

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

**IN RE AUTOMOTIVE PARTS
ANTITRUST LITIGATION**

**2:12-md-02311
Honorable Marianne O. Battani**

IN RE: CERAMIC SUBSTRATES

**THIS DOCUMENT RELATES TO:
ALL DIRECT PURCHASER ACTIONS**

**Case No. 2:16-cv-03801-MOB-MKM
Case No. 2:17-cv-13785-MOB-MKM**

NOTICE

NOTICE OF PROPOSED SETTLEMENTS OF DIRECT PURCHASER CLASS ACTION WITH NGK, DENSO, AND CORNING DEFENDANTS, AND HEARING ON:

- (1) APPROVAL OF PROPOSED SETTLEMENTS;**
- (2) PLAN OF DISTRIBUTION OF THE SETTLEMENT FUND; AND**
- (3) MOTION OF SETTLEMENT CLASS COUNSEL FOR AWARD OF ATTORNEYS' FEES AND REIMBURSEMENT OF LITIGATION COSTS AND EXPENSES, AND AN INCENTIVE PAYMENT TO THE CLASS REPRESENTATIVE**

TO: ALL INDIVIDUALS AND ENTITIES THAT PURCHASED CERAMIC SUBSTRATES IN THE UNITED STATES DIRECTLY FROM DEFENDANTS (OR THEIR SUBSIDIARIES, AFFILIATES OR JOINT VENTURES) FROM JULY 1, 1999 THROUGH OCTOBER 29, 2018.

PLEASE READ THIS NOTICE CAREFULLY. YOUR LEGAL RIGHTS MAY BE AFFECTED BY LITIGATION NOW PENDING IN THIS COURT.

WHAT IS THE PURPOSE OF THIS NOTICE AND WHY WAS IT SENT TO ME?

This Notice is given pursuant to Rule 23 of the Federal Rules of Civil Procedure and an Order of the United States District Court for the Eastern District of Michigan, Southern Division (the "Court"). The purpose of this Notice is to inform you of a hearing before the Court to consider:

- (1) Proposed settlements with Defendants NGK Insulators Ltd. and NGK Automotive Ceramics USA, Inc. (collectively, the "NGK Defendants"), Defendants DENSO Corporation, DENSO International America, Inc., DENSO Korea Corporation (f/k/a separately as DENSO International Korea Corporation and DENSO Korea Automotive Corporation), DENSO Automotive Deutschland GmbH, DENSO Products & Services Americas, Inc. (f/k/a/ DENSO Sales California, Inc.), ASMO Co., Ltd., ASMO North America, LLC, ASMO Greenville of North Carolina, Inc. and ASMO Manufacturing, Inc. (collectively, the "DENSO Defendants"), and Defendants Corning International Kabushiki Kaisha and Corning Incorporated (collectively, the "Corning Defendants") (all Defendants referenced in this paragraph are collectively referred to as the "Settling Defendants");**
- (2) A proposed plan of distribution of NGK, DENSO, and Corning settlement proceeds to Settlement Class members and a proposed Claim Form that you may submit in order to share in the settlement proceeds; and**
- (3) Settlement Class Counsel's motion for an award of attorneys' fees and reimbursement of litigation costs and expenses, and an incentive payment to the Class Representative.**

This Notice provides information concerning the proposed settlements, the proposed plan of distribution, and the motion for attorneys' fees and reimbursement of litigation costs and expenses, and incentive payment. The Notice also advises you of your rights to: participate in the settlement claims process; exclude yourself from any or all of the Settlement Classes; and object to the terms of the proposed settlements, the plan of distribution, and the requests for fees, costs and expenses, and an incentive payment to the Class Representative in connection with the Court hearing on these matters.

BACKGROUND

Plaintiff has reached settlements with the NGK Defendants, the DENSO Defendants, and the Corning Defendants totaling \$17,300,000. Under the terms of the proposed settlements, NGK will pay \$10,200,000 (the "NGK Settlement Fund"), DENSO will pay \$100,000 (the "DENSO Settlement Fund"), and Corning will pay \$7,000,000 (the "Corning Settlement Fund") (the three settlement funds are collectively referred to as the "Ceramic Substrates Settlement Fund"). The Court has preliminarily approved each of these settlements.

This litigation, and the proposed settlements, are part of coordinated legal proceedings involving a number of parts used in motor vehicles. This litigation and the proposed settlements relate solely to Ceramic Substrates purchased in the United States **directly** from a Defendant, or depending on the specific settlement agreement, its parents, subsidiaries, affiliates, or joint ventures. The meaning of the term "Ceramic Substrates" is defined in each settlement agreement, but generally means uncoated ceramic monoliths with a fine honeycomb structure that—after being coated with a mix of metal and chemicals—are used in automotive catalytic converters. These proposed settlements do not relate to, and have no effect upon, cases involving any product other than Ceramic Substrates.

If you are a member of the NGK, DENSO, or Corning Settlement Classes (defined below), you have the rights and options summarized here:

- You may remain in any or all of the NGK, DENSO, or Corning Settlement Classes and be eligible to share in the proceeds of, and be bound by the terms of, those settlements in which you elect to remain;
- You may exclude yourself from any or all of the NGK, DENSO, or Corning Settlement Classes, in which case you will **not** be bound by any settlement from which you exclude yourself and will **not** be eligible to share in the proceeds of that settlement;
- If you remain in the NGK, DENSO, or Corning Settlement Classes, you may object to that proposed settlement, to the proposed plan of distribution of the Ceramic Substrates Settlement Fund, or to Settlement Class Counsel's request for an award of attorneys' fees and reimbursement of litigation costs and expenses, and an incentive payment to the Class Representative. You may also appear at the hearing where the Court will consider these matters;
- You may enter an appearance in the litigation through your own counsel at your own expense; and
- Any Settlement Class member who wishes to participate in the distribution of the NGK, DENSO, or Corning Settlement Funds must complete and submit a copy of the Claim Form on or before May 15, 2020.

WHO IS IN THE SETTLEMENT CLASSES?

The Court has provisionally certified a Direct Purchaser NGK Settlement Class ("NGK Settlement Class"), a Direct Purchaser DENSO Settlement Class (the "DENSO Settlement Class"), and a Direct Purchaser Corning Settlement Class (the "Corning Settlement Class") for the purpose of disseminating notice of the proposed NGK, DENSO, and Corning settlements.

The NGK Settlement Class is defined as follows:

All individuals and entities who were Direct Purchasers of Ceramic Substrates in the United States from Defendants (or their subsidiaries or affiliates) from July 1, 1999 through October 29, 2018. Excluded from the Settlement Class are Defendants, their present and former parent companies, subsidiaries, and affiliates, federal governmental entities and instrumentalities of the federal government, and states and their subdivisions, agencies and instrumentalities.

The NGK settlement defines “Direct Purchasers” as all individuals and entities that purchased Ceramic Substrates in the United States from any Defendant pursuant to Request for Quotations, parts awards, or other supply arrangements, received invoice(s) from any Defendant for Ceramic Substrates purchased in the United States, or provided payment(s) to any Defendant for Ceramic Substrates purchased in the United States.

The Corning Settlement Class is defined as follows:

All individuals and entities that purchased Ceramic Substrates in the United States directly from one or more of the Defendants (or their controlled subsidiaries, affiliates, or joint ventures) from July 1, 1999 through October 29, 2018. Excluded from the Settlement Class are Defendants and their present and former parent companies, subsidiaries, affiliates, federal governmental entities and instrumentalities of the federal government, and states and their subdivisions, agencies, and instrumentalities.

For purposes of the NGK and Corning Settlement Class definitions set forth above, the following entities are Defendants: NGK Insulators Ltd., NGK Automotive Ceramics USA, Inc., Corning International Kabushiki Kaisha, Corning Incorporated, DENSO Corporation, and DENSO International America, Inc.

The DENSO Settlement Class is defined as follows:

All individuals and entities who purchased Ceramic Substrates in the United States directly from one or more Defendant(s) (or their subsidiaries, affiliates, or joint ventures) from July 1, 1999 through October 29, 2018. Excluded from the Settlement Class are Defendants, their present and former parent companies, subsidiaries, and affiliates, federal governmental entities and instrumentalities of the federal government, and states and their subdivisions, agencies and instrumentalities.

For purposes of the DENSO Settlement Class definitions set forth above, the following entities are Defendants: NGK Insulators Ltd., NGK Automotive Ceramics USA, Inc., Corning International Kabushiki Kaisha, Corning Inc., DENSO Corporation, and DENSO International America, Inc., and their parents, subsidiaries, and affiliates.

Plaintiff Airflow Catalyst Systems, Inc. has been appointed by the Court to serve as “Class Representative” for the NGK, DENSO, and Corning Settlement Classes. The Court has appointed the law firms of Freed Kanner London & Millen LLC, Kohn, Swift & Graf, P.C., Preti, Flaherty, Beliveau & Pachios LLP, and Spector Roseman & Kodroff, P.C. to serve as “Co-Lead Settlement Class Counsel” for the Settlement Classes. These firms, together with Cera LLP, which worked extensively with Co-Lead Settlement Class Counsel on this case, are referred to collectively as “Settlement Class Counsel.”

WHAT IS THIS LITIGATION ABOUT?

In November 2017, Plaintiff filed a class action lawsuit against Defendants on behalf of direct purchasers of “Ceramic Substrates.” Plaintiff alleges that Defendants conspired to raise, fix, maintain, and stabilize prices, rig bids, and allocate the supply of Ceramic Substrates sold in the United States in violation of federal antitrust laws. Plaintiff further alleges that as a result of the conspiracy, it and other direct purchasers of Ceramic Substrates were injured by paying more for those products than they would have paid in the absence of the alleged illegal conduct.

Defendants deny Plaintiff’s allegations and liability and have asserted defenses to Plaintiff’s claims. Defendants have agreed to settle this matter to avoid the expense and burden of further litigation. The Court has not issued any findings or rulings with respect to the merits of Plaintiff’s claims or Defendants’ defenses. These settlements, if approved by the Court, will fully resolve Plaintiff’s claims in this litigation.

WHAT RELIEF DO THE PROPOSED SETTLEMENTS PROVIDE?

Plaintiff, on behalf of the NGK Settlement Class, entered into a settlement agreement with the NGK Defendants on October 29, 2018 (the “NGK Settlement Agreement”), under which the NGK Defendants have agreed to pay \$10,200,000.

Plaintiff, on behalf of the DENSO Settlement Class, entered into a settlement agreement with the DENSO Defendants on February 4, 2019 (the “DENSO Settlement Agreement”), under which the DENSO Defendants agreed to pay \$100,000.

Plaintiff, on behalf of the Corning Settlement Class, entered into a settlement with Corning on November 22, 2019, under which the Corning Defendants agreed to pay \$7,000,000.

As part of their respective settlements, the NGK and DENSO Defendants have each agreed to cooperate with Settlement Class Counsel in the prosecution of claims against any other Defendant, should the need for such cooperation arise.

This Notice is only a summary of the terms of the proposed settlements. The NGK, DENSO, and Corning Settlement Agreements contain other important provisions, including the release of certain claims against the Settling Defendants (and companies and people affiliated with them). For the complete terms of the settlements, you are referred to the settlement agreements, which are on file with the Clerk of Court and are available on-line at www.AutoPartsAntitrustLitigation.com/CeramicSubstrates. The proposed settlements must receive final approval by the Court to become effective.

If you wish to object to the approval of any of the settlements, you may do so, but only in accordance with the procedures set forth below. If you do not object to a settlement, you do not need to take any action at this time to indicate your support for, or lack of objection to, that settlement.

HOW DO I REMAIN IN THE SETTLEMENT CLASSES AND WHAT HAPPENS IF I DO?

If you are a member of any of the NGK, DENSO, or Corning Settlement Classes as defined above, you will automatically remain in that Settlement Class unless you elect to be excluded. If you wish to remain in a Settlement Class, you do not need to take any action at this time with respect to that Settlement Class and your interests will be represented by the Class Representative and by Settlement Class Counsel. If you remain in any of the NGK, DENSO, or Corning Settlement Classes and the proposed settlement with that Defendant is approved and becomes effective, you will be bound by its terms, including the release provisions, whether or not you receive a share of the settlement proceeds attributable to that settlement.

You will have no responsibility to individually pay attorneys' fees or expenses. Any such fees and expenses will be paid solely from amounts obtained from the Defendants, whether by settlement or judgment, and must be approved by the Court after notice to you and a hearing. If you choose, you may also have your own attorney enter an appearance on your behalf and at your expense.

HOW WILL THE SETTLEMENT FUNDS BE DISTRIBUTED?

The Ceramic Substrates Settlement Fund, with accrued interest, less any amounts approved by the Court for payment of attorneys' fees, litigation and settlement administration costs and expenses, and an incentive payment to the Class Representative (the "Net Ceramic Substrates Settlement Fund"), will be distributed among the members of the Settlement Classes who complete and timely submit a copy of the Claim Form that is included with this Notice, **postmarked on or before May 15, 2020**.

The Net Ceramic Substrates Settlement Fund will be distributed *pro rata* to all Claimants based upon their **direct** purchases in the United States from Defendants during the applicable Class Period. The distribution will take place as soon as practicable after review, determination, and audit of the Claim Forms by the Settlement Administrator and approval by the Court of the Settlement Administrator's recommendations as to the amounts to be paid to the Claimants.

Do not dispose of any document that reflects your purchases of Ceramic Substrates in the United States directly from any Defendant (or its parents, affiliates, subsidiaries or joint ventures) during the period from July 1, 1999 through October 29, 2018. You may need those documents to complete and substantiate your Claim Form, which will be subject to inquiry and verification.

WHAT IF I DO NOT WANT TO REMAIN IN ONE OR MORE OF THE SETTLEMENT CLASSES?

You may exclude yourself from any or all of the three Settlement Classes. If you wish to exclude yourself from any or all of the Settlement Classes, you must send a request for exclusion, in writing, by certified mail, return receipt requested, **postmarked no later than April 3, 2020**, to Co-Lead Settlement Class Counsel, and to counsel for the Settling Defendants, at the addresses set forth below, and to the following address:

Ceramic Substrates Direct Purchaser Antitrust Litigation
Settlement Administrator
P.O. Box 4178
Portland, OR 97208-4178

Your request for exclusion must identify the Settlement Class or Classes from which you are seeking exclusion and must include the full name and address of the purchaser (including any predecessor or successor entities and any trade names). You are also requested to identify the Defendant(s) (or parent, affiliate, subsidiary or joint venture) from which you purchased Ceramic Substrates during the Class Period for the Settlement Class from which you seek exclusion, the Ceramic Substrates purchased during the Class Period, and the dollar amount of your purchases. If you validly exclude yourself from any or all of the Settlement Classes, you will not be bound by any decision concerning the Settlement Class or Classes from which you exclude yourself and you may pursue individually any claims you may have against that Defendant (at your own expense), but you will not be eligible to share in the settlement proceeds attributable to that Defendant.

REQUEST FOR ATTORNEYS' FEES AND EXPENSES, AND INCENTIVE PAYMENT

Settlement Class Counsel, together with other firms that have worked on this litigation, will file a petition for an award of attorneys' fees and reimbursement of their costs and expenses in prosecuting the case. The request of Settlement Class Counsel for attorneys' fees will not exceed 30 percent (30%) of the Ceramic Substrates Settlement Fund.

Settlement Class Counsel will also request an incentive payment to Plaintiff Airflow Catalyst Systems, Inc., which was appointed by the Court to serve as Class Representative for the Settlement Classes, in the total amount of \$25,000.

The application for attorneys' fees and litigation costs and expenses and an incentive payment will be filed on or before March 9, 2020. If you remain a member of any of the Settlement Classes and you wish to object to the requests for fees and expenses or an incentive payment, you must do so in writing in accordance with the procedures for objections set forth below. If you do not oppose any of these requests, you do not need to take any action in that regard.

WHEN WILL THE COURT CONSIDER THESE MATTERS AND HOW CAN I TELL THE COURT WHAT I THINK ABOUT THE SETTLEMENTS?

The Court will hold a hearing on June 17, 2020, at 1:00 p.m., at the Theodore Levin United States Courthouse, 231 West Lafayette Boulevard, Detroit, MI 48226, Courtroom 250 (or such other courtroom as may be assigned for the hearing), to determine whether to approve: the proposed NGK, DENSO, and Corning settlements; the proposed plan of distribution of the Ceramic Substrates Settlement Fund; and Settlement Class Counsel's requests for an award of attorneys' fees and reimbursement of litigation costs and expenses, and an incentive payment. The hearing may be rescheduled, continued or adjourned, and the courtroom assigned for the hearing may be changed, without further notice to you.

If you remain a member of the NGK, DENSO, or Corning Settlement Classes and you wish to object to that proposed settlement, or to the proposed plan of distribution of the Ceramic Substrates Settlement Fund, or to Settlement Class Counsel's requests for an award of attorneys' fees and reimbursement of litigation costs and expenses, and an incentive payment, you must do so in writing and at your own expense. Any such objection must include the caption of this litigation, must be signed, and must be **filed no later than April 3, 2020**, with the Clerk of Court, United States District Court for the Eastern District of Michigan, Southern Division, Theodore Levin United States Courthouse, 231 West Lafayette Boulevard, Detroit, MI 48226, and mailed to the following counsel, **postmarked no later than April 3, 2020**:

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Counsel for the Corning Defendants

If you do not object to any of the proposed settlements, or to the related matters set forth above, you do not need to appear at the hearing or take any other action at this time. **You must, however, complete and timely submit a Claim Form if you wish to share in the distribution of the Ceramic Substrates Settlement Fund.**

WHAT SHOULD I DO IF I WANT ADDITIONAL INFORMATION OR IF MY ADDRESS CHANGES?

If this Notice reached you at an address other than the one on the mailing label, or if your address changes, please send your correct address to: Ceramic Substrates Direct Purchaser Antitrust Litigation, Settlement Administrator, P.O. Box 4178, Portland, OR 97208-4178.

The Settlement Agreements, Complaints, and other public documents filed in this litigation are available for review during normal business hours at the offices of the Clerk of Court, United States District Court for the Eastern District of Michigan, Southern Division, Theodore Levin United States Courthouse, 231 West Lafayette Boulevard, Detroit, MI 48226, and through the Court's Public Access to Court Electronic Records (PACER) system after registration and payment of a modest fee. Copies of the Settlement Agreements and certain other documents relevant to this litigation are available at www.AutoPartsAntitrustLitigation.com/CeramicSubstrates. Questions concerning the proposed NGK, DENSO, and Corning settlements, this Notice, or the litigation may be directed to any of the Co-Lead Settlement Class Counsel identified above.

Please do not contact the Clerk of the Court or the Judge.

Dated: February 7, 2020

BY ORDER OF:

The United States District Court for the Eastern District
of Michigan, Southern Division