

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

**IN RE AUTOMOTIVE PARTS ANTITRUST
LITIGATION**

**Master File No. 12-md-02311
Honorable Sean F. Cox**

IN RE: SWITCHES CASES

**2:13-cv-01301-SFC-RSW
2:17-cv-12338-SFC-RSW**

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

NOTICE

NOTICE OF PROPOSED SETTLEMENT OF DIRECT PURCHASER CLASS ACTION WITH NIDEC MOBILITY CORPORATION, AND HEARING ON:

- (1) APPROVAL OF PROPOSED SETTLEMENT;**
- (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 SERVICE AWARD TO THE CLASS REPRESENTATIVE.**

TO: ALL INDIVIDUALS AND ENTITIES THAT PURCHASED POWER WINDOW SWITCHES IN THE UNITED STATES DIRECTLY FROM DEFENDANTS (OR THEIR SUBSIDIARIES OR AFFILIATES) FROM JANUARY 1, 2003 THROUGH APRIL 13, 2020.

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) A settlement with Defendant Nidec Mobility Corporation (formerly known as Omron Automotive Electronics Co., Ltd., and hereinafter referred to as "NMOJ");
- (2) A proposed plan of distribution of the NMOJ settlement proceeds to Settlement Class members and a proposed Claim Form that you may submit 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 a service award to the Class Representative.

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

BACKGROUND

Plaintiff has reached a settlement with NMOJ. Under the terms of the proposed settlement, NMOJ will pay \$1,400,000 (the “NMOJ Settlement Fund”). The Court has preliminarily approved the settlement. As discussed below, the NMOJ Settlement Agreement is subject to reduction based upon valid requests for exclusion by members of the NMOJ Settlement Class.

This litigation, and the proposed settlement, are part of coordinated legal proceedings involving numerous parts used in motor vehicles. This litigation and the proposed settlement relate solely to Power Window Switches purchased in the United States **directly** from a Defendant, or its subsidiaries or affiliates. The term “Power Window Switches” refers to switches that raise or lower an automobile’s windows.

The proposed settlement does not relate to, and has no effect upon, cases involving any product other than Power Window Switches.

If you are a member of the NMOJ Settlement Class (defined below), you have the rights and options summarized here:

- You may remain in the NMOJ Settlement Class and be eligible to share in the proceeds of, and be bound by the terms of, the NMOJ settlement;
- You may exclude yourself from the NMOJ Settlement Class, in which case you will **not** be bound by the settlement and will **not** be eligible to share in the proceeds of the settlement;
- If you remain in the NMOJ Settlement Class, you may object to the proposed settlement, to the proposed plan of distribution of the NMOJ Settlement Fund, or to Settlement Class Counsel’s requests for an award of attorneys’ fees and reimbursement of litigation costs and expenses, and a service award 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 NMOJ Settlement Class member who wishes to participate in the distribution of the NMOJ Settlement Fund must complete and submit a copy of the Claim Form on or before June 21, 2021.

WHO IS IN THE SETTLEMENT CLASS?

The Court has provisionally certified the Direct Purchaser NMOJ Settlement Class for the purpose of disseminating notice of the proposed NMOJ settlement.

The NMOJ Settlement Class is defined as follows:

All individuals and entities who purchased Power Window Switches in the United States directly from Defendants (or their subsidiaries or affiliates) from January 1, 2003 through April 13, 2020. 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 NMOJ Settlement Class, the following entities are Defendants: Nidec Mobility Corporation, Toyo Denso Co. Ltd., and Weastec, Inc.

Plaintiff Findlay Industries, Inc. has been appointed by the Court to serve as “Class Representative” for the NMOJ Settlement Class.

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 “Settlement Class Counsel” for the Settlement Class.

WHAT IS THIS LITIGATION ABOUT?

In June 2018, Plaintiff filed an amended class action complaint on behalf of direct purchasers of Power Window Switches. Plaintiff alleges that NMOJ and other manufacturers of Power Window Switches conspired to raise, fix, maintain, and stabilize prices, rig bids, and allocate markets and customers for Power Window Switches sold in the United States in violation of federal antitrust laws. Plaintiff further alleges that because of the conspiracy, it and other direct purchasers of Power Window Switches were injured by paying more for those products than they would have paid in the absence of the alleged illegal conduct.

NMOJ denies Plaintiff's allegations and liability and has asserted defenses to Plaintiff's claims. NMOJ has 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 NMOJ's defenses. Plaintiff has dismissed the other Defendants from this litigation. Therefore, this settlement, if approved by the Court, will fully resolve the litigation.

WHAT RELIEF DOES THE PROPOSED SETTLEMENT PROVIDE?

Plaintiff, on behalf of the NMOJ Settlement Class, entered into a settlement agreement with NMOJ on April 13, 2020 (the "NMOJ Settlement Agreement"), under which NMOJ agreed to pay \$1,400,000. The NMOJ Settlement Agreement gives NMOJ the right to reduce the amount of the settlement to no less than \$700,000, based upon valid requests for exclusion by members of the NMOJ Settlement Class. Additionally, NMOJ has agreed to provide specified cooperation 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 settlement. The NMOJ Settlement Agreement contains other important provisions, including the release of certain claims against NMOJ (and companies and people affiliated with them). For the complete terms of the settlement, you are referred to the Settlement Agreement, which is on file with the Clerk of Court and is available online at www.AutoPartsAntitrustLitigation.com/PowerWindowSwitches. The proposed settlement must receive final approval by the Court to become effective.

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

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

If you are a member of the NMOJ Settlement Class as defined above, you will automatically remain in the Settlement Class unless you elect to be excluded. If you wish to remain in the Settlement Class, you do not need to take any action at this time with respect to the Settlement Class and your interests will be represented by the Class Representative and by Settlement Class Counsel. If you remain in the NMOJ Settlement Class and the proposed settlement with NMOJ 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 the NMOJ 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 NMOJ, 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 FUND BE DISTRIBUTED?

The NMOJ 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 a service award to the Class Representative (the "Net NMOJ Settlement Fund"), will be distributed among the members of the NMOJ Settlement Class who complete and timely submit a copy of the Claim Form that is included with this Notice, **postmarked on or before June 21, 2021**.

The Net NMOJ 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 Power Window Switches in the United States directly from any Defendant (or its subsidiaries or affiliates) during the period from January 1, 2003 through April 13, 2020. 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 THE SETTLEMENT CLASS?

You may exclude yourself from the NMOJ Settlement Class. If you wish to exclude yourself from the NMOJ Settlement Class, you must send a request for exclusion, in writing, by certified mail, return receipt requested, **postmarked no later than April 28, 2021**, to Settlement Class Counsel, and to counsel for NMOJ, at the addresses set forth below, and to the following address:

Settlement Administrator
Power Window Switches Direct Purchaser Antitrust Litigation
P.O. Box 2312
Portland, OR 97208-2312

Your request for exclusion must specify that you seek exclusion from the NMOJ Settlement Class 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 subsidiary or affiliate) from which you purchased Power Window Switches during the Class Period, the Power Window Switches purchased during the Class Period, and the dollar amount of your purchases. If you validly exclude yourself from the NMOJ Settlement Class, you will not be bound by any decision concerning the NMOJ Settlement Class, and you may pursue individually any claims you may have against NMOJ (at your own expense), but you will not be eligible to share in the proceeds attributable to the NMOJ settlement.

REQUEST FOR ATTORNEYS' FEES AND EXPENSES, AND SERVICE AWARD

Settlement Class Counsel, together with other law 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 thirty percent (30%) of the NMOJ Settlement Fund.

Settlement Class Counsel will also request a service award to Plaintiff Findlay Industries, Inc., which was appointed by the Court to serve as Class Representative for the Settlement Classes, in the amount of \$10,000.

The application for attorneys' fees and litigation costs and expenses and a service award will be filed on or before April 9, 2021. After that date, the petition for attorneys' fees will be available for your review on the settlement website at www.AutoPartsAntitrustLitigation.com/PowerWindowSwitches. If you remain a member of the NMOJ Settlement Class and you wish to object to the requests for fees and expenses or the service award, 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 SETTLEMENT?

The Court will hold a hearing on June 10, 2021, at 10:30 a.m., at the Theodore Levin United States Courthouse, 231 West Lafayette Boulevard, Detroit, MI 48226, Courtroom 817 (or such other courtroom as may be assigned for the hearing), to determine whether to approve: the proposed NMOJ settlement; the proposed plan of distribution of the NMOJ Settlement Fund; and Settlement Class Counsel's requests for an award of attorneys' fees and reimbursement of litigation costs and expenses, and a service award to the Class Representative. If the Court believes that it is appropriate, the hearing may be conducted remotely by telephone or other electronic means. If the Court determines to hold the hearing remotely, Settlement Class Counsel shall post that information on the website devoted to the direct purchaser litigation (www.AutoPartsAntitrustLitigation.com/PowerWindowSwitches) and provide any Settlement Class member that has informed the Court that it intends to participate at the hearing the information required to do so remotely. The Fairness 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 NMOJ Settlement Class and you wish to object to the proposed settlement, or to the proposed plan of distribution of the NMOJ Settlement Fund, or to Settlement Class Counsel's requests for an award of attorneys' fees and reimbursement of litigation costs and expenses, and a service award to the Class Representative, you must do so in writing and at your own expense. Any such objection must include the caption of this litigation, specify you are objecting to the NMOJ settlement, must be signed, and must be **filed no later than April 28, 2021**, 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 28, 2021**:

Steven A. Kanner
FREED KANNER LONDON & MILLEN LLC
2201 Waukegan Road, Suite 130
Bannockburn, IL 60015
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Counsel for the Direct Purchaser Settlement Class

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Counsel for Nidec Mobility Corporation (formerly known as Omron Automotive Electronics Co., Ltd.) (NMOJ)

If you do not object to the proposed settlement, 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 NMOJ 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: Power Window Switches Direct Purchaser Antitrust Litigation, P.O. Box 2312, Portland, OR 97208-2312.

The Settlement Agreement, 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/PowerWindowSwitches. Questions concerning the proposed NMOJ settlement, this Notice, or the litigation may be directed to any of the Settlement Class Counsel identified above.

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

DATED: March 4, 2021

BY ORDER OF:

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