

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

**IN RE AUTOMOTIVE PARTS ANTITRUST  
LITIGATION**

**IN RE: OXYGEN SENSORS**

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

**Case No. 12-MD-02311  
Honorable Sean F. Cox**

**2:15-cv-03101-SFC-RSW  
2:15-cv-12918-SFC-RSW**

**ORDER AND FINAL JUDGMENT**

Direct Purchaser Plaintiffs KMB/CT, Inc. d.b.a KMB Warehouse Distributors Inc. and Hopkins Auto Supply, Inc. d.b.a Thrifty Auto Supply (collectively, the “Direct Purchaser Plaintiffs”), on behalf of themselves and the NGK Oxygen Sensors Settlement Class members, and Defendants NGK Spark Plug Co., Ltd., NGK Spark Plugs (U.S.A.) Holding, Inc., NGK Spark Plugs (U.S.A.), Inc., and NTK Technologies, Inc. (collectively, “NGK” or the “NGK Defendants”), entered into a Settlement Agreement to fully and finally resolve the Settlement Class’s claims against NGK and the other Releasees. On May 24, 2022, the Court entered an Order granting preliminary approval of the proposed NGK settlement (the “Preliminary Approval Order”) and authorized the Direct Purchaser Plaintiffs to disseminate notice of the proposed settlement with NGK, the fairness hearing, and related matters to the NGK Oxygen Sensors Settlement Class (the “Notice Order”). (2:15-cv-03101, ECF No. 98). Notice was provided to the NGK Settlement Class pursuant to the Notice Order and the Court held a fairness hearing on September 15, 2022.

Having considered the Direct Purchaser Plaintiffs' Motion for Final Approval of Proposed Settlements with the NGK and DENSO Defendants and Proposed Plan for Distribution of Settlement Funds, oral argument presented at the fairness hearing, and the complete record in this matter,

**IT IS HEREBY ORDERED, ADJUDGED, AND DECREED:**

1. This Court has jurisdiction over the subject matter of this litigation.
2. Terms capitalized in this Order and Final Judgment and not otherwise defined herein have the same meanings as those used in the NGK Settlement Agreement.
3. The Notice Order outlined the form and manner by which the Direct Purchaser Plaintiffs would (and subsequently did) provide the NGK Oxygen Sensors Settlement Class with notice of the Settlement, the fairness hearing, and related matters. The notice program included individual notice via first class mail to members of the NGK Oxygen Sensors Settlement Class who could be identified through reasonable efforts, as well as the publication of a summary notice in *Automotive News*. Additionally, an Informational Press Release targeting automotive industry trade publications was issued nationwide via PR Newswire's "Auto Wire." Finally, a copy of the Notice was (and remains) posted on-line at [www.AutoPartsAntitrustLitigation.com](http://www.AutoPartsAntitrustLitigation.com). Proof that mailing, publication and posting conformed with the Notice Order has been filed with the Court. This notice program fully complied with Fed. R. Civ. P. 23, and the requirements of due process. It provided due and adequate notice to the NGK Oxygen Sensors Settlement Class.
4. The Settlement was attained following an extensive investigation of the facts. It resulted from vigorous arm's-length negotiations, which were undertaken in good faith by counsel with significant experience litigating antitrust class actions.
5. The NGK Settlement was entered into by the parties in good faith.

6. Final approval of the Settlement with NGK is hereby granted pursuant to Fed. R. Civ. P. 23(e), because it is “fair, reasonable, and adequate” to the NGK Oxygen Sensors Settlement Class. In reaching this conclusion, the Court considered the complexity, expense, and likely duration of the litigation, the NGK Oxygen Sensors Settlement Class’s reaction to the Settlement, and the result achieved.

7. The NGK Oxygen Sensors Settlement Class provisionally certified by the Court in the NGK Preliminary Approval Order is hereby certified as a class pursuant to Rule 23 of the Federal Rules of Civil Procedure and is composed of: “All individuals and entities who purchased Oxygen Sensors in the United States directly from one or more of the Defendant(s) (or any of their controlled subsidiaries, affiliates, or joint ventures) between January 1, 2000 and February 4, 2019. Excluded from the Settlement Class are Defendants and 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 Court adopts and incorporates herein all findings made under Rule 23 in its NGK Preliminary Approval Order.

8. The Court’s certification of the NGK Oxygen Sensors Settlement Class as provided herein is without prejudice to or waiver of the rights of any Defendant to contest certification of any other class proposed in these coordinated actions. The Court’s findings in this Order shall have no effect on the Court’s ruling on any motion to certify any class in these actions or on the Court’s rulings concerning any Defendant’s motion, and no party may cite or refer to the Court’s approval of the NGK Oxygen Sensors Settlement Class as persuasive or binding authority with respect to any motion to certify any such class or any Defendant’s motion.

9. The entities identified on Exhibit “A” hereto have timely and validly requested exclusion from the NGK Oxygen Sensors Settlement Class and, therefore, are excluded. Such

entities are not included in or bound by this Order and Final Judgment. Such entities are not entitled to any recovery from the settlement proceeds obtained through this Settlement.

10. The Action and all Released Claims are hereby dismissed with prejudice with respect to the Releasees and without costs. The Releasors are barred from instituting or prosecuting, in any capacity, an action or proceeding that asserts a Released Claim against any of the Releasees. This dismissal applies only in favor of NGK and the other Releasees.

11. The Escrow Account, plus accrued interest thereon, is approved as a Qualified Settlement Fund pursuant to Internal Revenue Code Section 468B and the Treasury Regulations promulgated thereunder.

12. Neither the Settlement Agreement, nor any act performed or document executed pursuant to the Settlement Agreement, may be deemed or used as an admission of wrongdoing in any civil, criminal, administrative, or other proceeding in any jurisdiction.

13. This Order and Final Judgment does not settle or compromise any claims by the Direct Purchaser Plaintiffs or the NGK Settlement Class against any other Defendant or other person or entity other than NGK and the other Releasees, and all rights against any other Defendant or other person or entity are specifically reserved.

14. Without affecting the finality of this Order and Final Judgment, the Court retains exclusive jurisdiction over: (a) the enforcement of this Order and Final Judgment; (b) the enforcement of the NGK Settlement Agreement; (c) any application for distribution of funds, attorneys' fees or reimbursement of expenses made by Direct Purchaser Plaintiffs' Counsel; and (d) the distribution of the settlement proceeds to NGK Oxygen Sensors Settlement Class members, including any service awards for the Class Representatives.

15. Pursuant to Fed. R. Civ. P. 54, the Court finds that there is no just reason for delay and hereby directs the entry of judgment as to NGK.

**IT IS SO ORDERED.**

Dated: September 22, 2022

s/Sean F. Cox

Sean F. Cox  
U. S. District Judge

**EXHIBIT A**

AUTOMOTIVE PARTS ANTITRUST LITIGATION, CASE NO. 2:12-MD-02311,  
OXYGEN SENSORS, 2:15-cv-03101-SFC-RSW; 2:15-cv-12918-SFC-RSW

REQUESTS FOR EXCLUSION FROM THE DIRECT  
PURCHASER NGK SETTLEMENT CLASS

<p><b>HONDA</b> American Honda Motor Co., Honda of America Manufacturing, Inc., Honda Manufacturing of India, LLC, Honda Manufacturing of Alabama, LLC, Honda Trading Corp., and related entities</p> <p><b>GENERAL MOTORS</b> General Motors LLC (“GM”), General Motors Company, and General Motors Holdings LLC, along with all their subsidiaries (in which GM directly or indirectly owns 50% or more of the voting rights) and majority-owned affiliates</p> <p><b>FORD</b> Ford Motor Company on behalf of itself and all of its wholly owned divisions, subsidiaries, and affiliates</p> <p><b>NISSAN</b> Nissan Motor Co., Ltd. and Nissan North America, Inc., along with their subsidiaries and majority-owned affiliates</p>	
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