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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

IN RE: TOYOTA MOTOR CORP.
UNINTENDED ACCELERATION
MARKETING, SALES PRACTICES,
AND PRODUCTS LIABILITY
LITIGATION

THIS DOCUMENT RELATES TO ALL:
ECONOMIC LOSS CASES

Case No. 8:10ML2151 JVS (FMOx)

**SECOND DECLARATION OF
MARKHAM SHERWOOD RE:
NOTICE AND ADMINISTRATION OF
SETTLEMENT**

Date: June 14, 2013
Judge: Hon. James V. Selna
Time: 9:00 a.m.
Location:

I, Markham Sherwood, declare as follows:

1. I am over 21 years of age and am authorized to make this declaration. I have personal knowledge of the matters set forth in this declaration and, if called upon as a witness, I could and would competently testify thereto.

2. I am employed as a Case Manager by Gilardi & Co., LLC (“Gilardi”). Gilardi was appointed by the Court on December 28, 2012 and engaged by counsel for the parties to provide settlement notification and claims processing services in connection with the settlement reached in the above-captioned matter.

3. The class is defined as follows, subject to certain limited exclusions specified in the Settlement Agreement:

1 [a]ll persons, entities or organizations who, at any time as of or before the entry of the
2 Preliminary Approval Order, own or owned, purchase(d), lease(d) and/or insure(d) the
3 residual value, as a Residual Value Insurer, of Subject Vehicles equipped or installed with
4 an ETCS (as listed in Exhibit 10) distributed for sale or lease in any of the fifty States, the
5 District of Columbia, Puerto Rico and all other United States territories and/or
6 possessions.
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9 4. Since mailing the Notices to the class members, Gilardi has received 1,592,325
10 Notices returned by the USPS with undeliverable addresses (despite being mailed to the address
11 at which the applicable Subject Vehicle had been registered with the applicable State vehicle
12 registration authority). Gilardi, through a third party locator service, performed address searches
13 for these Notice Packets and was able to find updated addresses for 1,022,010 of the 1,592,325
14 that were returned undeliverable and re-mailed the Notices to those updated addresses. Of the
15 direct Notices sent to identified class members, 97.5% were either not returned as undeliverable
16 mail or were updated using a locator service.

17 5. As of May 31, 2013, Gilardi has received 422,918 total electronic claims, 347,782
18 claims on the Cash-In-Lieu-of-BOS Fund and 75,136 claims on the Alleged Diminished Value
19 Fund. Gilardi has calculated the value of these claims under the Court-approved Allocation Plan
20 under which base amounts are adjusted according to the state of the Class Member's residence.
21 Those total values are \$17,611,636.50 for Cash-In-Lieu-of-BOS Fund and \$19,677,865.00 for the
22 Alleged Diminished Value Fund. If these adjustments are removed and the claims are calculated
23 as uplifted to 100% of their value under the Plan of Allocation, then the values become
24 \$19,613,125.00 for the Cash-In-Lieu-of-BOS Fund and \$25,295,459.00 for the Alleged
25 Diminished Value Fund.

26 6. Gilardi has calculated average payouts to non-claiming Class Members under the
27 parties' supplemental distribution proposal described in Plaintiffs' June 3 reply brief in support of
28 final approval, assuming that the total value of "uplifted" claims filed by the claims deadline will

1 be approximately \$58,839,735.00 for the Cash-In-Lieu-Of-BOS Fund and \$75,886,377.00 for the
2 Alleged Diminished Value Fund. We believe these estimates are reasonable given the time left in
3 the claims period and the fact that most "fleet" Class Members, which will have the largest
4 claims, have not yet filed claims. This will leave substantial balances for distribution to eligible
5 Class Members pursuant to the supplemental plan of allocation, even after deductions are taken
6 for reimbursement of the Settlement administration costs advanced by Toyota, equal funding to
7 the Safety Research and Education Fund, and payment of future administrative costs.

8 7. The parties have asked how much it would cost to re-notice the Class if the Court
9 should order it. The costs of mailing individual notice totaled approximately \$6,253,700.00.
10 Sending out supplemental notice to 22,623,077 Class Members would cost approximately
11 \$6,105,000 and would deplete the monies available for distribution to the Class. Class Members
12 can check the Settlement website located at www.toyotaelsettlement.com for updates to the
13 Settlement.

14 8. The postmark deadline for class members to request exclusion was on May 13,
15 2013. To date, Gilardi has received 1,947 timely and 26 late purported requests for exclusion. A
16 list of class members purportedly requesting exclusion from the class to date is attached as
17 **Exhibit A.**

18 I declare under penalty of perjury that the foregoing is true and correct. Executed this 3rd,
19 day of June, 2013 at San Rafael, California.

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22 _____
23 MARKHAM SHERWOOD
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