

United States District Court
Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE: GERMAN AUTOMOTIVE
MANUFACTURERS ANTITRUST
LITIGATION

MDL No. 2796 CRB (JSC)

**PRETRIAL ORDER NO. 3: ORDER
APPOINTING LEAD COUNSEL AND
STEERING COMMITTEE MEMBERS**

_____ /
This Order Relates To:

ALL ACTIONS
_____ /

On October 17, 2017, the Court announced that it intended to appoint lead counsel for plaintiffs and a plaintiffs’ steering committee to conduct and coordinate the pretrial stage of this multidistrict litigation with the defendants’ representatives. (Pretrial Order No. 1, Dkt. No. 4.) The Court invited individuals to submit applications for a steering committee or lead counsel position by November 17, 2017, and allowed parties to respond by December 8, 2017. (*Id.*) The Court received a total of 38 applications, with 12 individuals applying for a lead counsel position and 26 individuals applying to become only a steering committee member. Having carefully considered the written submissions, the Court issues the following Order.

A. Lead Counsel

1. The Court appoints Bruce L. Simon of Pearson, Simon & Warshaw, LLP as Co-Lead Counsel and as chair of the Plaintiffs’ Steering Committee (PSC). Mr. Simon has extensive experience with multidistrict litigation, and antitrust class actions in particular. He also has the support of a great number of his colleagues and fellow counsel in this MDL.

2. To avoid any conflict between direct purchasers and indirect purchasers of German passenger cars, the Court also appoints Warren T. Burns of Burns Charest LLP as Co-Lead Counsel. Mr. Burns is already counsel for two direct purchasers who have filed cases that are part

1 of this MDL, and he will be responsible for a Direct Purchaser Class. Mr. Burns has significant
2 experience in automotive and other antitrust litigation.

3 3. The Court vests Mr. Simon and Mr. Burns, as Co-Lead Counsel, with the authority
4 and duty to coordinate and oversee the PSC responsibilities set forth below. On all issues of
5 common interest, Mr. Simon, as chair of the PSC, shall have final authority.

- 6 • Schedule PSC meetings and keep minutes or transcripts of these meetings.
- 7 • Appear at periodic Court-noticed status conferences and hearings.
- 8 • Bind the PSC in scheduling settlement discussions and discovery, setting agendas, entering
9 into stipulations, and in other necessary interactions with defense counsel and the PSC.
- 10 • Establish and maintain a depository for orders, pleadings, hearing transcripts, and all
11 documents served upon plaintiffs' counsel, and make such papers available to plaintiffs'
12 counsel upon reasonable request.
- 13 • Maintain, in conjunction with their accountants, records of receipts and disbursements
14 advanced by PSC members and received by the PSC and report in writing to the PSC
15 concerning disbursements and receipts.
- 16 • Designate counsel to schedule depositions, set agendas and otherwise interact with defense
17 counsel and various plaintiffs' counsel.

18 4. Mr. Simon and Mr. Burns also shall have the authority to retain the services of any
19 attorney not part of the PSC to perform any common benefit work, provided the attorney so
20 consents and is bound by the PSC's compensation structure.

21 5. Mr. Simon and Mr. Burns shall perform other necessary PSC administrative and
22 logistic functions and carry out any other duty as the Court may order.

23 6. Mr. Burns shall sign and file all pleadings related to the Direct Purchaser Class.
24 Mr. Simon shall sign and file all other pleadings.

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B. Plaintiffs' Steering Committee

1. The Court appoints the following attorneys as members of the PSC:

W. Joseph Bruckner
Lockridge Grindal Nauen P.L.L.P.
100 Washington Avenue South
Minneapolis, MN 55401

James R. Martin
Zelle LLP
1775 Pennsylvania Avenue NW, Suite 375
Washington, DC 20006

Warren T. Burns
Burns Charest LLP
900 Jackson Street, Suite 500
Dallas, TX 75202

Elizabeth C. Pritzker
Pritzker Levine LLP
180 Grand Avenue, Suite 1390
Oakland, CA 94612

Melissa R. Emert
Stull, Stull & Brody
6 East 45th Street, Fifth Floor
New York, NY 10017

Christopher A. Seeger
Seeger Weiss LLP
77 Water Street
New York, NY 10005

Steven A. Hart
Hart McLaughlin & Eldridge
121 West Wacker Drive, Suite 1050
Chicago, IL 60601

Bruce L. Simon (chair)
Pearson, Simon & Warshaw, LLP
44 Montgomery Street, Suite 2450
San Francisco, CA 94104

Kimberly A. Justice
Kessler Topaz Meltzer & Check, LLP
280 King of Prussia Road
Radnor, PA 19087

Allan Steyer
Steyer Lowenthal Boodrookas Alvarez &
Smith LLP
One California Street, Third Floor
San Francisco, CA 94111

Lesley E. Weaver
Bleichmar Fonti & Auld LLP
1999 Harrison Street, Suite 670
Oakland, CA 94612

2. The PSC appointments are personal to the individual attorney appointed. While the Court has considered PSC members' resources and expects they will draw upon their firms and co-counsel to assist them with their duties, each member is personally responsible for his or her duties. The Court may add or replace members upon request from the PSC, or on its own motion, if and as circumstances warrant.

3. It is intended and expected by this Order that, as to all matters common to the

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coordinated cases, and to the fullest extent consistent with the independent fiduciary obligations owed by any and all plaintiffs’ counsel to their clients and any putative class, that pretrial proceedings shall be conducted by and through the PSC.

4. The PSC is responsible for creating its own structure, including establishing subcommittees, subject to the Court’s approval. The Court recognizes that changes to the PSC’s organization may be necessary as the litigation progresses and new details emerge.

5. All time keepers carrying out work for the plaintiffs’ common benefit, including PSC members, who may look to any common fund or agreement for reimbursement or compensation shall maintain detailed and contemporaneous time records. The Court will provide further details in a subsequent Order.

IT IS SO ORDERED.

Dated: December 14, 2017



CHARLES R. BREYER
United States District Judge