

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In re: NAVISTAR DIESEL ENGINE)	Case No. 11 C 2496
PRODUCTS LIABILITY)	MDL NO. 2223
LITIGATION)	

This Document Relates to: All Cases

**PLAINTIFFS' MOTION FOR
FINAL APPROVAL OF CLASS ACTION SETTLEMENT**

Pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, Plaintiffs¹ move for approval of the parties' agreed Settlement of this class action litigation. Because the Settlement is an excellent result for the Class and will avoid the time, expense, and risk of further litigation, the Court should grant final approval.

1. Plaintiffs and Defendant Ford Motor Co., Inc. ("Ford") arrived at a Settlement on November 1, 2012. (Ex. 6 to Mem. in Supp. of Mot. for Final Approval.)² The Settlement was the product of years of hard-fought litigation and contentious, arm's length negotiations in mediation sessions presided over by Judge Richard Neville. (*See* Declaration of Richard Neville, attached as Ex. 3 to Mem. in Supp. of Mot. for Final Approval.) This Court granted Preliminary Approval on November 14, 2012 and ordered distribution of the Settlement Notice to the Class. (Dkt. 242.)

¹ Plaintiffs are Custom Underground, Inc., John Barrett, Scott and Heather Gray, Frank Brown Towing, Inc., Cecil and Tressie Fulton, Karl Strong, Dinonno Enterprises, Inc., d/b/a Cutting Edge Concrete Cutting, Charles Clark, Georgean Vogt, John Prebish, Steve Santilli, Anthony Mawyer, Gena Boggero, Carl Atwell, Phillip Marcum, and James Hutton.

² Capitalized terms used in this Motion have the meanings defined in the Settlement.

2. This Motion is based on the accompanying Memorandum and the supporting Exhibits attached thereto, Plaintiffs' previously submitted Response to Objections, (Dkt. 272), any further Response to Objections that may be submitted on or before May 20, 2013 (*See* Dkt. 275), and argument of counsel.

3. The Settlement Class is defined as:

All entities and natural persons in the United States (including its Territories and the District of Columbia) who currently own or lease (or who in the past owned or leased) a model year 2003–2007 non-ambulance Ford vehicle sold or leased in the United States and equipped with a 6.0-liter PowerStroke diesel engine that received one or more repairs covered by Ford's New Vehicle Limited Warranty during the vehicle's first five years in service or 100,000 miles, whichever comes first, to a fuel injector; the exhaust gas recirculation ("EGR") valve; the EGR cooler; the oil cooler; or the turbocharger.

(Ex. 6 to Mem. in Supp. of Motion for Final Approval at 8.)

4. As explained in the accompanying Memorandum and Exhibits, the Settlement is fair, reasonable, and adequate in that it provides the Class with a significant package of relief that is in the range of, and likely exceeds, expected trial outcomes. (*See* Declaration of William Rubenstein, attached as Ex. 2 to Mem. in Supp. of Mot. for Final Approval.)

5. Plaintiffs therefore request that the Court enter an Order approving the Settlement and granting relief as follows:

1. Granting final approval of the Settlement as fair, reasonable, and adequate and directing its implementation according to its terms and provisions;
2. Certifying the Settlement Class, as defined above, solely for purposes of the Settlement;
3. Discharging and releasing Defendant and Released Parties upon the terms and conditions set forth in the Settlement Agreement; and
4. Granting such other relief as the Court deems just and proper.

DATED: May 15, 2013 Houston, Texas.

Respectfully submitted,

By: /s/ Michael A. Caddell
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MDL LEAD COUNSEL FOR PLAINTIFFS

CERTIFICATE OF CONFERENCE

I hereby certify that, on May 15, 2013, I conferred with Brian Anderson, counsel for Ford Motor Company in these proceedings. Mr. Anderson advised that his client is not opposed to this motion.

/s/ Cynthia B. Chapman
Cynthia B. Chapman

CERTIFICATE OF SERVICE

I hereby certify that, on May 15, 2013, this document was filed electronically via the Court's ECF system and thereby served on all counsel of record.

/s/ Cynthia B. Chapman
Cynthia B. Chapman