

United States District Court
Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE: VOLKSWAGEN “CLEAN DIESEL”
MARKETING, SALES PRACTICES, AND
PRODUCTS LIABILITY LITIGATION

MDL No. 2672 CRB (JSC)

ORDER RE: ATTORNEYS’ FEES

This Order Relates To:
ALL ACTIONS (except the securities action)

On November 22, 2016, the Court issued an Order requiring that any settlement proceeds be paid directly to Class Members notwithstanding any attorneys’ liens. (Dkt. No. 2247.) The Court hereby clarifies the scope of its earlier Order and holds that the Order shall cover any payment to attorneys out of Class Members’ settlement proceeds, whether through attorneys’ liens, assignments, agreements for funds to be paid first into an attorney trust account, or any other functional equivalent whereby Class Members’ recovery under the Settlement is reduced through private attorneys’ fees. The Court previously discussed the reasons why Volkswagen must pay any settlement funds directly to Class Members—namely, (1) the Settlement does not allow Volkswagen to make payments to Class Members’ private attorneys, (2) complete payment to Class Members is necessary to fulfill the Settlement’s purpose of making Class Members whole, and (3) providing Class Members with the funds directly ensures that Members will participate in the Settlement’s Buyback or Fix programs, thus removing polluting vehicles from the roads. (*Id.* at 4.) These reasons apply with equal force whether funds are diverted from Class Members as a result of attorneys’ liens or through other similar means with the same effect.

Accordingly, the Court ORDERS that Volkswagen shall pay Class Members the full amount to which they are entitled under the terms of the Settlement notwithstanding any fee-

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1 related liens, assignments, trust-account agreements, or other means that would diminish Class
2 Members' recovery under the Settlement. Payment to Class Members may be made through Class
3 Members' private counsel, including through an attorney's client trust account, but counsel shall
4 not deduct any fees before remitting payment to represented Class Members. The Court will
5 determine later the appropriate amount to be received by private counsel for services provided to
6 Class Members. Further, under the power conferred by the All Writs Act, 28 U.S.C. § 2283, the
7 Court ENJOINS any state court action relating to the payment of Class Members' settlement funds
8 to attorneys pursuant to any assignment, agreement, or other means within the scope of this Order;
9 as with state-court liens proceedings, any such action would interfere with the Court's ability to
10 enforce and ensure compliance with the Settlement terms, such as Volkswagen's obligation to
11 directly pay consumers the full amount to which they are entitled under the Settlement. *See In re*
12 *Diet Drugs*, 282 F.3d 220, 235 (3d Cir. 2002).

13 **IT IS SO ORDERED.**

14 Dated: December 5, 2016



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17 CHARLES R. BREYER
United States District Judge