

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

KOBE FALCO, JOEL SEGUIN,
ALFREDO PADILLA, and ROBERTO
GALVAN, individually, and on behalf
of other members of the general public
similarly situated,

Plaintiff,

v.

NISSAN NORTH AMERICA, INC., a
California corporation, and NISSAN
JIDOSHA KABUSHIKI KAISHA
d/b/a NISSAN MOTOR CO., LTD., a
Japanese company,

Defendants.

Case No. 2:13-cv-00686 DDP (MANx)

**ORDER GRANTING FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT AND
ATTORNEYS' FEES AND
EXPENSES**

Courtroom: 9C – 9th Floor
Judge: Hon. Dean D. Pregerson

ORDER

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2 Having considered the Plaintiffs’ Motion for Final Approval of the Class Action
3 Settlement between the Plaintiffs Kobe Falco, Joel Seguin, Alfredo Padilla, and Roberto
4 Galvan (“Plaintiffs”) and Defendants Nissan North America, Inc. and Nissan Motor Co.,
5 Ltd. (collectively “Nissan”); having considered the Plaintiffs’ Motion for Attorneys’ Fees
6 and Expenses; having considered that, by order dated February 1, 2018 (Dkt. 317), this
7 Court granted preliminary approval of the proposed class action settlement in this case and
8 certified a Settlement Class¹ pursuant to FED. R. CIV. P. 23(a) and 23(b)(3); and having
9 held a Final Approval Hearing on July 16, 2018 and having considered all of the
10 submissions and arguments with respect to the Motion for Final Approval, the Court finds
11 and orders as follows:
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15 WHEREAS, the Court confirms its previous preliminary findings in the Preliminary
16 Approval Order, and finds that the settlement of the lawsuit satisfies the applicable
17 prerequisites for settlement class action treatment under FED. R. CIV. P. 23(a) and 23(b)(3).
18 The Settlement Class, as defined in Paragraph 34 of the Settlement Agreement and also
19 defined below, for settlement purpose only, is so numerous that joinder of all members is
20 not practicable, questions of law and fact are common to the Settlement Class, the claims
21 of the Plaintiffs are typical of the claims of the Settlement class, the Plaintiffs will fairly and
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27 ¹ This Order incorporates by reference the definitions in the Settlement Agreement, and all
28 terms herein shall have the same meaning as set forth in the Settlement Agreement.

1 adequately protect the interests of the Settlement Class, and questions of law and fact
2 common to the members of the Settlement Class predominate over any questions affecting
3 only individual members;
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5 WHEREAS, Notice to the Settlement Class as required by Rule 23(e) of the Federal
6 Rules of Civil Procedure has been provided in accordance with the Court's Preliminary
7 Approval Order, and such Notice by first-class mail was given in an adequate and sufficient
8 manner, and constitutes the best notice practicable under the circumstances, and satisfies all
9 requirements of Rule 23(e) and due process.
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11 WHEREAS, in accordance with the requirements of the Class Action Fairness Act of
12 2005, 28 U.S.C. § 1715, the Settlement Administrator caused to be mailed a copy of the
13 proposed class action settlement and all other documents required by law to the Attorney
14 General of the United States and the Attorneys General in each of the jurisdictions where
15 class members reside. None of the Attorneys General filed objections to the Settlement.
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17 WHEREAS, the Court has considered all relevant factors for determining the fairness
18 of the settlement and has concluded that all such factors weigh in favor of granting final
19 approval. The Settlement was a result of arm's-length negotiation by experienced counsel
20 with an understanding of the strengths and weaknesses of their respective cases. Among the
21 factors that they considered are those set forth in the Motion for Final Approval of the Class
22 Action Settlement. The Parties have agreed to the Settlement without any admission of
23 wrongdoing and to avoid further expenses, uncertainty, inconvenience, and interference
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1 with their ongoing business. As part of the Lawsuits, Plaintiffs' Counsel has conducted a
2 detailed investigation of the facts and analyzed the relevant legal issues. Although the
3 Plaintiffs and Plaintiffs' Counsel believe that the claims asserted in the Complaint have
4 merit, they also have examined the benefits to be obtained under the Settlement compared
5 to the costs, risks, and delays associated with the continued litigation of these claims,
6 including Defendant's Motion for Summary Judgement and Motion to Decertify the Classes
7 that were pending at the time of settlement;
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10 WHEREAS, the Court finds that the Settlement is fair, reasonable, and adequate in
11 light of the complexity, expense, and duration of litigation and the risks involved in
12 establishing liability, damages, and in maintaining the class action through trial and appeal;
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14 WHEREAS, the benefits to the Settlement Class constitute fair value given in
15 exchange for the release of the claims of the Settlement Class. The Court finds that the
16 consideration to be provided under the Settlement is reasonable considering the facts and
17 circumstances of this case, the types of claims and defenses asserted in the lawsuit, and the
18 risks associated with the continued litigation of these claims;
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21 WHEREAS, the Parties and Settlement Class Members have irrevocably submitted
22 to the exclusive jurisdiction of this Court for any suit, action, proceeding or dispute arising
23 out of Settlement; and
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25 WHEREAS, it is in the best interest of the Parties and the Settlement Class Members
26 and consistent with principals of judicial economy that any dispute between any Settlement
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1 Class Member (including any dispute as to whether any person is a Settlement Class
2 Member) and any Released Party which in any way relates to the applicability or scope of
3 the Settlement, or this Final Judgment and Order of Dismissal, should be presented
4 exclusively to this Court for resolution by this Court.
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6 **IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT:**

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8 1. The Court certifies a Settlement Class, for settlement purposes only, consisting
9 of the following: All California and Washington residents who purchased or leased model
10 year 2004-2008 Nissan Maxima, model year 2004-2009 Nissan Quest, model year 2004-
11 2006 Nissan Altima (equipped with VQ35 engine), model year 2005-2007 Nissan
12 Pathfinder, model year 2005-2007 Nissan Xterra, and model year 2005-2007 Nissan
13 Frontier (equipped with VQ40 engine). Excluded from the Settlement Class are: (1) Nissan,
14 its officers, directors, employees and outside counsel; its affiliates and affiliates' officers,
15 directors and employees; its distributors and distributor's officers and directors; and
16 Nissan's Dealers and their officers, directors, and employees; (b) Plaintiffs' counsel, and
17 their employees; (c) judicial officers and their immediate family members and associated
18 court staff assigned to this case, or the Ninth Circuit Court of Appeals; and (d) persons or
19 entities who or which timely and properly exclude themselves from the Settlement Class.
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24 2. The Settlement submitted by the Parties is finally approved pursuant to FED.
25 R. CIV. P. 23(e) as fair, reasonable, adequate, and in the best interests of the Settlement
26 Class. The Parties are directed to perform all obligations under the Settlement in accordance
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1 with its terms. The Parties and each person within the definition of the Settlement Class are
2 hereby bound by the terms and conditions of the Settlement, except for those who have duly
3 excluded themselves.
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5 3. The Lawsuit is hereby dismissed with prejudice and without costs, except as
6 provided for in Paragraphs 7 and 8 of this Final Approval Order and in the Settlement
7 Agreement. The dismissal is entered without any admission by any Party as to the merits of
8 any allegation by any Party in the Lawsuit and shall not constitute a finding of either fact or
9 law as to the merits of any claim or defense asserted in the Lawsuit.
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11 4. The Released Claims as defined in the Settlement are hereby finally
12 compromised, settled, released, discharged, and dismissed with prejudice against the
13 Released Parties by virtue of the proceedings herein and this Final Judgment and Order of
14 Dismissal.
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16 5. All Class Members were given a full and fair opportunity to participate in the
17 Final Approval Hearing, and all members of the Settlement Class wishing to be heard have
18 been heard. Settlement Class Members also have had a full and fair opportunity to exclude
19 themselves from the proposed settlement and the class. Accordingly, the terms of the
20 Settlement Agreement and of the Court's Order and Judgment shall be forever binding on
21 all Settlement Class Members who did not timely opt out of the Settlement. These
22 Settlement Class Members have released and forever discharged NNA, NML and all
23 Related Parties for any and all Released Claims.
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1 6. Members of the Settlement Class and their successors and assigns are hereby
2 permanently barred and enjoined from asserting, commencing, prosecuting or continuing to
3 prosecute, either directly or indirectly, any Released Claim against any one of the Released
4 Parties in any forum, with the exception of any Settlement Class Members who have duly
5 excluded themselves.
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7 7. The named Plaintiffs are suitable class representatives and are hereby
8 appointed representatives for the Settlement Class. The Court approves an award of \$5,000
9 to each of Plaintiffs Kobe Falco, Joel Seguin, Alfredo Padilla, and Roberto Galvan as a
10 reasonable payment for his or her efforts, expenses and risks as Plaintiffs in bringing the
11 lawsuit, which shall be paid by Nissan as provided in the Settlement.
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14 8. Based upon the evidence submitted, the Court finds that the attorneys of Baron
15 & Budd, PC, Capstone Law, APC, and Strategic Legal Practices have the requisite
16 knowledge, experience, and skills to advance the interests of the Settlement Class. The
17 Court hereby appoints all three law firms as counsel for the Settlement Class. The Court
18 approves an award of \$5,200,000 to Plaintiffs' Counsel as reasonable payment for
19 Attorneys' Fees and \$800,000 as reasonable payment for Expenses, which shall be paid by
20 Nissan as provided in the Settlement.
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24 9. Without affecting the finality of this judgment, the Court retains jurisdiction of
25 this Settlement also including the administration and consummation of the Settlement. In
26 addition, without affecting the finality of this judgment, the Court retains exclusive
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1 jurisdiction of, and the Parties and all Settlement Class Members are hereby deemed to have
2 submitted irrevocably to the exclusive jurisdiction of this Court for, any suit, action,
3 proceeding or dispute arising out of or relating to this Order and the Settlement Agreement,
4 or the applicability of the Settlement Agreement. Without limiting the generality of the
5 foregoing, any dispute concerning the Settlement Agreement, including, but not limited to,
6 any suit, action, arbitration or other proceeding by a Settlement Class Member in which the
7 provisions of the Settlement Agreement are asserted as a defense in whole or in part to any
8 claim or cause of action or otherwise raised as an objection, shall constitute a suit, action or
9 proceeding arising out of or relating to this Order. Solely for purposes of such suit, action
10 or proceeding, to the fullest extent possible under applicable law, the Parties hereto and all
11 persons within the definition of the Settlement Class are hereby deemed to have irrevocably
12 waived and agreed not to assert, by way of motion, as a defense or otherwise, any claim or
13 objection that they are not subject to the jurisdiction of this Court, or that this Court is, in
14 any way, an improper venue or an inconvenient forum.
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20 10. The Court finds that no just reason exists for delay in entering the Final
21 Judgment. Accordingly, the Clerk is hereby directed to enter final judgment.
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24 **IT IS SO ORDERED.**

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26 Dated: 7-16-18



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Honorable Dean D. Pregerson