

1 Mike Arias (CSB #115385)
2 Craig S. Momita (CSB #163347)
3 M. Anthony Jenkins (CSB #171958)
4 **ARIAS SANGUINETTI WANG & TEAM LLP**
5 6701 Center Drive West, Suite 1400
6 Los Angeles, CA 90045
7 Telephone: (310) 844-9696
8 Facsimile: (310) 861-0168
9 mike@aswtlawyers.com
10 craig@aswtlawyers.com
11 anthony@aswtlawyers.com

12 [*Additional Counsel Cont'd. After Caption*]

13 **UNITED STATES DISTRICT COURT**
14 **CENTRAL DISTRICT OF CALIFORNIA**

15 GLENN KESSELMAN, an individual,
16 on behalf of himself and all others
17 similarly situated, *et al.*,

18 Plaintiffs,

19 vs.

20 TOYOTA MOTOR SALES, U.S.A.,
21 INC., a California Corporation

22 Defendant.

Case No. 2:21-cv-06010-TJH-JC

HON. TERRY J. HATTER JR.

**JOINT DECLARATION IN
SUPPORT OF PLAINTIFFS'
MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT**

Judge: Hon. Terry J. Hatter, Jr.

Place: Courtroom #9C

Hearing Date: March 3, 2025

Hearing Time: UNDER SUBMISSION

1 Thomas P. Rosenfeld, *admitted pro hac vice*
2 Kevin P. Green, *admitted pro hac vice*
3 Daniel S. Levy, *admitted pro hac vice*
4 **GOLDENBERG HELLER & ANTOGNOLI, P.C.**
5 2227 South State Route 157
6 Edwardsville, IL 62025
7 Telephone: (618) 656-5150
8 tom@ghalaw.com
9 kevin@ghalaw.com
10 daniel@ghalaw.com

11 Attorneys for Plaintiffs
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 Pursuant to 28 U.S.C. § 1746, we, Mike Arias and Kevin P. Green, declare as
2 follows:

3 1. I, Mike Arias, am managing partner of the law firm of Arias, Sanguinetti,
4 Wang & Team LLP, and am a member in good standing of the California Bar and of
5 the United States District Court for the Central District of California. Along with the
6 law firm of Goldenberg Heller & Antognoli, P.C., my firm represents the Plaintiffs in
7 this Action (the firms are collectively referred to herein as “Class Counsel”). I am
8 fully competent to make this declaration.

9 2. I, Kevin P. Green, am a shareholder with the law firm of Goldenberg
10 Heller & Antognoli, P.C., am a member in good standing of the Illinois Bar and the
11 Missouri Bar, and am admitted *pro hac vice* to this Court in this Action. My firm
12 represents the Plaintiffs in this Action along with Arias, Sanguinetti, Wang & Team
13 LLP. I am fully competent to make this declaration.

14 3. The statements in this declaration are based on our personal knowledge
15 and recollection as of this date, and we would competently testify thereto if called
16 upon to do so.

17 4. We make this Joint Declaration in support of Plaintiffs’ Motion for
18 Preliminary Approval of Class Action Settlement (the “Preliminary Approval
19 Motion”) regarding Plaintiffs’ settlement with Defendant Toyota Motor Sales,
20 U.S.A., Inc.¹

21 5. Attached hereto as Exhibit 1 is a true and correct copy of the Settlement
22 Agreement and its exhibits. The Settlement Agreement exhibits consist of (1)
23 Proposed Preliminary Approval Order; (2) Outreach Program; (3) Long Form Notice;
24 (4) Direct Mail Outreach; (5) Settlement Outreach Administrator’s Declaration; (6)
25 Proposed Final Approval Order; and (7) Proposed Final Judgment.

26 _____
27 ¹ Unless otherwise stated, all defined terms used herein have the meanings set forth
28 in the Motion for Preliminary Approval (Dkt. 145), Memorandum of Points and
Authorities (Dkt. 145-1), and Settlement Agreement (Dkt 145-3).

1 6. Class Counsel has substantial experience representing plaintiffs in
2 consumer class litigation and in other complex litigation similar to the present Action.
3 Resumes of Class Counsel’s respective law firms are attached as Exhibits 2 and 3,
4 hereto.

5 7. In litigating this Action for over five years, Class Counsel has vigorously
6 and competently represented the best interests of Plaintiffs and the putative class and
7 has dedicated substantial resources to prosecuting this Action.

8 8. The case began on July 24, 2019, with the filing of the Missouri Action.
9 Early on, the litigation against Toyota involved multiple lawsuits in multiple state and
10 federal jurisdictions. After this Action was filed, the parties stipulated to centralize
11 and consolidate the Missouri Action and other federal litigation in this Court. We also
12 filed a separate action against Toyota on behalf of a California class in the State
13 Action, which is currently stayed pending the outcome of this Action.

14 9. Prior to reaching this Settlement, Class Counsel spent substantial time
15 engaged in significant pre-trial motion practice. Further, the parties engaged in
16 extensive discovery over several years. For instance, Toyota served written discovery
17 on each Plaintiff in June and July of 2022. Class Counsel worked closely with the
18 Plaintiffs to answer and produce documents. Additionally, Toyota required the
19 inspection of the Plaintiffs’ vehicles at Toyota dealerships, and Class Counsel
20 coordinated and attended each of these inspections (13 of the 14 Plaintiffs), mostly in
21 late 2022/early 2023. Class Counsel also prepared and defended 11 of the Plaintiffs
22 for their deposition by Toyota. On February 10, 2023, Class Counsel, which had
23 conducted some written discovery in the Missouri Action, served Toyota with
24 additional interrogatories, document requests, and a Rule 30(b)(6) deposition notice
25 setting forth 35 topics. From March 2023 to February 2024, the parties engaged in
26 extensive discovery conferences and document review. During this period, Toyota
27 provided objections, responses, and supplemental productions to Plaintiffs’ discovery
28 requests. Class Counsel met and conferred with Toyota by letter and telephone on

1 approximately thirty occasions to work through objections, address issues with
2 document productions, and address the scope of written discovery and deposition
3 topics, including, *inter alia*, on May 18, 2023 (letter) May 19 (letter and phone), May
4 25 (written objections to deposition topics), June 5 (objections and responses to
5 document requests), June 14 (letter), June 16 (phone), June 19 (letter), June 28
6 (phone), July 7 (letter), July 11 (phone), August 4 (letter), August 9 (letter), August
7 10 (phone), August 15 (letter), August 25 (phone), August 28 (supplemental
8 production), August 29 (letter), September 8 (supplemental production), September
9 14 (letter), September 15 (supplemental production), September 18 (Plaintiffs sent
10 Toyota its proposed Stipulation for discovery dispute pursuant to L.R. 37-2.1 and 37-
11 2.2), September 19 (letter), September 26 (letter and phone), October 3 (supplemental
12 production, letter, phone), October 4 (phone), October 6 (letter, phone), October 10
13 (phone), October 27 (phone), November 14 (phone), December 18 (phone), January
14 30, 2024 (letter), February 23 (phone).

15 10. During the period described above, Class Counsel also reviewed over
16 90,000 pages of documents produced by Toyota, including many cumbersome
17 spreadsheets with thousands of rows and many highly technical documents relating to
18 the electrical components of the Subject Vehicles and nature/cause of the Echo Issue.
19 Additionally, Class Counsel spent significant time and expense working with
20 consultants and potential expert witnesses to, *inter alia*, gain a complete understanding
21 of the nature and cause of the Echo Issue. As Class Counsel reviewed these documents
22 with their consultants, they gained a more complete and nuanced understanding of the
23 Echo Issue and continued preparing for litigation of class certification and merits
24 issues. For example, as a result of their extensive review and analysis, Class Counsel
25 determined that the Subject Vehicles have a common or substantially similar head
26 unit² and, in particular, a common internal component therein responsible for echo

27 ² The “head unit” is the component of Subject Vehicles located in the dashboard that
28 contains the multimedia system, including the Bluetooth system.

1 reduction that appeared to contribute to the Echo Issue. Discovery also revealed that
2 more than 1.8 million Class Vehicles have been sold in the eleven Class States.
3 Counsel also investigated the availability, or potential unavailability, of various
4 “fixes” to the Echo Issue. It became evident that one of the main issues for consumers
5 was a lack of disclosure of the Echo Issue itself (which is not always self-evident
6 because it is not experienced by the driver), combined with a poorly-worded “Tech
7 Tip”—which had been provided to Dealers, but not directly to the consumers—that
8 provided a relatively quick volume-adjustment procedure to alleviate the echo.
9 Through their review of Toyota’s document production and their own testing and
10 consultations with experts, Class Counsel confirmed the effectiveness of the volume
11 adjustment procedure.

12 11. The parties engaged in multiple rounds of unsuccessful settlement
13 negotiations before reaching the settlement. In January 2021, the parties in the
14 Missouri Action engaged in a court-ordered mediation with Bradley A. Winters of
15 JAMS in St. Louis; however, no settlement was reached. No further settlement
16 discussions were held until 2023. In February 2023, we engaged in settlement
17 negotiations with counsel for Toyota from King & Spalding LLP; however, by June
18 2023, it was clear that a path to settlement was not available at the time. In December
19 2023, we again re-engaged in settlement negotiations with Toyota’s counsel, but those
20 discussions were also unsuccessful in achieving a settlement. In May 2024, we
21 reengaged in settlement negotiations with Toyota’s counsel regarding a prospective
22 injunction-only class settlement. These negotiations were hard-fought and continued
23 over the next several months, ultimately resulting in the Settlement terms. During
24 these negotiations, the parties only discussed the terms for the Class and did not
25 discuss the payment of attorneys’ fees, costs, expenses, or Class Representative
26 service awards. The preservation of Class Members’ right to seek monetary damages
27 was a key term negotiated during this time. We reached agreement in principle on the
28 terms for the class and thereafter notified the Court on October 18, 2024. Dkt. 133. It

1 was only after the settlement in principle for the Class had been reached that we began
2 negotiating with Toyota’s counsel regarding the amount of attorneys’ fees, costs,
3 expenses, and service awards that, separate and apart from the consideration for the
4 settlement, and subject to Court approval, would be paid by Toyota. We reached
5 agreement in principle with Toyota on those terms on December 2, 2024.

6 12. Based on Class Counsel’s extensive experience in prosecuting complex
7 consumer class actions, and after being informed of the facts, claims, and defenses at
8 issue in this Action along with the risks of proceeding through trial and appeal, Class
9 Counsel fully endorses this Settlement without reservation as being fair, reasonable,
10 and adequate, and in the best interests of the Settlement Class.

11
12 I declare under penalty of perjury that the foregoing is true and correct.
13 Executed on this 31st day of January, 2025.

14 /s/ Mike Arias
15 Mike Arias
16

17 I declare under penalty of perjury that the foregoing is true and correct.
18 Executed on this 31st day of January, 2025.

19
20 /s/ Kevin P. Green
21 Kevin P. Green
22
23
24
25
26
27
28