement.

10 7. Counsel for Defendant AHM has informed me of the following information
11 regarding Settlement Class Members' responses to the Class Notice, which I expect AHM or the
12 Settlement Administrator will confirm and supplement by way of filing an affidavit or declaration
13 with the Court on or before the Fairness Hearing scheduled for March 21, 2014:

- 14 a. to date, the Class Administrator, AHM's counsel, and Class Counsel have received
15 a total of 210 exclusion requests from Settlement Class Members, a portion of
16 which might be procedurally deficient;
- 17 b. to date, the Class Administrator has:
- 18 i. received from Settlement Class Members 7,164 claims for reimbursement
 - 19 of Out-of-Pocket Expenses averaging \$388.04 per claim;
 - 20 ii. reviewed 789 of said claims;
 - 21 iii. approved reimbursement in full for 539 of said claims;
 - 22 iv. approved reimbursement in part for 215 of said claims;
 - 23 v. denied 29 of said claims for reimbursement; and
 - 24 vi. approved reimbursement averaging \$294.26 per claim approved, whether
25 partially or fully.

26 8. Attached hereto as **Exhibit E ("Revised Compendium of Comments &**
27 **Objections")** is a compendium of true excerpts of copies of written communications received by
28 Berk Law through March 6, 2014, and post-marked on or before February 24, 2014, from apparent

