

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.)	

TWENTY-EIGHTH 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 Twenty-Eighth Status Report pursuant to paragraph 4 of this Court’s Appointment Order (the “Status Report”).¹ The Status Report provides an overview of the Special Master’s work from January 21, 2022 through March 21, 2022 (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 *Twenty-Seventh Status Report of the Special Master*, dated January 26, 2022 [Docket No. 160].

I. ACTIVITIES IN THE REPORTING PERIOD.

A. OUTREACH TO POTENTIAL CLAIMANTS UPDATE.

1. In the *Twenty-Fourth Status Report of the Special Master*, dated July 27, 2021 [Docket No. 151], the Special Master informed the Court that pursuant to the Revised IRF Methodology [Docket No. 77-1], Claimants who were involved in an incident prior to April 11, 2018 were required to file their claims with the IRF by April 11, 2021 and claims filed thereafter would be deemed untimely and barred unless the claimant could show good cause to consider the untimely claim. *See* Docket No. 77-1 at p. 25. The April 11, 2021 bar date also applies to claims submitted to the TATCTF. Therefore, any claims arising out of incidents before April 11, 2018 would be presumptively time-barred unless they were filed with the IRF (and TATCTF) before April 11, 2021.

2. Leading up to the April 11, 2021 deadline, the Special Master conducted extensive outreach to potential claimants who may have held claims that could be time barred. For example, in addition to publishing notices of the deadline and conducting his advertising campaign as a matter of course, the Special Master contacted key members of the plaintiffs' bar to notify them of the deadline. In addition, the Special Master's team contacted all lawyers and individuals who had mailed notices of claim to the Special Master but had not yet completed a claim submission. As a result of the Special Master's outreach efforts, a relatively high

number of claims were filed in late-March and the first half of April 2021. The Special Master has completed initial review of these claims, nearly all of which were addressed in the Tenth, Eleventh, Twelfth, and Thirteenth IRF Distribution Requests. The Special Master and his team continue to work with claimants to cure outstanding deficiencies to complete evaluations on all of these claims.

B. APPROVAL OF THIRTEENTH IRF DISTRIBUTION REQUEST.

3. On January 26, 2022, the Special Master filed the *Special Master's Request for Approval of Thirteenth Distribution of Individual Restitution Fund* (the "Thirteenth IRF Distribution Request") [Docket No. 159], seeking Court-approval for: (i) a thirteenth distribution from the IRF to compensate ten (10) eligible Claims, and (ii) the denial of thirteen (13) ineligible Claims.

4. Consistent with the procedures set forth in the Minutes of July 25, 2019 Conference with Special Master (the "July 2019 Minutes Order") [Docket No. 110], the Special Master notified the affected Claimants: (i) of their point award and the monetary value of the award (if any); (ii) of the filing of the Thirteenth IRF Distribution Request; and (iii) that such Claimants may object to the Thirteenth IRF Distribution Request by submitting a written response to the Special Master on or before February 18, 2021 (the "Objection Deadline").

5. As the Court is aware, there are two conditions that must be met for Claimants with compensable Claims to receive payment from the IRF. First, all

Claimants must execute and submit to the Special Master the Court-approved release agreement (a “Release”). Additionally, if any Claimant was represented by counsel, such counsel must execute and submit to the Special Master a fee rider (a “Fee Rider”) acknowledging and agreeing to abide by the restriction on attorney’s fees set forth in the IRF Methodology Order. [Docket No. 78, Page ID 2219].

6. On February 28, 2022, the Court entered an order granting the Special Master’s Request. *See Order Granting Special Master’s Request For Approval Of Thirteenth Distribution Of Individual Restitution Fund* [Docket No. 163]. Accordingly, the Special Master will begin processing and making these payments, subject to the Modified Points Schedule and 2021 Point Value, on a rolling basis following receipt of the necessary documentation.

II. GOING FORWARD EFFORTS.

A. CLAIM EVALUATION AND PROCESSING EFFORTS.

7. The Special Master continues to monitor closely the pandemic’s effect on claim filing activity and rupture incidents, both of which have materially decreased during the pandemic. Though it remains too early to make any definitive conclusions regarding the pandemic’s effect on claim filing activity, the Special Master has observed a slight increase in claim filings as COVID-19 restrictions are lifted throughout the country. The Special Master will continue to monitor closely claim filing trends and inform the Court accordingly.

8. As stated above, the Special Master and his team will continue to receive claims for compensation from the IRF and TATCTF (in his capacity as Trustee of that Trust), and will continue the process of reviewing, evaluating, and distributing funds on account of claims. The Special Master and his team will also continue to evaluate the claims data and recall completion rate data in connection with any future point-value evaluations. The Special Master and his claims evaluation team remain committed to completing its initial evaluation of Claims within thirty (30) days of the Special Master's receipt thereof.

B. DISTRIBUTION OF REMAINING RESTITUTION FUNDS.

9. The Restitution Order sets forth the following timeline for the Special Master to distribute the IRF:

Upon the later of (a) five years after entry of the plea in this case (the time currently estimated by the defendant for the recall of its defective products to be completed), or (b) the date upon which such recall is complete, any funds remaining of the \$125,000,000 in restitution monies provided for in this paragraph shall be paid to the United States. However, upon reaching either date, the Special Master may request a reasonable extension in light of unresolved or anticipated claims, as circumstances warrant.

Restitution Order [Docket No. 24], at ¶ 4. Upon the later of these two events occurring, the Special Master is required to return undistributed funds to the United States. Five years “after entry of the plea in this case” is February 27, 2022, as the Plea Agreement is dated February 27, 2017. *See* Rule 11 Plea Agreement [Docket No. 23].

10. Following multiple communications with executives from Reorganized Takata and numerous other OEM representatives, it is the Special Master's understanding that the Takata PSAN inflator recall is ongoing and will not be completed for several years. Thus, the turnover requirement in the Restitution Order was not triggered on February 27, 2022. In light of the continuing recalls, ruptures, and filing of claims, the Special Master requested that the Court grant a three-year extension of the IRF's term through February 27, 2025.

11. On February 28, 2022, the Court entered an order granting the Special Master's extension request. *See* Order Amending Restitution Order [Docket No. 161]. The Amended Restitution Order effectively grants a three-year extension to the initial potential turnover date of February 27, 2022. *See id.* at ¶ 4 (“Upon the later of (a) ***eight years*** after entry of the plea in this case (the time currently estimated by the defendant for the recall of its defective products to be completed), or (b) the date upon which such recall is complete, any funds remaining of the \$125,000,000 in restitution monies provided for in this paragraph shall be paid to the United States....”) (emphasis added). The Special Master and his team will continue diligently working throughout the extended term to distribute additional funds from the IRF to eligible claimants.

CONCLUSION

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

Dated: March 25, 2022

Respectfully submitted,

A handwritten signature in black ink, appearing to read "E. D. Green", written over a horizontal line.

Eric D. Green, Special Master