
FRANK E. SWISS, individually and on behalf of all others similarly situated, Plaintiffs,)
v.) Cause No. 49D01-2008-PL-026373
LOCKHART AUTOMOTIVE GROUP, INC., Defendant.)

STEPHEN F. LOONEY, et al., individually and on behalf of all others similarly situated, Plaintiffs,) Cause No. 49D01-1909-PL-037963
v.)
ROHR INDY MOTORS, INC., Defendants.)

PRELIMINARY APPROVAL ORDER

Plaintiffs Michael Benosky, Harold Cowden, II, Jeffrey Earles, Michael Grider, Terrance Bynum, Steven Cohen, Jay Berger, Dylan Wilson, Scott Walters, Amanda Boggess, Jeffrey Earles, Lori Endris, Gia Hammond, Ashley Jackson, Cari Shields, Collin McIntosh, Stephen F. Looney, Karen S Looney, Paul Clodfelter, Lisa Lopiccolo, Frank E. Swiss, and Mark Smith (“Plaintiffs”), individually and on behalf of all others similarly situated, and Defendants Butler Motors, Inc., D-Patrick, Inc., D-Patrick Boonville Ford, LLC, Dorsett Auto Sales, Inc., Ed Martin 236, Inc., Terry Lee Companies, Inc., Bill Estes Holdings, Inc., Twin City Dodge, Inc., Andy Mohr Automotive Group, Inc., Circle Buick GMC, Inc., Beck Automotive Group, Inc., Lockhart Automotive Group, Inc., Rohr Indy Motors, Inc., and their respective subsidiaries and related entities identified as Defendants in the Settling Consolidated Cases (“Settling Defendants”), by their respective counsel, have submitted a Class Action Settlement Agreement (“Settlement”) and have applied

under Trial Rule 23 for an order: (1) preliminarily approving the terms and conditions set forth in the Settlement Agreement, (2) certifying a class for purposes of providing notice to the Class, (3) approving the form and method of notice to the Class, and (4) scheduling a final approval hearing to consider final approval of the Settlement. The Court has given due consideration to the terms of the Settlement, the exhibits to the Settlement, the submissions in support of preliminary approval of the Settlement, and the record of proceedings, and now finds that the proposed Settlement should be preliminarily approved pending notice to Class Members and a final determination on whether the Settlement is fair, reasonable, and adequate to the Settlement Class.

ACCORDINGLY, IT IS HEREBY ORDERED:

1. Terms capitalized herein and not otherwise defined shall have the meanings ascribed to them in the Settlement between the Parties.
2. This Court has jurisdiction over the subject matter of the Settling Consolidated Cases and jurisdiction over the Plaintiffs and Settling Defendants in the Consolidated Cases (the “Parties”).
3. The Court finds that for the purposes of settlement and notice the requirements of Trial Rule 23 have been met, specifically:
 - a. The class is so numerous that joinder of all members is impracticable, as there are thousands of class members;
 - b. There are questions of law or fact common to the class based upon the claims raised in the Settling Consolidated Cases;

- c. A class action should be permitted for the fair and efficient adjudication of the Settling Consolidated Cases, considering the factors in Rule 23;
- d. The Plaintiffs and Class Counsel will fairly and adequately protect the interests of the class.
- e. Questions of law and fact common to the class members predominate over any questions affecting only individual members, and a class action is superior to other available methods for fairly and efficiently adjudicating the Settling Consolidated Cases.

The Court therefore **CERTIFIES** the following Settlement Class:

All persons listed on the Class Member List, which represents, based on the Settlement Defendants' books and records, the non-commercial customers who, while a resident of Indiana, paid a Settling Defendant one or more Automobile Document Preparation Fee(s), defined as the fees charged by each of the Settling Defendants in the two years preceding the filing of the Settling Consolidated Case against that Settling Defendant through March 31, 2022 for the preparation of documents relating to the purchase or lease of an automobile, that were not subject to arbitration.

4. The Court finds that the terms of the Settlement are within the range of a fair, reasonable, and adequate settlement between the Settlement Class and Settling Defendants under the circumstances of the Settling Consolidated Cases. The Court therefore preliminarily approves the Settlement and directs the parties to the Settlement to perform and satisfy the terms and conditions of the Settlement that are triggered by such preliminary approval.

5. The proposed Summary Notice in the form attached to the Settlement as Exhibit D and the manner of distribution of such Notice by direct email or mail, are hereby approved by this Court as the best notice practicable to the Settlement Class. The proposed long form notice attached to the Settlement as Exhibit E and the manner of distribution of such by posting to the settlement website, are hereby approved by the Court. The form and manner of notice proposed in the Settlement comply with Trial Rule 23 and the requirements of due process.

6. A final approval hearing (the “Final Approval Hearing”) is scheduled for the 24th day of October, 2022 at 9:00am o'clock, to consider whether the Settlement is fair, reasonable, and adequate and should be finally approved; (b) determining whether a Final Approval Order should be entered; and (c) considering Class Counsel’s application for an award of expenses and attorneys’ fees and for approval of service awards to the Class Representatives.

7. Class Counsel shall cause the Summary Notice to be sent to each Settlement Class Member (in accordance with the Settlement) no later than the Notice Dissemination Deadline. Notice shall be sent in the manner set forth in the Settlement.

8. Settlement Class members shall be afforded an opportunity to request exclusion from the Class. A request for exclusion from the Settlement Class must: (i) refer to the “Indiana Auto Doc Fees Settlement;” (ii) state the person’s name, address, and telephone number; (iii) request exclusion from the Settlement Class; (iv) be signed by the person requesting exclusion; and (v) be sent to the Settlement

Administrator by U.S. mail with a postmark on or before the Exclusion Deadline as defined in the Settlement. Members of the Settlement Class who submit a timely and valid request for exclusion from the Class shall not participate in and shall not be bound by the Settlement. Members of the Settlement Class who do not timely and validly opt out of the Class in accordance with the Notice shall be bound by all determinations and judgments in the action concerning the Settlement.

9. Settlement Class members who have not excluded themselves shall be afforded an opportunity to object to the terms of the Settlement. Any objection must: (i) refer to the “Auto Doc Fees Litigation, Cause No. 49D01-1904-PL-013575;” (ii) state the person’s name, address, and telephone number; (iii) include a written statement setting forth all of the bases for the objection, accompanied by any evidence that the Settlement Class member intends to offer in support of any objection; (iv) be signed by the Settlement Class member; and (v) be sent by U.S. mail, first class and postage prepaid, with a postmark no later than thirty (30) days after the “Objection Deadline” (as defined in the Settlement Agreement) to the Clerk of the Court, Class Counsel, and Counsel for Settling Defendants. If the Class Member or his or her counsel wishes to speak at the Final Approval Hearing, he or she must file with the Court and serve on Class Counsel and Counsel for the Defendant a Notice of Intention to Appear no later than fifteen (15) days before the Final Approval Hearing.

10. Any member of the Settlement Class who does not make his or her objection known in the manner provided in the Settlement and Notices shall be

deemed to have waived such objection and shall forever be foreclosed from making any objection to the fairness or adequacy of the proposed Settlement.

11. Any lawyer intending to appear at the Final Approval Hearing must be authorized to represent a Class Member, must be duly admitted to practice law before the Court, and must file an appearance. Copies of the appearance must be served on Class Counsel and Counsel for Settling Defendants in accordance with the Indiana Rules of Trial Procedure.

13. No later than ten (10) days after the Exclusion Deadline, the Settlement Administrator shall provide Settling Defendants' Counsel and Class Counsel with a listing of only the names of all persons or entities who timely and validly excluded themselves from the Settlement Class, and Class Counsel shall promptly file the list with the Court.

14. Prior to the Final Approval Hearing, Class Counsel shall file a motion for approval of the attorneys' fees, expenses, and service awards to be paid from the Settlement Fund, along with any supporting materials.

15. Settling Defendants have agreed to pay \$13,651,600 as the Settlement Fund based on an estimated 171,000 Settlement Class Members, which is required and hereby ordered by the Court to be paid into the Escrow Account by the Settlement Funding Deadline as set forth in the Settlement, and which shall be held by the Settlement Administrator for the benefit of the Settlement Class and subject to the terms of the Settlement and any further Court order.

16. If the Settlement does not become effective for any reason or is rescinded pursuant to the Settlement, the Settlement and all proceedings had in connection therewith shall be without prejudice to the status quo ante rights of the Plaintiffs and Settling Defendants, and: (i) no act, statement, or filing in furtherance of this order may be used to support or oppose the certification of any class in any of the Settling Consolidated Cases; (ii) all the parties to this Settlement shall be returned to the same position in each of the Settling Consolidated Cases that they were in on the day before the Execution Date; and (iii) Settling Defendants shall be entitled to object to certification of any class in any of the Settling Consolidated Cases. Settling Defendants also shall have the right to immediate return of the monies then remaining in the Settlement Fund or the pro-rata refund, less the costs of notice and administration already incurred.

17. The Court retains jurisdiction to consider all further applications arising out of or connected with the proposed Settlement.

SO ORDERED.

August 3, 2022
Dated: _____



Hon. Heather A. Welch
Judge, Marion Superior Ct. No. 1

Distribution to: All counsel of record via IEFS.