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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

Before The Honorable Charles R. Breyer, Judge

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Jacqueline Corley, Magistrate Judge

Robert S. Mueller, III, Settlement Master

IN RE: VOLKSWAGEN "CLEAN )  
DIESEL" MARKETING, SALES )  
PRACTICES, AND PRODUCTS ) Case No. 3:15-MD-02672-CRB  
LIABILITY LITIGATION )  
\_\_\_\_\_ )

San Francisco, California  
Thursday, March 24, 2016

**TRANSCRIPT OF PROCEEDINGS**

**APPEARANCES:**

For Plaintiffs:

LIEFF, CABRASER, HEIMANN & BERNSTEIN  
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San Francisco, CA 94111

**BY: ELIZABETH J. CABRASER, ESQUIRE**

UNITED STATES DEPARTMENT OF JUSTICE  
Environment and Natural Resources  
Division

P.O. Box 7611  
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**BY: JOSHUA H. VAN EATON, ESQUIRE**

Reported By: Pamela A. Batalo, CSR No. 3593, RMR, FCRR  
Official Reporter

(Appearances continued on next page)

APPEARANCES CONTINUED:

For Volkswagen:

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New York, NY 10004

**BY: JEFFREY L. CHASE, ESQUIRE**

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125 Broad Street  
New York, NY 10004

**BY: ROBERT J. GIUFFRA, JR., ESQUIRE**

For Porsche Cars North America:

ALSTON & BIRD LLP  
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**BY: CARI K. DAWSON, ESQUIRE**

For Robert Bosch GmbH and Robert Bosch LLC:

CLEARY GOTTLIEB STEEN & HAMILTON LLP  
2000 Pennsylvania Avenue, NW  
Washington, DC 20006

**BY: MATTHEW D. SLATER, ESQUIRE**

(Multiple counsel present in the courtroom as reflected in the minutes)

1 Thursday - March 24, 2016

8:00 a.m.

2 P R O C E E D I N G S

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4 **THE CLERK:** Calling 15-MD-02672, In Re: Volkswagen  
5 Clean Diesel & Marketing, Sales Practices, and Products  
6 Liability Litigation.

7 Appearances, counsel.

8 **MS. CABRASER:** Good morning, Your Honor. Elizabeth  
9 Cabraser for plaintiffs and on behalf of the Plaintiffs'  
10 Steering Committee.

11 **THE COURT:** Good morning.

12 **THE CLERK:** Counsel, please come forward to the  
13 podium.

14 **MR. GIUFFRA:** Good morning, Your Honor. Robert  
15 Giuffra, Sullivan and Cromwell, for the Volkswagen group  
16 defendants.

17 **MR. VAN EATON:** Good morning, Your Honor. Josh  
18 Van Eaton for the United States, Government coordinating  
19 counsel.

20 **THE COURT:** Hi.

21 **MR. CHASE:** Good morning, Your Honor. Jeffrey Chase,  
22 Herzfeld & Rubin, liaison counsel for the Volkswagen  
23 defendants.

24 **THE COURT:** Good morning.

25 **MS. DAWSON:** Good morning, Your Honor. Cari Dawson,

1 Alston & Bird, liaison counsel for the Porsche defendants.

2 **THE COURT:** Good morning. Welcome.

3 **MR. SLATER:** Good morning. Matthew Slater from Cleary  
4 Gottlieb on behalf of defendants Robert Bosch GmbH and Robert  
5 Bosch LLC.

6 **THE COURT:** Welcome. Thank you very much.

7 As you know, these proceedings are also available on  
8 CourtCall, which means that people all across the country are  
9 able to hear these proceedings. Though they're not able to  
10 communicate their views on the telephone, they certainly can  
11 communicate their views in writing to the Court.

12 While we have a full agenda today, I want to address what  
13 I think is the most important matter in front of us, which is  
14 the status of vehicle remediation; that is, in plain English,  
15 what's to be done about the 600,000 or so vehicles on the roads  
16 today which are not in compliance with environmental standards.

17 Now, my understanding is that the plaintiffs -- rather,  
18 the parties, all parties, the Plaintiffs' Steering Committee,  
19 the defendants, and the Government plaintiffs authorized the  
20 settlement master, Director Mueller, who is present with me, to  
21 report to me on the status of the parties' discussions.

22 Director Mueller has done so. He reported to me that  
23 since we last met a month ago, all the parties have been  
24 meeting regularly with each other and Director Mueller in an  
25 attempt to resolve what to do about the cars.

1 I am pleased to report that according to Director Mueller,  
2 substantial progress has been made toward a resolution that  
3 will get the cars in their current unacceptable condition off  
4 the road.

5 However, the parties are unable to announce today what  
6 that resolution is because there continues to be engineering  
7 technicalities and other important issues that need to be  
8 resolved and to which the parties are diligently working on  
9 resolving.

10 So my first question is given the perspective that all of  
11 you have, is that an accurate statement? Has there been  
12 substantial progress in trying to resolve the issue of vehicle  
13 remediation?

14 Let me ask the Plaintiffs' Steering Committee,  
15 Ms. Cabraser?

16 **MS. CABRASER:** Yes, Your Honor. That's accurate, from  
17 our point of view, and we're continuing to work.

18 **THE COURT:** And Mr. Van Eaton, who represents the  
19 United States government and its related agencies?

20 **MR. VAN EATON:** Yes, Your Honor. That's accurate.  
21 Thank you.

22 **THE COURT:** And Mr. Giuffra from the Volkswagen  
23 entities?

24 **MR. GIUFFRA:** Yes, Your Honor. The engineers are  
25 working round the clock, and you've got it accurately

1 described.

2 **THE COURT:** And I understand not only are the  
3 engineers working, but really all counsel representing these  
4 different entities are working as hard, if not harder, than the  
5 engineers; is that correct? That's what I've been told. Is  
6 that accurate?

7 **MR. GIUFFRA:** I think that's fair to say, Your Honor.  
8 I had probably the hardest month of my now 25-year career last  
9 month. We've been working round the clock.

10 **THE COURT:** Good. That brings me to the next subject  
11 which is I'm optimistic that you'll be able to break your  
12 record in the next month. That's my goal.

13 **MR. GIUFFRA:** Let's just put it this way. My  
14 eight-year-old son doesn't like the case very much because he  
15 says *daddy is never home*.

16 **THE COURT:** In a month's time, we will reintroduce you  
17 to your family. They can all come to San Francisco for an  
18 environmentally-correct holiday, right, and we'll --

19 **MR. GIUFFRA:** He is actually in San Francisco. We are  
20 hoping to go to Alcatraz this afternoon.

21 **THE COURT:** Please don't arrange to stay any longer  
22 than necessary because then we're going to have to use  
23 Director Mueller's contacts to get you out.

24 Well, quite seriously, in light of this progress, I am  
25 going to give the parties until our next status conference,

1 which will be Thursday, April 21st, 2016, to announce a  
2 concrete proposal for getting the polluting vehicles off the  
3 road.

4 Now, this proposal may include a vehicle buy-back plan or  
5 a fix approved by the relevant regulators that allows the cars  
6 to remain on the road with certain modifications or both or  
7 even other remedies.

8 But whatever the proposal, by April 21st, it must be  
9 specific and detailed as to proposed timing, what cars are  
10 involved in each proposal, payments to consumers and the like.  
11 I would hope by the 21st that as many outstanding issues as  
12 possible will be wrapped up, but at least the issues of what is  
13 to be done with these cars must be resolved by that date.

14 I'm asking Director Mueller to, between now and April  
15 21st, give me weekly updates on the status of the parties'  
16 discussions and the concrete plan to get the cars off the road  
17 or fixed.

18 I understand that the parties have authorized  
19 Director Mueller to provide me with these updates.

20 I also understand that the public would like more detailed  
21 information about the parties' ongoing negotiations. I would  
22 as well. However, it is critical to the success of the process  
23 that these settlement discussions remain confidential at this  
24 point and they only be shared among the parties and  
25 Director Mueller.

1           On the other hand, being the unbridled optimist that I am,  
2 I have to interject a note of pessimism in that if no concrete  
3 proposal is made by April 21st, then on that date, the Court  
4 will set a schedule for determining whether the claims for  
5 declaratory, injunctive, and equitable relief can be resolved  
6 this summer. In other words, as suggested by plaintiffs, the  
7 Court would seriously consider whether to hold a bench trial  
8 this summer on such relief so that the polluting cars can be  
9 addressed forthwith.

10           No one in this courtroom today needs to address that issue  
11 now as I am hopeful that by April 21st, the need for a bench  
12 trial will be moot.

13           I understand, because I've received it, that the parties'  
14 proposed agenda includes a number of additional items related  
15 to the progress of discovery and similar issues. However, in  
16 light of the substantial progress on a resolution as has been  
17 reported to me by Director Mueller, I do not believe that any  
18 of these issues need to be addressed today. However, each will  
19 be addressed at the April 21st status conference if a concrete  
20 and detailed proposal for getting the polluting cars fixed or  
21 off the road is not presented by then.

22           So, ladies and gentlemen, thank you very much for coming.  
23 The next status conference will be April 21st, 2016 at  
24 8:00 a.m. Obviously if there are matters that need to be  
25 addressed before then, you can do so by filing and the Court



1 will give immediate attention to these matters.

2 Thank you very much for coming.

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4 (Proceedings adjourned at 8:10 a.m.)

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CERTIFICATE OF REPORTER

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I certify that the foregoing is a correct transcript  
9 from the record of proceedings in the above-entitled matter.

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11 DATE: Thursday, March 24, 2016

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*Pamela A. Batalo*

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Pamela A. Batalo, CSR No. 3593, RMR, FCRR  
U.S. Court Reporter

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