

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

DANA POTVIN, LISA BULTMAN,  
MICHAEL MCKARRY, DAVID  
WABAKKEN, MOHAMED HASSAN,  
CHRISTINA MERRILL, ERIC LEVINE,  
PATRICK DONAHUES, DEBBI BROWN,  
CAROL RADICE, TERRENCE BERRY,  
AMANDA GREEN, DAVID  
WILDHAGEN, KATY DOYLE, TASHIA  
CLENDANIEL, HOGAN POPKESS,  
KORY WHEELER, HARRY O'BOYLE,  
JOE RAMAGLI, ERIC KOVALIK,  
CHARLES HILLIER, LABRANDA  
SHELTON, ADAM MOORE, TINA  
GROVE, KEECH ARNSTEN, SCOTT  
CARTER, MIKE SHERROD, CHRISTI  
JOHNSON, MARY KOELZER AND  
MARK STEVENS, Individually And On  
Behalf Of All Others Similarly Situated,  
Plaintiffs,

vs.

VOLKSWAGEN  
AKTIENGESELLSCHAFT,  
VOLKSWAGEN GROUP OF AMERICA,  
INC., and VOLKSWAGEN GROUP OF  
AMERICA CHATTANOOGA  
OPERATIONS, LLC,  
Defendants.

Case No.: 2:22-cv-01537 (EP) (JSA)

**DECLARATION OF  
JAMES E. CECCHI IN SUPPORT OF  
PLAINTIFFS' MOTION FOR  
AWARD OF ATTORNEYS' FEES,  
REIMBURSEMENT OF EXPENSES,  
AND PLAINTIFFS' SERVICE  
AWARDS**

I, James E. Cecchi, declare and state as follows:

1. I am a Partner of Carella Byrne Cecchi Brody Agnello, P.C. and part of the Co-Lead Counsel team for Plaintiffs in this case. This Declaration is based on my personal knowledge, and if called upon to do so, I could and would testify competently thereto.

2. This declaration is submitted in support of Plaintiffs' Motion for Award of Attorneys' Fees, Reimbursement of Expenses, and Plaintiffs' Service Awards. I have personally participated in all material aspects of this action, including the negotiations that produced these Settlements. I respectfully submit that the request for an award of attorneys' fees and expenses is reasonable and supported by the facts and the law, and should be granted in all respects.

3. Plaintiffs' counsel has devoted substantial time and advanced funds necessary to prosecute this case with no assurance of compensation or repayment. To date, Plaintiffs' counsel has not been paid for its efforts in this case or reimbursed for any out-of-pocket expenses incurred in relation to the case.

### **Litigation and Mediation History**

4. This case, initially captioned *Sherrod, et al. v. Volkswagen Group of America, Inc.*, was filed on March 18, 2022. ECF No. 1. Shortly thereafter, on March 25, 2022, a related complaint against Volkswagen was filed by Plaintiff Price

McMahon. *See* Case No. 2:22-cv-1704, ECF No. 1. McMahon filed an Amended Complaint on May 12, 2022. *Id.*, ECF No. 8. After the parties submitted a stipulated letter motion for consolidation, on July 19, 2022, the Court issued an order consolidating the actions under the Sherrod civil action number. Case No. 2:22-cv-01537, ECF No. 16.

5. On August 5, 2022 Plaintiffs in the consolidated action collectively filed a Consolidated Class Action Complaint against VWGoA, Volkswagen Aktiengesellschaft (“VWAG”) and Volkswagen Group of America Chattanooga Operations, LLC (“VWCOL”). Consolidated Class Action Complaint, ECF No. 26.

6. VWGoA, VWAG, and VWCOL then filed motions to dismiss. ECF Nos. 43, 53, 58. After extensive briefing, the Court on June 16, 2023, granted in part and denied in part the motions. ECF No. 69.

7. On July 17, 2023, Plaintiffs filed their First Amended Consolidated Class Action Complaint (“FAC”), which is the operative complaint. ECF No. 70. Prior to filing the FAC and the initial complaints discussed above, Plaintiffs’ counsel conducted a thorough investigation into the claims and allegations.

8. On September 13, 2023, VWGoA and VWAG filed a motion to dismiss the FAC, which Plaintiffs opposed on October 27, 2023. ECF No. 84. The next day, the parties filed the [Proposed] Joint Discovery Plan, outlining their respective positions. On September 20, 2023, the Court issued its Pretrial Scheduling Order

setting a September 29, 2023, deadline for initial disclosures and a fact discovery cutoff of February 28, 2025. ECF No. 79.

9. In discovery, Plaintiffs reviewed documents relating to class size, state of the Recall, fixes implemented for the alleged defect, the effectiveness of the fixes, and reach of the Recall program. ECF No. 98 at 6.

10. After the Parties had an opportunity to thoroughly consider the Court's rulings on the Motions to Dismiss, and while the Parties were engaged in discovery, counsel for the Parties began discussing the potential for settlement. Within the context of these settlement discussions, VWGoA provided Plaintiffs' Counsel with more complete information regarding the Settlement Class Vehicles and the composition of the putative Settlement Class. This exchange of information, coupled with other documents produced by VWGoA in discovery, enabled the Parties to meaningfully engage in comprehensive settlement negotiations.

11. The Parties held multiple negotiation sessions, including with the assistance of experienced JAMS mediator Bradley Winters, which involved communications via telephone, email, and videoconference, both before and after the formal mediation session with Mr. Winters on February 13, 2024. Over the course of the ensuing months, Settlement terms were negotiated. Ultimately, after vigorous arm's length negotiations, the Parties agreed upon the terms and conditions set forth in the Settlement Agreement. In addition, the Parties did not discuss the

issues of Plaintiffs' counsel's reasonable attorney fees and class representative service awards until after the Parties reached an agreement on the Settlement relief to the class. Settlement Agreement, ECF No. 98-2, at § IX(C).

### **Lodestar Reporting**

12. The schedule attached as Exhibit 1 is a summary indicating the amount of time spent by each firm who was involved in the action, and the lodestar calculation based on current billing rates, followed by individual declarations from the lead attorney from each Class Counsel firm. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by Plaintiffs' counsel, which are available at the request of the Court. Plaintiffs' counsels' respective declarations supporting their lodestar reporting in Exhibit 1 are attached hereto in Exhibits A-E.

13. The hourly rates for attorneys and professional support staff included in Exhibit 1 are the same as the regular rates that would be charged for their services in non-contingent matters and/or which have been accepted in other class action litigation.

14. The total number of hours expended on this action from the inception of the action through November 4, 2024 is 2,449.60. The total lodestar for this period is \$1,859,313.00.

15. These lodestar figures are based on the firm's billing rates, which rates do not include charges for expense items. Expense items are billed separately, and such charges are not duplicated in counsel's billing rates.

### **Expense Reporting**

16. In connection with this action, Plaintiffs' counsel seeks reimbursement of certain out-of-pocket expenses that were reasonably incurred by the firm in the action.

17. As detailed in the schedule attached hereto as Exhibit 2, Plaintiffs' counsel has incurred a total of \$13,376.59 in unreimbursed expenses in connection with the prosecution of this action. These expenses are reflected on Plaintiffs' counsel's books and records prepared from expense vouchers, check records, and other source materials and are an accurate record of the expenses incurred. The expenses were reasonably incurred in prosecuting the action. Plaintiffs' counsels' respective declarations supporting their expense reporting in Exhibit 2 are attached hereto in Exhibits A-E.

### **Class Representatives**

18. In my opinion, the efforts of the Settlement Class Representatives were instrumental in achieving the Settlement on behalf of the Class and justify the awards requested here. The Settlement Class Representatives came forward to prosecute this litigation for the benefit of the class as a whole. They sought successfully to remedy

a widespread wrong and have conferred valuable benefits upon their fellow Class Members. The Settlement Class Representatives provided a valuable service to the class by: (i) providing information and input in connection with the drafting of the Complaints; (ii) overseeing the prosecution of the litigation; and (iii) working with Class Counsel to prepare responses to formal discovery and (iv) consulting with counsel during the litigation.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on November 4, 2024, in Roseland, New Jersey.

/s/ James E. Cecchi  
James E. Cecchi