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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE: CHRYSLER-DODGE-JEEP
ECODIESEL MARKETING, SALES
PRACTICES, AND PRODUCTS
LIABILITY LITIGATION

No. 3:17-md-02777-EMC
PRETRIAL ORDER NO. 18
**STIPULATION AND [PROPOSED] ORDER
REGARDING CONFIDENTIALITY OF
SETTLEMENT DOCUMENTS AND
COMMUNICATIONS**

Hon. Edward M. Chen

WHEREAS, with the assistance of the Settlement Master (Kenneth Feinberg), the United States, on behalf of the United States Environmental Protection Agency (the "United States"); the Plaintiffs' Steering Committee (the "PSC), on behalf of the consumer and reseller dealer putative

1 class plaintiffs (together with the United States, “Plaintiffs”); FCA US LLC, Fiat Chrysler
2 Automobiles N.V., V.M. Motori S.p.A., VM North America, Inc., and Sergio Marchionne
3 (collectively, “FCA”); Robert Bosch LLC, and Robert Bosch GmbH (together with FCA,
4 “Defendants”); and the California Air Resources Board and the California Office of the Attorney
5 General (together, “California”), have been discussing and will continue to discuss pre-trial
6 resolution of claims asserted in this Action;

7 WHEREAS, the Plaintiffs, Defendants and California are, collectively, the “Participants”
8 under this Order, and

9 WHEREAS, the Participants wish to provide for the confidentiality of Settlement
10 Documents and Communications to the extent provided by, and in accordance with, the terms of
11 this Order and with Pretrial Order No. 6, which was previously issued by the Court;

12 NOW, THEREFORE, it is hereby STIPULATED, AGREED AND ORDERED:

13 1. Pursuant to the Court’s inherent authority and Federal Rule of Evidence 408, every
14 recipient of this Order shall treat all drafts and final version of any and all term sheets,
15 appendices, release agreements, consent decrees, and any communications (written, oral or
16 electronic) regarding resolution or partial resolution of claims related to the model year 2014–
17 2016 Ram 1500 and Jeep Grand Cherokee light-duty vehicles equipped with 3.0-liter V6 diesel
18 engines (“Vehicles”), including the substance of any discussions and any document prepared in
19 connection therewith (collectively, “Settlement Documents and Communications”), as strictly
20 confidential.

21 2. A Participant who obtains Settlement Documents and Communications under this
22 Order from another Participant may share such information with those attorneys or employees of
23 the receiving Participant who, in the opinion of such Participant, are responsible for these
24 settlement negotiations or have a need to know such information to perform their official duties,
25 provided that such attorneys or employees have affirmed in writing, before receiving any
26 Settlement Documents and Communications, that they have read this Order and agree to be bound
27 by its terms and conditions. Likewise, a Participant who obtains Settlement Documents and
28 Communications under this Order also may share such information with those consultants and

1 experts of the Participant who are assisting in the negotiations and who, in the opinion of such
2 Participant, require access to provide such assistance, provided that any such person has affirmed
3 in writing before receiving any Settlement Documents and Communications that he or she has
4 read this Order and agrees to be bound by its terms and conditions.

5 3. Each of the five Participants shall designate one individual (“Coordinator”) who
6 shall be responsible for keeping a list of all individuals who have received copies of Settlement
7 Documents and Communications from the Participant. This list shall include the name, title and
8 affiliation of each individual provided with Settlement Documents and Communications. Each
9 Coordinator shall periodically provide updated copies of these lists to the Settlement Master.
10 Except in the event of a good-faith claim of violation of this Order, Participants agree not to
11 request copies of these lists or the identities of the individuals on them. The list of individuals
12 provided to the Settlement Master may exclude the identities of consulting experts retained by the
13 Participants who have received copies of Settlement Documents and Communications, provided
14 that the Coordinator maintains a record of the certifications by such experts of agreement to be
15 bound by this Order. Each Coordinator shall note any such exclusions on the updated lists
16 provided to the Settlement Master.

17 4. In communications among the United States, California, and FCA (“Group of
18 Three”), each Participant may discuss and share with other Group of Three members Settlement
19 Documents and Communications that it received from another member of the Group of
20 Three. When communicating with other Participants or with the Settlement Master, FCA may
21 not discuss, refer to, or reveal, in whole or in part, the substance of any Settlement Document and
22 Communication that it received from either the United States or California without the advance
23 written permission of both government parties, including but not limited to (1) any offer of
24 compromise made by the United States or California or (2) any statement made by the United
25 States or California in responding to an offer of compromise or other Settlement Document and
26 Communication. Likewise, when communicating with other Participants or with the Settlement
27 Master, neither the United States nor California may discuss, refer to, or reveal, in whole or in
28 part, the substance of any Settlement Document and Communication that it received from another

1 member of the Group of Three without that member's advance written permission, including but
2 not limited to (1) any offer of compromise made by another member of the Group of Three or
3 (2) any statement by another member of the Group of Three responding to an offer of
4 compromise or other Settlement Document and Communication. Nothing herein prevents a
5 member of the Group of Three from sharing and discussing Settlement Documents and
6 Communications for which it is the sole originator, provided that the release of such information
7 is made to a Participant or the Settlement Master and the release otherwise complies with the
8 restrictions imposed by this Paragraph 4.

9 5. No Participant or individual subject to this Order shall share Settlement
10 Documents and Communications, whether draft or final, with any individual not employed by or
11 retained on behalf of a Participant, as defined herein, without express written consent by all
12 Participants. Prior to receiving any Settlement Documents and Communications pursuant to this
13 paragraph, each non-party individual must be provided a copy of this Order and must agree in
14 writing to be bound by it.

15 6. Settlement Documents and Communications shall not be released under the
16 Freedom of Information Act, 5 U.S.C. § 552, and any corresponding state open records acts
17 absent good cause shown in this proceeding.

18 7. Any person found to be in violation of this Order will be subject to imposition of
19 sanctions.

20 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.**

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Respectfully submitted,

LIEFF CABRASER HEIMANN & BERNSTEIN, LLP

Dated: March 7, 2018

By: /s/ Elizabeth J. Cabraser

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UNITED STATES DEPARTMENT OF JUSTICE

Dated: March 7, 2018

By: /s/ Leigh P. Rendé

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Dated: March 7, 2018

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Dated: March 7, 2018

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on March 7, 2018, a true and correct copy of the foregoing was electronically filed and served electronically via the Court’s CM/ECF system, which will automatically serve notice to all registered counsel of record.

/s/ Leigh P. Rendé